

DECISION-MAKER:	CABINET
SUBJECT:	GENERAL FUND REVENUE BUDGET 2013/14 TO 2015/16
DATE OF DECISION:	20 NOVEMBER 2012
REPORT OF:	CABINET MEMBER FOR RESOURCES
STATEMENT OF CONFIDENTIALITY	
N/A	

BRIEF SUMMARY

This report summarises the current budget position and outlines the initial draft budget and council tax proposals of the Executive for 2013/14 which will be used as the basis for extensive consultation with a range of stakeholders over the coming months.

The results of the consultation exercise will be reported alongside the Executive's final budget proposals that will be presented to Cabinet in early February and recommended to Council on 13 February 2013.

The report deals with general fund revenue services only and there is a separate timetable and consultation process for the Housing Revenue Account which deals with services to council tenants. Proposals for capital expenditure will be presented early in the new year.

RECOMMENDATIONS:

It is recommended that Cabinet:

- i) Approve the consultation proposals and methodology set out in Paragraphs 4 to 8 and Appendix 1 of this report and that delegated authority be given to the Senior Manager – Customer and Business Improvement, following consultation with the Cabinet Member for Resources, to fine tune and implement the consultation proposals and methodology.
- ii) Note the high level forecast for the General Fund for 2013/14 and the underlying assumptions contained in Appendix 2.
- iii) Note the Executive's initial savings proposals put forward for consultation in Appendix 3 which total almost £18.1M
- iv) Note that the Executive's initial savings set out in Appendix 3 propose the deletion of 279.34 Full Time Equivalent (FTE) posts, of which 65.66 FTE are vacant, leaving 213.68 FTE at risk of redundancy.
- v) Approve a one off saving which will be delivered through the Capita contract of £2.8M in 2013/14. This saving will be achieved through the pre-payment of £17.1M to Capita in 2012/13 allowing them to achieve financing savings, the benefit of which flows through to the Council in 2013/14.
- vi) Note that the Executive's budget proposals for consultation are based on the assumption that they will recommend a Council Tax increase of 2.0% to Full Council.

- vii) Note the Executives proposal to review the local Council Tax discounts in place for households where all residents are persons over 65 years of age (10%) and for special constables (100%), with a view to removing them.
- viii) Note the proposed changes to Council Tax discounts and exemptions with respect to second homes and empty properties in response to the Local Government Finance Act 2012 which recently received Royal Assent.
- ix) Note the medium term financial forecast for 2013/14 to 2015/16 contained in Appendix 4.
- x) Approve the updated budget setting timetable contained in Appendix 5.
- xi) Delegate authority to the Chief Financial Officer, following consultation with the Cabinet Member for Resources, to do anything necessary to give effect to the proposals contained in this report.

REASONS FOR REPORT RECOMMENDATIONS

1. The production of a financial forecast and an outline timetable are a requirement of the Council's Budget and Policy Framework Procedure Rules.
2. In addition, it is good practice for the Council to consult with a range of stakeholders on its proposals for developing the budget. The recommendations in this report have therefore been put forward to allow this process to formally begin.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. The proposals presented in this report represent the Executive's draft budget for 2013/14 that is being published for consultation. Clearly there are a huge number of variables and alternative options that could be implemented as part of the budget. The budget will be set by the Budget Setting Council in February 2013.

DETAIL (Including consultation carried out)

CONSULTATION

4. Where new proposals have been put forward these have been subject to consultation with the Management Board of Directors (MBD) and relevant Cabinet Members.
5. The Executive will undertake an extensive consultation process between 12 November and the end of January 2013 on the attached initial draft budget proposals, prior to the publication of their final budget. The Leader and the Cabinet are keen to listen to new ideas on how to reduce costs and to receive feedback on the potential impact of the proposals to help to finalise the Executive's budget to be recommended to Full Council in February 2013.

6. Consultation will be undertaken with trades unions and staff affected by the proposals in line with the agreed HR policies. The statutory 90 day minimum consultation, which is required as more than 100 individuals are at potential risk of redundancy will commence on 12 November 2012 and will continue until 9 February 2013.
7. Full consultation will be undertaken with any people or organisations affected by the proposals to ensure all options have been considered.
8. Appendix 1 will be used as the key consultation document and outlines the process, including the methods of consultation that will be employed.

BACKGROUND

9. The Comprehensive Spending Review (CSR) released in October 2010 and the detailed Local Government Finance Settlement announced in December of that year confirmed the unprecedented reductions in Local Government Funding for the four year period from 2011/12 to 2014/15, with the decrease in funding front loaded to 2011/12.
10. The City Council is required by law to ensure that residents benefit from a wide range of local services and to set a balanced budget each year against a backdrop of limited resources, greater demand for services and higher expectations from stakeholders on the range and quality of services provided within the City.
11. At this stage in the process the draft budget does not yet represent a balanced financial position but work will continue to develop further proposals in the coming months. The initial proposals in this report are put forward by the Executive as a draft budget that aims to take account of the priorities of the Executive; in the context of the challenging financial environment in which the Council finds itself, allocating limited resources to priority areas of need and ensuring key services are protected.

