

+DECISION-MAKER:	CABINET
SUBJECT:	GENERAL FUND REVENUE BUDGET 2012/13 TO 2014/15
DATE OF DECISION:	24 OCTOBER 2011
REPORT OF:	CABINET MEMBER FOR RESOURCES, LEISURE AND CULTURE
STATEMENT OF CONFIDENTIALITY	
N/A	

BRIEF SUMMARY

This report summarises the current budget position and outlines the draft proposals of the Executive for 2012/13 which will be used as the basis for extensive consultation with a range of stakeholders over the coming months.

It also sets the draft budget and council tax proposals in the context of the Executive's policy priorities and highlights key services that the Executive wish to protect as part of the 2012/13 budget setting process.

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 15 February 2012.

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) Note the Executive's Policy Priorities contained in Appendix 1.
- (ii) Approve the consultation proposals and methodology set out in Paragraphs 4 and 5 and Appendix 2 of this report and that delegated authority be given to the Senior Manager – Communications, following consultation with the Cabinet Member for Leisure, Culture & Resources to fine tune and implement the consultation proposals and methodology.
- (iii) Note the high level forecast for the General Fund for 2012/13 and the underlying assumptions contained in Appendix 3.
- (iv) Note that the Executive's budget proposals for consultation are based on the assumption that they will recommend a Council Tax freeze to Full Council.
- (v) Note the Executive's proposals put forward for consultation in Appendix 4.
- (vi) Delegate authority to the Chief Executive as Head of Paid Service in consultation with the Chief Financial Officer (CFO) and the Solicitor to the Council to explore the proposed changes to the current Discretionary Severance Policy (i.e. redundancy policy) in consultation

with staff and the Trade Unions in the light of the financial position of the Council and the priority being placed on protecting jobs and services.

- (vii) Note the medium term financial forecast for 2012/13 to 2014/15 contained in Appendix 5.
- (viii) Approve the updated budget setting timetable contained in Appendix 6.
- (ix) Delegate authority to the CFO, following consultation with the Cabinet Member for Leisure, Culture & Resources to do anything necessary to give effect to the proposals contained in this report.
- (x) Confirm an ongoing external recruitment freeze to all non essential posts.
- (xi) Agree to put in place a moratorium on all non essential expenditure for the remainder of the financial year.

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. This year the Executive is presenting a statement on its policy priorities, together with a draft budget that will be used as the basis for consultation for stakeholders within the City.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. The proposals presented in this report represent the Executive's draft budget for 2012/13 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 and these are political in nature and will be decided as part of the Budget Setting Council in February 2012.

DETAIL (Including consultation carried out)

CONSULTATION

4. The Executive will undertake an extensive consultation process between 14 October and 20 January 2012 on the attached draft budget proposals, prior to the publication of their final budget at the end of January 2012. Cabinet Members are keen to listen to new ideas and to receive feedback on the proposals to help to finalise the budget the Executive will recommended to Full Council.
5. Appendix 2 will be used as the key consultation document and outlines the process, including the methods of consultation that will be employed,

BACKGROUND

6. The Comprehensive Spending Review (CSR) released in October last year and the detailed Local Government Finance Settlement announced in December last year confirmed the unprecedented reductions in Local Government Funding for the 4 year period 2011/12 – 2014/15, with the decrease in funding front loaded to 2011/12.
7. 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.

8. At this stage in the process the overall position does not yet represent a balanced financial position but work will continue to develop final proposals in the coming months. The proposals in this report are put forward by the Executive as a draft budget that addresses the following issues:
 - Taking forward the policy priorities of the Executive, allocating resources to priority areas of need and ensuring key services are protected.
 - Driving out efficiencies to ensure that services can be maintained but at a lower cost.
 - Protecting front line customer facing services, and in doing so protecting jobs.
 - Keeping council tax and service reductions to a minimum in the context of ongoing annual under funding from Central Government.
9. The following sections explore each of these areas in turn and will help to contextualise the detailed financial proposals that have been put forward for consultation in Appendix 4.

THE EXECUTIVE'S POLICY PRIORITIES

10. Budget setting is about allocation of resources to priority areas and a statement on the Executive's policy priorities is set out in Appendix 1. 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. However in a number of key areas the Executive's priorities to protect key services are specific. These include maintaining:
 - Investment in highways,
 - Library provision across the City,
 - Provision of Sure Start services,
 - Parking charges at current reduced levels in key areas
 - Weekly bin collections and
 - Services in Children's Services and Learning where there will be no service reductions proposed.
11. As well as ensuring that resources are allocated to its specific policy priorities, the Executive has also taken into account high priority services where inflationary and demographic pressures require additional resources to be allocated next year.
12. 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.

