
BUDGET PROCEDURE RULES

1. Summary

- 1.1 The Council has a duty under section 30(6) Local Government Finance Act 1992 to set a lawful budget in a timely manner.
- 1.2 Members have a fiduciary duty to Council Tax payers. This means they have a duty to facilitate the setting of a lawful budget; a process that requires flexibility and compromise.
- 1.3 Failure to set a lawful budget in time may lead to a loss of revenue, significant additional administrative costs, as well as reputational damage. Failure to set a budget may lead to intervention from the Secretary of State under section 15 Local Government Act 1999.

2. The Legal Duty

- 2.1 Section 30(6) of the Local Government Finance Act 1992 provides that the Council must set its budget before 11 March in the financial year preceding the one in respect of which the budget is set.
- 2.2 If the budget is set on or after that date, Section 30 (6) of the 1992 Act provides that the failure to set a budget within the deadline does not, in itself, invalidate the budget. However, such delay may have significant financial, administrative, and legal implications, including potential individual liability of any Member who contributed to the failure to set a budget.
- 2.3 Section 66 of the 1992 Act provides that failure to set a Council tax (or delay in setting a Council tax) shall not be challenged except by an application for judicial review. The Secretary of State and any other person with an interest or “standing” may apply for judicial review.

3. Financial Implications of Delay

- 3.1 Delay in setting the Council Tax means a delay in collecting the Tax due not only to the Council, but also the precepting authorities such as Surrey County Council, the Police and Crime Commissioner, and others including [Town and] Parish Councils on whose behalf the Council acts as a collection authority.
- 3.2 The Council has a legal duty to provide a range of statutory services (such as refuse collection, homelessness prevention etc) and is not absolved from its duty because of the late setting of the Tax. It also has to pay the monies due to the precepting authorities whether or not it collects any Council Tax.
- 3.3 Even if the Council sets the budget before the deadline but much later than the planned Budget Council Meeting, there is still likely to be some disruption to the administrative arrangements relating to the collection of Council Tax (such as printing, posting, delivery of demands) that have cost implications.

4. Duty to Take Advice from the Chief Finance Officer (Joint Strategic Director – Finance and Resources)

- 4.1 Sections 25 to 28 of the Local Government Act 2003 impose duties on the Council in relation to how it sets and monitors its budget. These provisions require the Council to make prudent allowance for the risk and uncertainties in its budget and regularly monitor its finances during the year. The legislation leaves discretion to the Council about the allowances to be made and action to be taken.
- 4.2 Section 25 also requires the Council's Chief Finance Officer (who is the Joint Strategic Director – Finance & Resources) to make a report to Council when it is considering its budget and Council Tax. The report must deal with the robustness of the estimates and the adequacy of the reserves allowed for in the budget proposals, so Members will have authoritative advice available to them when they make their decisions on the Executive's budget proposals and any amendments to those proposals.
- 4.3 This section, and the Council's Constitution, requires Members to have regard to the report in making their decisions. Any decision that ignores this professional advice, including the implications of delay, is potentially challengeable.

5. The Budget Framework

- 5.1 The Council will be responsible for the adoption of its budget, as set out in the Constitution (Part 4 – Budget & Policy Framework Procedure Rules). Once a budget is in place, it will be the responsibility of the Executive to implement it.

6. Annual Process for Setting the Budget

- 6.1 The process by which the budget shall be set is as follows:
- 6.2 In November/December each year detailed financial proposals for the forthcoming financial year in line with the Council's Medium Term Financial Plan are considered by the Executive.
- 6.3 The Overview and Scrutiny Committee (Resources) will consider the proposals at its meeting in December/January and will have the opportunity to make recommendations to the Executive at its meeting in January/February. Any non-member of the Overview and Scrutiny Committee (Resources) is able to attend the meeting of that Committee for consideration of the budget item.
- 6.4 The meeting of the Executive in January/February will recommend a draft budget to the Council, and the level of Council Tax. This will be considered by the Council, together with the Medium-Term Financial Plan, at its Budget Setting Council meeting usually held in February.