THE EXECUTIVE'S PRIORITIES

12. Budget setting is about allocation of resources to priority areas and in making difficult decisions the Council will have to focus on what is most important for the City. In making these decisions, the Cabinet has agreed that as a priority the Council will:
 - Try and ensure that we maintain essential social services that protect vulnerable adults and children.
 - Focus on making the council run efficiently to ensure that as many vital front line services as possible are protected.
 - Do all we can to ensure that those in most poverty are protected.
 - Meet our legal obligations.

In many of these areas the priorities of the Executive will be delivered through the budget by providing a level of financial support to existing services.

The scale of the challenge the Council is facing means that while the Council want to encourage genuine ideas for achievable savings from everyone, expectations have to be managed. This is because decisions to protect one service will inevitably have a negative impact on another service. The approach in the long term will be to raise awareness so that consultation is about prioritising within ever decreasing resources.

13. As well as ensuring that resources are allocated to these specific priorities, the Executive has also taken into account high priority services where inflationary and demographic pressures require additional resources to be allocated next year.
14. In particular, funding has been allocated within the Risk Fund in relation to children's and adults social care budgets in order to deal with increasing numbers of children being placed under the care of the local authority, an increasing elderly population and an increasing number of adults with learning disabilities that require more care for longer periods.

COMPREHENSIVE SPENDING REVIEW ASSUMPTIONS

15. The CSR released in October 2010 and the detailed Local Government Finance Settlement confirmed the unprecedented reductions in Local Government Funding over the next four years, which were front loaded. No detailed figures have been released for 2013/14 and beyond. Given the level of uncertainty, in calculating an indicative Council Tax for 2013/14 it had been initially assumed that the figures for National Non-Domestic Rates (NNDR) and Revenue Support Grant (RSG) would reduce by 7%. However, in the light of the information set out in the publication by the Department for Communities and Local Government (CLG) entitled "Business Rates Retention – Technical Guidance" this has been reduced downwards by a further £1M, effectively allowing for an 8% reduction in government grant funding.
16. Uncertainty is heightened as the financial year 2013/14 will see a number of fundamental changes including:
 - The retention of Business Rates and the extent to which Local Authorities may benefit or lose from increases / decreases in Business Rate growth.
 - The localisation of support for Council Tax including an associated 10% reduction in funding.
 - The transfer of Public Health, and its associated funding, to Local Authorities.
 - The introduction of Police Commissioners from November 2012 and the associated transfer of crime prevention responsibilities from Local Authorities.

In addition, it is difficult to predict the future of health funding which is allocated to Local Government beyond 2012/13 but at this stage it has been assumed that there will be a continuation of funding in line with the indicative levels set out in the CSR.

17. More information is contained in Appendix 2 which provides details of the financial forecasts and the assumptions that have been used in coming up with the overall base position, together with other factors relevant to the overall budgetary position.

SAVINGS PROPOSALS

18. The Executive's initial savings proposals put forward for consultation in Appendix 3 total almost £18.1M. They have been proposed in order that the Council is able to continue to deliver those services which it considers a priority in the face of unprecedented reductions in Local Government Funding and a difficult economic outlook.
19. The proposals in Appendix 3 contain almost £7.0M of efficiency savings in 2013/14 which may involve the reconfiguration of some services and which rise to £7.9M in future years. These proposals together with income generation ideas totalling £1.4M and savings from the reduction in the number of Directors through the merger of Directorates of £0.1M will reduce the level of service reductions required which at this stage total more than £9.6M in 2013/14.
20. Over the next few months, Cabinet Members will continue to explore other ideas for savings and efficiencies that could contribute to the 2013/14 budget position. Furthermore, future savings options have also been included in the medium term forecast of £0.7M in 2014/15 rising to more than £1.9M in 2015/16. These items are work in progress and will be further developed in the coming year by the Executive in conjunction with the MBD, Directorate Management teams and our partners, including Capita.

CAPITA – STRATEGIC SERVICES PARTNERSHIP (SSP)

21. The Corporate Services Management Team have been actively working with our partners Capita to consider how to both deliver savings as part of the budget process and also to improve the long term flexibility and governance of the SSP.
22. The base budget position includes a one off saving of £2.8M which will be achieved through the pre-payment of £17.1M to Capita in 2012/13 allowing them to achieve financing savings, the benefit of which flows through to the Council in 2013/14. The pre-payment will be written down over the remaining life of the contract.
23. In addition to this a number of savings proposals have been developed which will contribute £700,000 in 2013/14 and £400,000 in future years (Reference RES 4) and these include:
- Review of fibre refresh costs within the contract.
 - Change to Gateway opening hours.
 - Changes in the Council Tax & Benefits service.

24. Alongside this work which supports the development of the 2013/14 budget, longer term proposals are being explored which include the option of a five year extension to the contract which may offer greater potential savings to the Council. This is a complex piece of work and any proposals will be brought to Cabinet and Council once adequate information is available to inform effective decision making.