13. In overall terms, before taking into account the savings proposals, there has been a net increase in the resources allocated to provide for the Budget Requirement which represents the amount we think the Council needs to spend of almost £7.2M which represents an increase of 3.8% over the base budget position.
14. Once the proposed service reductions have been taken into account which total £2.9M there is still a net increase in overall spending of more than £4.3M despite a fall in Government funding in excess of £7.4M.

EFFICIENCY SAVINGS

15. The CSR released in October last year and the detailed Local Government Finance Settlement confirmed the unprecedented reductions in Local Government Funding over the next four years, which were front loaded. Detailed settlement figures were provided for 2011/12 and 2012/13. At this stage therefore the draft budget for 2012/13 has been put together on the basis that there will be no change in the figures for National Non-Domestic Rates (NNDR) and Revenue Support Grant (RSG), and the Executive has therefore put forward efficiencies in order to be able to continue to deliver those services which it considers a priority in the face unprecedented reductions in Local Government Funding and a difficult economic outlook.
16. The proposals in Appendix 4 contain £9.1M of efficiency savings which may involve the reconfiguration of some services. These proposals together with income generation ideas totalling £0.8M will enable services to be protected as far as possible.
17. Over the next few months, Cabinet Members will continue to explore other ideas for savings and efficiencies that could contribute to the 2012/13 budget position. Furthermore, future savings options have also been included in the medium term forecast of £8.2M in 2013/14 rising to more than £12.0M in 2014/15. These items are work in progress and will be further developed in the coming year by the Executive in conjunction with the Management Board of Directors (MBD), Directorate Management teams and our partners, including Capita.

PROTECTING JOBS

18. The Executive made it clear as part of the implementation of the 2011/12 budget that protecting front line services, and hence jobs, was a key priority. It was for that reason that the Executive's budget proposals for 2011/12, as implemented by Full Council, included a number of changes to staff terms and conditions, in order that employment costs could be reduced in lieu of further job losses.
19. Whilst implementation of the changes to Terms & Conditions came into effect on the 11 July 2011, this was without collective agreement with the trade unions, which as a consequence has led to a sustained period of industrial action.
20. Since the 11 July 2011, the Executive has put forward a number of proposals to the Trade Unions to reduce the impact of the changes to terms and conditions, with an emphasis on further protecting the lower paid from the impact of the changes.

21. Following the most recent negotiation meeting with the Trade Unions on the 12 October 2011, the Executive remain optimistic that a position has been reached where the Trade Unions can recommend a proposed offer to their members which, if accepted, would put in place a negotiated settlement and collective agreement which would bring resolution to the industrial dispute over changes to employees terms and conditions.
22. However, in order to reach formal agreement, the Trade Unions will need to formally ballot their members on the proposals on which tentative agreement was reached following the meeting on the 12 October 2011. It is anticipated that this process will be undertaken during November.
23. The financial forecast for 2012/13 therefore includes an assumption that £1.17M will need to be found on a recurring basis in order to fund the proposed way forward. This is an additional pressure on the revenue budget and increases the financial gap for 2012/13 and future years by £1.17M.
24. Moving forward, the Executive remain committed to minimising job losses within the Council, and this is reflected in their proposals to reduce redundancy costs in order to further minimise the impact on jobs in 2012/13 and beyond.

COUNCIL TAX

25. The Executive is well aware of the impact of large Council Tax increases on households within the City. In previous years, the Conservative Group has adopted a policy of keeping proposed Council Tax as low as possible with the level last year being frozen.
26. This remains a key commitment of the Executive and the previously approved Older Persons council tax discount of 10% for households where all occupants are over 65 will be maintained, as will the 100% discount for Special Constables.
27. The Government recently announced that it is proposing to fund a further Council Tax freeze in 2012/13. Based on the announcements to date, the current position appears to be that a one off grant will be payable in 2012/13 to those Authorities who implement a zero percent increase in Council Tax for that year. The grant receivable will represent additional funding equivalent to increasing Council Tax by 2.5%. For Southampton, the likely level of additional funding is in the order of £2.1M.
28. If the grant is one off and payable only in 2012/13 there will be a pressure from 2013/14 onwards of £2.1M as grant income is lost if there is no corresponding increase in Council Tax over and above the currently assumed level of 2.5% as the base council tax position will not have increased in 2012/13. The current forecast for 2013/14 onwards assumes that the grant available is received on a one off basis.
29. 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 to be kept at zero percent.