7. The Budget Setting Council Meeting

- 7.1 The Executive's budget proposals for the forthcoming financial year will be presented to the Council under cover of a report from the Joint Strategic Director – Finance & Resources, together with their professional financial advice upon the proposals.
- 7.2 The Council will be asked to agree to suspend Council Procedure Rules for the meeting, where they conflict with these Budget Procedure Rules, to allow these Budget Procedure Rules to prevail.
- 7.3 The agenda for the Budget Setting Council Meeting will be limited to the following substantive items:
- (a) Questions or Statements from the Public.
 - (b) Members' Questions.
 - (c) Consideration of the Leader's recommendations for the Budget, Capital Programme, Borrowing Policy, and Council Tax.
 - (d) Such business as the Joint Chief Executive or Joint Strategic Director for Democracy, Law & People agree should also be considered at the meeting.
 - (d) Other items the Mayor agrees be taken as urgent.
- 7.4 At the Council Budget Setting Council Meeting the Executive submits to the Council for its consideration in relation to the following financial year:
- (a) Estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 34 to 37 or 45 to 49 of the Local Government Finance Act 1992;
 - (b) Estimates of other amounts to be used for the purposes of such a calculation;
 - (c) Estimates of such a calculation; or
 - (d) Amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992.
- 7.5 The Leader of the Council or, with the consent of the Leader, the Lead Councillor with portfolio responsibility for finance, will propose the Executive's recommendations relating to the above matters by way of a motion to the Council which, if seconded, will be debated by the Council in accordance with the provisions below and voted upon.
- 7.6 The Council may:
- (a) Adopt the Executive's proposals; or
 - (b) Amend them in accordance with the provisions set out below; or

(c) Refer them back to the Executive for further consideration.

- 7.7 Budget proposals can only be submitted to the Council by the Executive; others can propose amendments to the Executive's proposals. The decision on any amendment to the budget and on the budget (as amended, if applicable) will be made by way of a recorded vote in accordance with Council Procedure Rule 17.4 (Part 4 of the Constitution) and statutory requirements of the Local Authorities (Standing Orders) (England)(Amendment) Regulations 2014. The Leader must confirm that they accept the budget as agreed by Council or it must be resubmitted to full Council with the Executive's revised proposals, causing an inevitable delay.
- 7.8 If the Council accepts the recommendation of the Executive without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision, and the Leader's verbal confirmation will be sought at the meeting that the Leader accepts the budget as agreed by the Council.
- 7.9 Any elected Member may put forward an amendment to the Executive's budget proposal to the Council. However, Members should not put forward proposals that would mean setting an unlawful budget and they must take Officer advice to ensure their proposals are in order. To this end any proposed amendments must be evaluated and signed off as being capable, if carried, of delivering a lawful balanced budget by the Joint Strategic Director – Finance and Resources, or an officer appointed by them for that purpose, to determine the service, financial and legal implications of implementing the amended proposals. Amended proposals are required to be submitted to the Joint Strategic Director – Finance and Resources, by email to committeeservices@guildford.gov.uk by no later than 12 noon 4 clear working days before the Budget Setting Council Meeting, excluding the date of the meeting itself.
- 7.10 Any proposed amendment to any matter on the Budget Setting Council Meeting agenda, other than the budget, which would have, or would likely to have, a significant effect on the Executive's proposed budget, must also be submitted to the Joint Strategic Director – Finance and Resources, by email to committeeservices@guildford.gov.uk by no later than 12 noon 4 clear working days before the Budget Setting Council Meeting, excluding the date of the meeting itself.
- 7.11 The amended proposals, once received by the Joint Strategic Director – Finance and Resources, will be held confidentially by the Finance Officers involved and not shared with other political parties, with the exception that any amendments received from an elected Member who is part of a Group will be shared with the relevant Group Leader. All amended proposals will be considered by Finance Officers by no later than 12 noon 3 clear working days before the day of the Council meeting, excluding the day of the meeting itself. Finance Officers will confirm the legality and impact of all proposed amendments. Any that in the Joint Strategic Director – Finance and Resources' opinion are unlawful shall be rejected. The Joint Strategic Director