WEEKLY COLLECTION SUPPORT SCHEME BID

25. The Council have submitted a bid to the CLG for funding of £8.3M from the £250M available through the Weekly Collection Support Scheme. The scheme is designed to support weekly collections and enable councils to invest in schemes and projects that will benefit the environment, including through raising recycling rates. The Council's bid covers a three year period and includes capital and revenue expenditure with the objectives being to:

- Retain weekly residual collections.
- Improve the recycling service by expanding the range of materials collected for recycling, in this instance, fortnightly glass collections.
- Reduce waste and minimise the amount sent to landfill through the provision of 15,000 subsidised compost bins and 3,000 food waste digesters.
- Reduce environmental impacts and optimise the efficiency and cost effectiveness of the waste and recycling service by using route optimisation software and in-cab terminals.
- Maximise efficiencies through a reward scheme to encourage behaviour change and increase the quantity and quality of material collected for recycling.

26. The results were due to be announced by the CLG in October but have now been delayed until later in November. The Executives clear preference is to retain the weekly refuse collection service which this bid would enable. However, the Council needs to make significant savings and if the bid is unsuccessful then it is unlikely that the current weekly service can afford to be continued across the City as the additional cost of this service is more than £0.8M per annum. The current savings proposals include an item (Reference E&T 28) to introduce alternate weekly collections to reflect this possible outcome and to allow effective consultation to be undertaken.

COUNCIL TAX

27. The original assumption was for an increase in Council Tax of 2.5% but this has now been reduced to 2.0% in light of the announcement by CLG that a referendum will be required for increases of more than 2.0%. This has reduced the forecast level of Council Tax by £0.4M in 2013/14. An assumed increase of 2.0% each year in future years has been built into the forecast position.

28. As part of the announcement limiting the increase in Council Tax to 2.0% the CLG also released details of a scheme to fund a further Council Tax freeze in 2013/14. Based on the announcements to date, the position appears to be that a grant will be payable in 2013/14 and 2014/15 to those Authorities who implement a zero percent increase in Council Tax in 2013/14. The grant receivable will represent additional funding equivalent to increasing Council Tax by 1.0%, which for Southampton City Council is approximately £0.8M.
29. However, based on the level of grant payable in 2013/14 and 2014/15 if the decision was taken to freeze Council Tax and accept the grant this would increase the current budget gap in each of these years by £0.8M due to the difference between the Council Tax income that has been assumed and the level of funding being offered by the Government. This increase in the forecast gap would grow to £1.6M in 2015/16 and beyond when the grant income is also lost.
30. Consequently, the Executive are proposing to refuse the Council Tax freeze grant and increase Council Tax by 2.0% in the light of the ongoing financial challenge that the Council is facing.
31. The Executive is also aware that during the consultation exercise there may be some savings proposals that are not considered to be in the interests of stakeholders. Where this is the case, then either further savings will need to be found, or other changes in income and expenditure will be required if the proposed Council Tax increase is not to exceed 2.0%.
32. The final Budget and Council Tax that will be put forward by the Executive in early February next year will therefore need to take into account the actual resources available to the Council as well as reflect the results of the consultation exercise that will be carried out over the next few months.

Council Tax Discounts for Persons Over the Age of 65 and Special Constables

33. It is proposed that the previously approved Older Persons council tax discount of 10% for households where all occupants are over 65 and the 100% discount for Special Constables are not continued in 2013/14 and beyond. On the basis that these discounts are removed, there would be a resultant saving of £1M per annum, and this saving has been built into the forecast position as set out in paragraph 52.
34. These local discounts were introduced in 2009 and 2010 respectively under section 13A of the Local Government Finance Act 1992, with the aim of meeting specific objectives at that point in time. The Executive have requested that these are reviewed in the light of recent Council Tax increases and changes to fixed incomes such as pensions, the proposed changes to Council Tax benefit and the current financial position in which the Council finds itself.
35. The decision whether or not to grant a council tax discount under s 13A is an executive function and a report will be presented to Cabinet in the new year setting out in full the proposed changes taking into account the relevant considerations and issues which Members need to evaluate.

Technical Changes – Exemptions and Discounts

36. The new regulations allow the Council to make significant changes to the discounts and exemptions that are currently offered on Council Tax. These technical reforms are in line with the Government's stated policy aims to promote localism and address the housing shortage by encouraging owners of unoccupied properties to bring them back into use more quickly; either through sale or renting.
37. Whilst there is no requirement to consult on these changes to discounts, which will be effective from 1 April 2013, the changes will have to be approved by Cabinet in the new year.

Empty Dwellings

38. The regulations allow Councils to change discount awards relating to three classes of empty property, which were subject to statutory limitations. These discretions will be available from 1 April 2013 when the Council will be able to reduce the discount currently awarded to a property where it qualified for a discount under the legislative classifications of Class A and C:
- **Class A** – A dwelling is exempt for a maximum of 12 months if it requires or is undergoing major structural repair or alterations. The property must be unoccupied and substantially unfurnished. Exemptions for this class have been replaced by a discount that local authorities will set. The discount can be between 0% and 100% based on local discretion.
 - **Class C** – A dwelling is exempt for a maximum period of six months from the date it is both unoccupied and unfurnished irrespective of any change of ownership. Exemptions for this class have been replaced by a discount that local authorities will set. The discount can be between 0% and 100% based on local discretion.