30. 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.

REDUNDANCY PACKAGE PROPOSALS

31. In recent years, and through successive budgets, the Council has managed to keep overall job losses and redundancies to a minimum.
32. This has meant that even where the budget has indicated a relatively high number of job losses, pro-active management (for example through the holding of vacancies and through the Council's positive approach to redeployment) has often meant that the overall number of actual job losses each year has been significantly less than the number proposed in the budget. This in turn has meant that redundancy costs have been contained.
33. However, the recent tough economic climate has meant that the Council's ability to avoid making redundancies has become more limited, despite the Council's continued resolve to either make savings through vacant posts, or to secure on-going employment for displaced individuals via the Council's redeployment policy. For example, turnover is much lower than in recent years, and hence fewer vacancies have arisen as a consequence. This is reflective of the tough position within the job market which prevails in both the public and the private sector, meaning that less jobs are available for individuals to move into.
34. This has meant that compared to previous years, in 2011/12 the actual number and cost of redundancies has been much greater than in previous budget rounds, and subsequently the amount of funding required to meet the cost of redundancies has increased significantly.
35. The cost of redundancies is now a significant pressure on the Authority's financial position and in itself generates a vicious circle. Self evidently, the more employees that are made redundant, the higher the level of funding that is required to meet redundancy costs, resulting in a higher the level of savings required to be make resources available to fund redundancies.
36. In addition to more individuals being made redundant, the Council also operates a relatively generous redundancy scheme, the cost of which has increased in the current financial year due to the decision to offer an enhanced voluntary scheme for the 2011/12 budget round. The Council does not have sufficient reserves available to continue to be able to fund redundancy costs at the present level, even if the impact of the enhancement for voluntary redundancy is not factored in.
37. The scheme at present, ignoring the in year enhancement for voluntary redundancies, is as follows:

£ Actual weekly pay

X Statutory Weeks Payable (up to maximum of 30 weeks based on age and length of service)

X Discretionary multiplier of 1.6

(The discretionary multiplier was enhanced to 2 for voluntary redundancies for the 2011/12 budget).

38. The Executive has been clear that its priority is to protect jobs; however, this position is undermined if the Authority is faced with redundancy costs which it cannot afford. Put simply, to maintain the current scheme means that potentially more posts would have to be deleted in order to generate further savings to meet the cost of redundancies. Therefore, in order to protect jobs, the Cabinet believe that a reduced redundancy scheme which is affordable is an appropriate way of ensuring that services can be protected and consequently that the least number of posts are deleted as possible.
39. The Executive is therefore proposing, subject to consultation with the Trade Unions, that the current redundancy scheme be replaced with a more affordable scheme, and the Executive are seeking to engage with the Trade Unions in exploring the options for making changes to the existing scheme. In reviewing options, the Executive are mindful of the need to develop a revised scheme which is fair but which does not pay excessive amounts.
40. The financial forecast represented by the 'base' position includes £5.0M in each of the next three financial years to cover the cost of redundancies and any associated pension costs based on the current scheme. The draft budget proposed by the Executive reflects the impact of a revised redundancy scheme which the Executive anticipates will see costs reduced by a minimum of £1.0M per annum.
41. Based on an average salary cost (including on-costs) of £30,000, a reduction in the total cost of redundancies of £1.0M would translate to an equivalent saving of approximately 33 posts.

DETAILED FINANCIAL PROPOSALS

42. Appendix 3 to this report sets out the high level financial position for the General Fund for 2012/13 including provision required in the Risk Fund for possible pressures and risks that have been signed off by the MBD.
43. Appendix 3 shows that after taking into account base changes, inflation, changes in the Risk Fund and assumptions for Government Grant there is a roll forward gap of more than £15.2M at an assumed increase in Council Tax of 2.5%.
44. 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 highways maintenance and other previously approved key revenue developments and the level of Council Tax rise they wish to set.
45. Appendix 4 sets out the Executive's 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 4 total £12.75M.
46. The overall current draft budget package therefore put forward by the Executive is shown in the following table:

	£M
Budget Gap @ 2.5% Council Tax	15.24
Efficiencies	(9.13)
Income	(0.76)
Service Reductions	(2.86)
	<hr/> 2.49 <hr/>
Revised Redundancy Package	(1.00)
Net Deficit	<hr/> 1.49 <hr/>