In 2011/12 approximately £0.7M was granted for these exemptions impacting on up to 1,680 properties on average.

Empty Homes Premium

39. Long-term empty homes are properties that have been empty longer than two years and the new regulations give Local Authorities the option to levy a premium of 50% on top of the full Council Tax charge on these properties. A snapshot at the end of May showed that 191 properties had been empty for more than two years which could theoretically generate approximately £112,000 of additional Council Tax income

Second Homes

40. Local Authorities were able to give a discount of between 10% and 50% on second homes which are not job related, and the new regulations now allow a discount of between 0% and 50% to be granted. Southampton currently allows a 10% discount and in 2011/12 approximately £93,000 was granted for 840 properties on average.

41. Removing in full the discount from Classes A and C, the remaining 10% discount on second homes and charging an empty property premium on properties that are long-term empty of up to 50% on top of the full Council Tax has the potential to generate an additional £0.9M in gross Council Tax income, impacting on approximately 2,700 properties.
42. However, these figures take no account of a number of other factors which need to be considered:
- a) Currently the formula for calculating government grant assumes exemption on some classes of empty properties. If empty properties were not notified to us by residents, it would result in a loss of grant to the Council. Any proposal therefore needs to consider offering an incentive for notification.
 - b) If a person notified as a sole adult resident claiming 25% discount, it would result in a loss of grant and mean that a discount of at least 25% would be claimed. A differential between empty property and single person discount would help to avoid this issue.
 - c) Charging Class C properties for a short empty period would create additional costs (bills, disputes, postage, administration, bad debt etc), for small periods in between moving out and tenancy ending or sale of property.
 - d) The Council's own properties will be affected by any reduction in discounts.
 - e) The legislation as drafted does not allow for flexibility in the length of the exemption granted for Class A properties only in the percentage granted.
 - f) The Council needs to consider if it should provide a reasonable but not excessive discount in order to promote property development, particularly supporting major upgrading and improvements to poor quality housing stock.
 - g) These figures take no account of the additional challenge of collecting Council Tax on empty properties.
 - h) The latest consultation issued by the CLG indicates that a dwelling which is genuinely on the market for sale or letting should not be made liable to the empty homes premium. This effectively would mean that very few premiums would be charged and therefore limited if any additional income would be raised.

Proposals

43. Taking these factors into consideration, along with the need to get empty properties back into use quickly and the Council's financial position, the proposed changes are as follows:
- Empty homes discount left at 100% for Class C empty properties but the discount to be reduced from six months to one month.
 - Empty homes discount to be reduced from 100% to 50% for Class A empty properties

- Long term empty properties premium set at 50%.
- Removal of the second home discount so that Council Tax will be payable in full.

These discounts will be allowed under section 11A of the Local Government Finance Act 1992 as amended by clause 9 of the Local Government Finance Act 2012.

44. In addition to these changes, the Executive recognises that there may on occasion be particular cases of hardship which are not adequately covered by the existing and proposed exemptions and discounts. The Executive are therefore also proposing to put in place discretionary hardship support under section 13A of the Local Government Finance Act 1992, although it is anticipated that this would only apply in limited exceptional circumstances.
45. These proposals aim to balance increases in Council Tax income against the risk of non-collection and any possible loss of grant funding and also consider the housing needs of the City. As a consequence the potential savings from the allowable changes would not reach the maximum possible figure of £0.9M and these recommendations are forecast to raise additional Council Tax income of £0.5M which has been built into the forecast position as set out in paragraph 52.
46. A report will be presented to Cabinet in the new year setting out in full the final proposed changes for approval.

DETAILED FINANCIAL PROPOSALS

47. Appendix 2 to this report sets out the high level financial position for the General Fund for 2013/14 including the provision required in the Risk Fund for possible risks and the unavoidable pressures that have been signed off by the MBD.
48. Appendix 2 shows that after taking into account base changes, inflation, changes in the Risk Fund, revenue pressures and assumptions for Government Grant there is a roll forward gap of approaching £20.2M at an assumed increase in Council Tax of 2.0%.
49. In arriving at this 'base' position a number of one off funding sources have been utilised which total almost £7.8M. These include contractual savings from the Street Lighting PFI project (£0.8M), the 2011/12 Collection Fund surplus (£1M), a reduction in the contribution to reserves (£0.2M), use of balances (£0.3M), a one off saving from the Capita contract (£2.8M) and the utilisation of the estimated New Homes Bonus for 2013/14 (£2.7M). These one off elements, whilst serving to reduce the gap in 2013/14, by their very nature do not positively impact on the medium term financial position.
50. This position has been signed off by the CFO and Chief Executive and will effectively be the same for all Political Groups subject to the amount of additional resources they wish to put into specific initiatives and the level of Council Tax rise they wish to set.

51. Appendix 3 sets out the Executive’s initial detailed proposals for efficiencies, income and service reductions respectively and it is these proposals that are put forward for consultation with stakeholders. The detailed savings proposals for Portfolios in Appendix 3 total almost £18.1M.
52. The overall current draft budget package therefore put forward by the Executive is shown in the following table:

	£M	£M
Budget Gap @ 2.0% Council Tax		20.17
Efficiencies	(6.97)	
Income	(1.40)	
Service Reductions	(9.61)	
Corporate Saving	(0.11)	
		(18.09)
Local Council Tax Discounts		(1.50)
Net Deficit		0.58

53. Even allowing for the draft proposals, the Executive’s proposed draft budget position does not yet represent a balanced budget.
54. The Council is required to set a legally balanced budget by March 11 2013. It is therefore an imperative that further work is undertaken to identify further options for delivering savings which can be utilised to close the budget shortfall and ensure that a balanced budget can be set.

MEDIUM TERM FINANCIAL FORECAST 2013/14 TO 2015/16

55. It should be noted that even after allowing for the draft budget proposals there remain significant budget shortfalls in the medium term, with a forecast gap currently of £19.5M in 2014/15 rising to a cumulative gap of £32.7M in 2015/16. Significant further work is required to ensure that savings can be delivered to balance the budget for these future years. The budget for future years does not need to represent a balanced position by the time that Full Council set the 2013/14 budget on 13 February 2013, but Members should not lose sight of the need to ensure that work is ongoing to develop savings proposals for future years.
56. The medium term financial position is shown in Appendix 4 and illustrates both the financial challenge facing the Council in the coming years and also the impact of the draft budget proposals contained in this report.

STATEMENT ON GENERAL FUND BUDGET STRATEGY BY THE CFO

57. Section 151 of the Local Government Act 1972 requires local authorities to make arrangements for "the proper administration of their financial affairs' and appoint a CFO to have responsibility for those affairs. The CFO must exercise a professional responsibility to intervene in spending plans in order to maintain the balance of resources so that the authority remains in sound financial health.
58. Section 25 of the Local Government Act 2003 imposes a specific duty on the CFO to report formally to Council at the time that the budget is considered and the Council Tax is set on the robustness of the budget estimates and the adequacy of financial reserves.
59. In advance of the report to Cabinet and Council in February 2013 it is important to set the whole of the 2013/14 budget process in the context of the exceptional financial circumstances that Local Government finds itself.
60. Given the continuing uncertainties of the economic environment and the scale of expenditure reductions required year on year, there will inevitably be significant risks involved in delivering a balanced budget. Whilst considerable pressure exists on the Council's budget because of the severely reduced level of resources available for Local Authorities in the future, further advanced forward planning to deliver the future year's budget savings is in preparation and is absolutely essential.
61. Whilst therefore the basic methodology for putting the budget together has not changed, it must be recognised that the scale of the changes and some of the measures which are proposed do increase the risk built into the budget for 2013/14 and beyond.
62. The level of one off funding already included in the 'base position' totals almost £7.8M, (as set out in paragraph 49), and is effectively contributing circa 27% of the savings required to close the gap and balance the budget position in 2013/14. This is clearly not a sustainable position. The Council's reserves are at the minimum level recommended by the CFO and given the ever tightening financial position, the increasing pressures on spend (in particular in social care) and the significant savings to be made in future years, it is difficult to foresee that significant sums of one-off funding will be available in future years to support the budget position.
63. In addition, there are significant shortfalls in future years as set out in paragraph 55. Therefore, Members must not lose sight of the need to ensure that work is ongoing to develop sustainable savings proposals for future years and must be mindful of the need to carefully consider the extent to which one off funding is utilised in order to deliver a balanced budget in any one year.
64. In February Council is required to have regard to the report provided by the CFO under s 25 in approving the budget and the Council Tax and at that time an assessment of the final proposals will be set out to inform decision making.

EQUALITY AND SAFETY IMPACT ASSESSMENT

65. The Equality Duty is a duty on public bodies which came into force on 5 April 2011 and requires the Council to show that it has 'had regard' to the impact of its decisions on its equality duties and the need to advance equality of opportunity between people who have protected characteristics and those who do not.
66. While the Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment (EIA), it does require public bodies to show how they considered the Equality Duty and that they have been consciously thinking about the aims of the Equality Duty as part of the process of decision-making. To comply with these requirements as well as the Community Safety legislation, the Council has used its existing Impact Assessment framework so that it can ensure the use of a consistent, council wide mechanism to evidence how decision making took into account equality and safety considerations.
67. Individual EIAs have been completed by Directors and Senior Managers for those proposals contained in Appendix 3 that they identified require such an assessment, as they could have an adverse impact on a particular group or individuals. The individual EIAs are available in Members' Rooms.
68. The individual EIAs have been analysed to consider the cumulative impacts the Council's budget proposals may have on particular groups and the mitigating actions that could be considered. In order to give the right perspective to the budget proposals, the Cumulative Impact Assessments have to be considered in light of the available information on the City's profile, service user and non-user information and staffing profiles as well as the proportion of the council's budget that is currently spent on targeted groups or communities. Further details on the draft Cumulative Impact Assessments are available in Members' Rooms.