47. Even allowing for the draft proposals, the Executive's proposed draft budget position does not yet represent a balanced budget.
48. In arriving at this position a number of one off funding sources have been utilised which total almost £3.4M. These include contractual savings from the Street Lighting PFI project (1.1M) and the utilisation of the New Homes Bonus for both 2011/12 and 2012/13 (£2.3M). These one off elements, whilst serving to reduce the gap in 2012/13, by their very nature do not impact on the medium term financial position. In addition, the draft budget includes an assumed £1.0M saving to be made on anticipated redundancy costs.
49. The Council is required to set a legally balanced budget by March 11 2012. 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.
50. It should also be noted that even after allowing for the draft budget proposals there remain significant budget shortfalls in the medium term, with a forecast gap of £17.8M in 2013/14 rising to £28.0M in 2014/15. 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 2012/13 budget on 15 February 2012, but Members should not lose sight of the need to ensure that work is ongoing to develop savings proposals for future years.
51. The medium term financial position is shown in Appendix 5 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.

STAFFING IMPLICATIONS

52. The City Council employs 3,841 FTE of non school staff of which 3,070 FTEs 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, that the savings proposals put forward by the Council (see Appendix 4) will have an impact on staff cost and staff numbers.
53. 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.

54. 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.
55. 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 107.74 FTE posts are at risk of being redundant. This accounts for 2.8% of the overall FTEs employed.
56. 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.
57. 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
58. 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 2012/13 budget.

2011/12 IN YEAR ACTION

59. 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 non essential posts are not being 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 2012/13 savings proposals and this will help to ensure that the potential level of compulsory redundancies is minimised.
60. The recommendation is that this rigorous assessment of vacant posts prior to external recruitment should remain in place.
61. In addition to this recruitment freeze on all non essential vacant posts, the Executive are also seeking to put in place with immediate effect a moratorium on all non essential spend; this approach will hopefully yield additional in-year savings to support the overall budget.

NEXT STEPS

62. This report and the proposals contained in it represents an important step in the overall budget setting timetable for 2012/13 and signals the start of an extensive consultation programme as outlined earlier in the report.

63. The remainder of the budget timetable from this point forward is detailed in Appendix 6.
64. Final proposals for the budget will continue to be developed and an overall draft budget prepared following the consultation period for presentation to Cabinet and then full Council in February next year.

RESOURCE IMPLICATIONS

Revenue

65. This report is concerned with the revenue forecasts for the General Fund for 2012/13 and beyond.

Capital

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

Property/Other

67. None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

INTRODUCTION

68. 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

69. 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.
70. 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.
71. 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

72. 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.
73. 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.
74. 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.
75. 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'.
76. 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.
77. 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

78. 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.

79. 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

80. 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

81. 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.
82. 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.
83. 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.

BEST VALUE: LOCAL GOVERNMENT ACT 1999

84. The Local Government Act 1999 (the 1999 Act) introduced a duty of Best Value, which came into force on 1 April 2000. Members need to be aware of and take account of the impact on the Council of this duty.

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

85. 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.

86. 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.
87. 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.

PERSONAL LIABILITY AND SURCHARGE

88. The 2000 Act abolished the local government surcharge provisions and replaced them with a new statutory offence of 'misuse of public office'. This new statutory offence covers two situations, namely unlawfully incurring expenditure or incurring expenditure as a result of wilful misconduct. It also covers the exercise of a public function in a manner that involves dishonesty or oppression or malice. The Courts (rather than the District Auditor) would impose penalties. The Council could sue for losses/deficiencies sustained.

LEGAL STATUS OF POLITICAL PROMISES AND DOCUMENTS

89. 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.
90. 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.
91. 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.
92. 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:

93. 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

94. The Medium Term Plan and the Budget are key parts of the Policy Framework of the Council and a Budget and Council Tax for 2012/13 must be proposed by the Executive (Cabinet) for consideration by the Full Council under the Constitution.

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KEY DECISION? Yes

WARDS/COMMUNITIES AFFECTED:	ALL
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SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	The Priorities of the Executive
2.	The Budget Consultation Process
3.	General Fund Financial Forecast 2012/13 to 2014/15
4.	Executives Proposals for Consultation
5.	Medium Term Financial Forecast
6.	Updated Budget Timetable 2012/13

Documents In Members' Rooms

1.	None
2.	

Integrated Impact Assessment

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

Integrated 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
General Fund Revenue Budget 2011/12 to 2013/14 - 16 February 2011	12A allowing document to be Exempt/Confidential (if applicable)

1.		
2.		