STAFFING IMPLICATIONS

69. The City Council employs more than 3,900 of non school employees of which approximately 3,250 are funded by the General Fund, and staffing costs constitute a significant element of overall expenditure. Given that this is the case, it is inevitable that when the Council is faced with such a significant funding shortfall, the savings proposals put forward by the Council (see Appendix 3) will have an impact on staff cost and staff numbers.
70. Aware of this fact, the Council has continued to have in place a carefully planned approach to recruitment, ensuring that vacant posts have only been recruited to where absolutely necessary.
71. This proactive approach has meant that the Council has been able to hold a significant number of posts vacant which can now be deleted in order to make savings as part of the budget process. The deletion of vacant posts reduces the impact on staff in post and reduces the actual number of employees who will be made redundant.

72. Based on the current savings proposals put forward by the Executive it is anticipated that, subject to the outcome of the consultation process, up to 213.68 FTE posts are at risk of being redundant and up to 327 individuals are impacted.
73. Through the consultation process the Executive is keen to explore all avenues with the Trade Unions and staff to identify wherever possible alternative options for delivering savings, in order that the level of proposed staffing reductions and redundancies can be reduced.
74. The Executive will also continue to ensure that impacted staff are aware of all the available options which can be used to avoid compulsory redundancies and this will include:
- Early retirement,
 - Flexible retirement,
 - Voluntary redundancy and
 - Reduced hours
75. In addition, the City Council has an excellent past record of using its redeployment policies to minimise any compulsory redundancies arising out of the budget proposals and the Executive will seek to strengthen the support for employees who find themselves on the redeployment register as a result of savings implemented as part of the 2013/14 budget.

SOUTHAMPTON TRANSITIONAL EMPLOYMENT PLAN (STEP)

76. Moving forward, the Executive remain committed to minimising job losses within the Council, and in September they approved the continued development of the Southampton Transition Employment Project (STEP). The full report is available at the link below (Agenda Item 49):
- <http://www.southampton.gov.uk/modernGov/ieListDocuments.aspx?CId=126&MId=2224&Ver=4>
77. STEP will provide a holistic approach to the retention, redeployment and recruitment of staff and the use of agency and temporary staff. The purpose of the project is to implement improved measures for staff that are displaced in the organisation by ensuring that they are given priority when vacancies arise and by providing an enhanced level of training, assistance and other options.
78. Funding for the initial stage of the project has been allowed for in 2012/13 but the financial implications for 2013/14 and beyond, which will be assessed in the coming months, will need to be taken into account in the development of the final budget proposals for 2013/14 and presented to Full Council in February 2013.

2012/13 IN YEAR ACTION

79. The Executive already have in place a rigorous process whereby all requests to fill vacant posts are referred to the MBD for a decision as to whether the post should be recruited to. This process has ensured that only the most essential posts are recruited to, and has enabled a number of posts to be held vacant. A significant number of these vacant posts are now proposed to be deleted as part of the 2013/14 savings proposals and this will help to ensure that the potential level of compulsory redundancies is minimised.
80. This rigorous assessment of vacant posts prior to external recruitment remains in place and has been strengthened to encompass a review by the Chief Executive of any request to utilise temporary staff or to make changes to the use of staff resources, including all recruitment requests.
81. In addition, it was agreed by the MBD to put in place a spend moratorium on non essential expenditure for the remainder of 2012/13. This was agreed in order to ensure that the support which can be given to the challenging financial position the Council faces in both 2012/13 and future years can be maximised. The action taken to date has resulted in an improvement in the 2012/13 financial position since June of almost £1.8M.

NEXT STEPS

82. This report and the proposals contained in it represents an important step in the overall budget setting timetable for 2013/14 and signals the start of an extensive consultation programme as outlined earlier in the report.
83. The remainder of the budget timetable from this point forward is detailed in Appendix 5.
84. Further proposals for the budget will continue to be developed and will be prepared for presentation to Cabinet and then full Council in February next year.

RESOURCE IMPLICATIONS

Revenue

85. This report is concerned with the revenue forecasts for the General Fund for 2013/14 and beyond

Capital

86. The revenue implications of financing the approved General Fund capital programme are included within the forecasts presented in this report

Property/Other

87. None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

INTRODUCTION

88. It is important that Members are fully aware of the full legal implications of the entire budget and Council Tax making process, when they consider any aspect of setting the Council's Budget. Formal and full advice to all Members of the Council protects Members, both in their official and personal capacity, as well as the Council. If Members have received the appropriate professional legal and financial advice and act reasonably, generally the courts will not interfere in their decisions.

GENERAL POSITION

89. The first and overriding legal duty on Members is their fiduciary duty to weigh the needs of service users against the interests of local taxpayers. In planning the budget, Members are under a fiduciary duty to act prudently, responsibly, in a businesslike manner and in their view of what constitutes the best interests of the general body of local taxpayers. In deciding upon expenditure, the Council must fairly hold a balance between recipients of the benefits of services provided by the Council and its local taxpayers. Members should note that their fiduciary duty includes consideration of future local taxpayers as well as present local taxpayers.
90. There is a general requirement in administrative law that a local authority decision must be rational, authorised by law and must take account of all relevant considerations, whilst ignoring any irrelevant ones. It should also be noted that the concept of proportionality, given great emphasis in the Human Rights Act 1998, is also becoming a relevant factor for determining the reasonableness of any decision and should be borne in mind by Members.
91. An authority commits an illegal act if it acts beyond or in abuse of its statutory powers or in breach of its fiduciary duty. It will also act illegally if it fails to take relevant considerations into account or acts in outrageous defiance of reason

OBLIGATION TO MAKE A COUNCIL TAX

92. The legal significance of the Annual Budget derives from the Council's duty under the Local Government Finance Act 1992 (the 1992 Act) to set a balanced budget. This is achieved by calculating the aggregate of:
- i. the expenditure it estimates it will incur in the year in performing its functions in the year (including an allowance for contingencies),
 - ii. the payments it estimates it will make in the year in defraying expenditure already incurred and
 - iii. expenditure it will incur in funding costs before a transfer of funds is made from the Collection Fund and then deducting such sums as will be paid into the General Fund, (i.e. income). Calculations made under this section must be made before 11 March in the preceding financial year.

93. In order to fulfil this duty, the Council must prepare detailed estimates of its expenditure for the coming year and of the resources which will be available to meet this expenditure. Account must be taken of any deficit brought forward from a previous year and the amount needed to cover contingencies. The resources include income from rents, fees and charges and any available balances. All of these issues must be addressed in the budget report. The estimation of the detailed resource and expenditure items is the main reason for the budget process. The budget must balance, i.e. proposed expenditure must be met from proposed income from all sources, with any shortfall being the precept on the Collection Fund.
94. Failure to make a lawful Council Tax on or before 11 March could have serious financial results for the Council and make the Council vulnerable to an Order from the Courts requiring it to make a Council Tax.
95. Section 151 of the Local Government Act 1972 places a general duty on local authorities to make arrangements for 'the proper administration of their financial affairs'.
96. Information must be published and included in the Council Tax demand notice. The Secretary of State has made regulations, which require charging authorities to issue demand notices in a form and with contents prescribed by these regulations.
97. There is also a duty under Section 65 of the 1992 Act to consult persons or bodies appearing to be representative of persons subject to non-domestic rates in each area about proposals for expenditure (including capital expenditure) for each financial year.

DEFICIT BUDGETING

98. A deficit budget, one which does not cover all anticipated expenditure with resources reasonably expected to be available, is unlawful. Any Council Tax which rests on such a budget will be invalid. Councils are constrained to make a Council Tax before all the separate elements, which will constitute available resources or anticipated expenditure, have been identified and quantified fully. Best estimates have to be employed.
99. Where these best estimates include sums for unallocated savings or unidentified expectations of income, extreme care must be taken to ensure that the estimates are reasonable and realistic and do not reflect an unlawful intention to incur a deficit. It might be appropriate at budget setting time to require regular monitoring throughout the financial year of such estimated savings or income. Prompt action to reduce spending must be taken, if at any stage it seems likely that a balance between income and expenditure will not be achieved.

BORROWING

100. The rules and regulations governing a local authority's ability to borrow money were altered significantly by the introduction of the Local Government and Housing Act 1989 and subsequent regulations. This has now been abolished and replaced by the self regulating Prudential Code.

OTHER RELEVANT LEGISLATION

101. The Local Government Finance Act 1988 (the 1988 Act) created the (now repealed) Community Charge and the current National Non- Domestic Rating regime and deals with grants, funds, capital expenditure and the financial administration of a local authority.
102. Under Section 114 (2) and 114 (3) of the 1988 Act, the Chief Financial Officer is required to make a report, if it appears to him/her that a decision or course of action the Council or an officer has agreed or is about to make is unlawful, or that expenditure is likely to exceed resources available.
103. Members have a duty to determine whether they agree with the Chief Financial Officer's statutory report issued under Section 26 Local Government Act 2003. If Members were to disagree, they would need to set out cogent reasons for so doing. Unless such reasons could be set forward, Members' action in disagreeing with the Chief Financial Officer's views on the basis of his/her professional judgement would be likely to be held unreasonable and constitute wilful misconduct. It should be noted that under the Members' Code of Conduct, Members are required to take account of any advice issued by Chief Financial Officer (and the Monitoring Officer) acting in their statutory capacities.

THE CONSTITUTIONAL POSITION: LOCAL GOVERNMENT ACT 2000 (THE 2000 ACT)

104. The 2000 Act has had a fundamental effect on the governance of the Council and in particular has resulted in a change to the working arrangements of Council, with the requirement for a Constitution setting out executive (Cabinet) and scrutiny and overview arrangements. The 2000 Act also provides a power for Councils to promote the economic, social and environmental well-being of their areas and develop community strategies. In addition, the 2000 Act establishes an ethical framework.
105. Of particular importance to the Council Tax setting process and Budget Meeting of the Full Council is the Council's Budget and Policy Framework Procedure Rules set out in Part 4 of the City Council's Constitution. These provide a legal framework for the decision making process whereby the Budget of the City Council is determined, and the Council Tax is set. In addition, Members need to be aware that these Rules provide a route whereby the Leader may require the Full Council to reconsider their position if they do not accept the Executive's recommended budget without amendment.

106. In addition, the Constitution contains a range of further material relevant to the setting of the Council Tax and the Budget Setting meeting:
- i. Article 12 contains guidance on decision making and the law;
 - ii. The Council Procedure Rules in Part 4 regulate the conduct of the Full Council meeting (although traditionally, some of the rules relating to the conduct of the debate are suspended to allow different arrangements during the budget debate);
 - iii. The Members' Code of Conduct must be followed by Members; and
 - iv. The Officer/Member Protocol contains guidance both on pre-budget discussions, but also on how officers and Members should interact with specific guidance about budget preparation issues.

LEGAL STATUS OF POLITICAL PROMISES AND DOCUMENTS

107. It is appropriate for Members to consider their own position as some Members may have expressed support publicly for policies that are not policies of the Council.
108. Political documents do not represent a legal commitment on behalf of the Council. To treat any political document as a legal commitment by the Council would be illegal. Where there is a valid choice before Members, then, at that stage and only at that stage, Members may take political documents into account.
109. All decisions must be taken within the framework of the formal decision making process of the Authority. Members must take into account all relevant matters and disregard all irrelevant ones. Decisions taken at a political meeting, such as a political group meeting, have no status within this process. A Member, who votes in accordance with a group decision which has been reached, having regard to relevant factors and who has addressed their mind independently to those factors and to the decision itself, will be acting within the law.
110. The Courts have also advised on the balancing exercise to be undertaken by a Council when deciding whether to pursue a particular policy:

A local authority must exercise its statutory powers in the public interest and for the purpose of which those powers have been conferred. Political views, as to the weight to be attached to the various relevant considerations and as to what is appropriate in the public interest in the light of those considerations, may properly influence the exercise of a statutory discretion. A decision will not be unlawful merely because some political advantage, such as electoral popularity, is expected to flow from it, so long as the decision is made for a legitimate purpose or purposes. Because at some stage in the evolution of a policy an improper political purpose has been espoused, does not mean that the policy ultimately adopted is necessarily unlawful. However, a political purpose extraneous to the statutory purpose can taint a decision with impropriety. Where there is more than one purpose:-

- a) *The decision will generally be lawful provided that the permitted purpose is the true and dominant purpose behind the act. This is so even though some secondary or incidental advantage may be gained for some purpose, which is outside the authority's powers.*
- b) *The decision will be invalid if there are two purposes one ultra vires and one intra vires and the ultra vires purpose is a (even if not the) major purpose of the decision. Accordingly a decision substantially influenced by a wish to alter the composition of the electorate would be unlawful.*
- c) *Where there is some evidence justifying enquiry, the Court will consider whether an apparently lawful purpose e.g. home ownership is merely a colourable device to conceal an illegitimate purpose e.g. electoral advantage.*
- d) *Even if those voting for a particular policy at a Council meeting have perfectly proper reasons in mind, the policy can be tainted by the improper motives of others who have taken part in the formulation of that policy although not actually present to vote. As a matter of law it is possible for a corrupt principal to cause a result through an innocent agent.*

Other Legal Implications:

- 111. The financial forecasts contained in this report have been prepared and are submitted as part of the budget process set out in the Council’s Constitution. As part of the review process by the MBD, the proposals contained in this report have been checked from a legal viewpoint.

POLICY FRAMEWORK IMPLICATIONS

- 112. The Medium Term Plan and the Budget are key parts of the Policy Framework of the Council and a Budget and Council Tax for 2013/14 must be proposed by the Executive (Cabinet) for consideration by the Full Council under the Constitution.

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KEY DECISION? Yes/No

WARDS/COMMUNITIES AFFECTED:	ALL
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SUPPORTING DOCUMENTATION

Appendices

1.	The Budget Consultation Process
2.	General Fund Financial Forecast 2013/14 to 2015/16
3.	Executives Proposals for Consultation
4.	Medium Term Financial Forecast
5.	Updated Budget Timetable 2013/14

Documents In Members' Rooms

1.	Budget Proposals - Equality and Safety Impact Assessment
2.	

Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes/No
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	General Fund Revenue Budget 2012/13 to 2014/15 – Approved by Council on 15 February 2012	
2.	Changes to existing Revenue and Capital Budgets – Approved by Council on 12 September 2012	