– Finance and Resources will then share all amended proposals, together with Finance sign off and comments, with the Chief Executive and Monitoring Officer no later than 5pm 3 clear working days before the day of the Council meeting, excluding the day of the meeting itself.

- 7.12 All proposed amendments will be shared with all Elected Members by no later than 9am 2 clear working days before the day of the Council meeting, excluding the day of the meeting itself.
- 7.13 Following a period for negotiation, any minor alterations to proposed amendments will be allowed up to 12 noon the working day before the meeting, provided they do not have substantial impact and are agreed with the Joint Strategic Director – Finance and Resources. By 5.00pm the working day before the Budget Setting Council meeting, Democratic Services Officers will circulate copies of all accepted proposed amendments to all Members of the Council. At the Council meeting, the Mayor will refuse to accept any proposals for amendment that have not been through the above process and signed off as being lawful proposals by the Joint Strategic Director – Finance and Resources, other than proposals which do not have any financial impact.
- 7.14 At the Budget Setting Council Meeting the Executive will propose their budget, with the Leader of the Council, or the Lead Councillor with portfolio responsibility for finance, having up to 20 minutes for their speech. The proposal will need to be seconded and the Member seconding has up to 10 minutes available for this purpose. The seconder may speak at the time of seconding or reserve their speech for later on in the debate.
- 7.15 The Leader of the principal Opposition group, or a nominated spokesperson for that group, has the right to speak first on the Executive's proposal and may propose any amendment which has been signed off by the Joint Strategic Director – Finance and Resources in accordance with these procedure rules. They have up to 15 minutes for their speech. If they propose an amendment, the proposal must be seconded. The Member seconding the amendment has up to 10 minutes to speak either at this stage or may reserve their speech for later in the debate on this amendment.
- 7.16 The Leader, or nominated spokesperson, of the next largest Group (not represented on the Executive) will have the right to speak next on the Executive's proposal, and may propose any amendment which has been signed off by the Joint Strategic Director – Finance and Resources in accordance with these procedure rules. They have up to 15 minutes for their speech. If they propose an amendment, the proposal must be seconded. The Member seconding the amendment has up to 10 minutes to speak either at this stage or may reserve their speech for later in the debate on this amendment.
- 7.17 This process continues until the Leader, on nominated spokesperson, of each Group and all ungrouped Members have had the opportunity to speak, and all amendments have been proposed and seconded. In the event of an equality of members in political groups, then the right to speak next shall revolve at each Budget Setting Council Meeting.

- 7.18 The matter then before the Council for debate is the Executive's proposed budget and all amendments proposed and seconded. Each Member may speak only once on this item, other than those who have a right of reply at the end of the debate - the Leader of the Council, or the Lead Councillor with portfolio responsibility for finance who proposed the Executive's budget, and any Member who has submitted an amendment.
- 7.19 Each speaker, other than those with a right of reply, has a maximum of 5 minutes to speak if the only matter for debate is the Executive's proposed budget, or 10 minutes where amendments to the Executive's proposed budget have been proposed and seconded.
- 7.20 The debate is managed by the Mayor, or the person presiding at the meeting, who may use their discretion to ensure the effective, efficient, fair and orderly conduct of the business. The Mayor's/person presiding's interpretation of these procedure rules and their application will be final.
- 7.21 If any Member seconding a proposal (the original motion or a proposed amendment) has reserved their speech to later in the debate, their speeches will be taken in the reverse order in which the proposals were moved and seconded.
- 7.22 When the debate has concluded, the Leader of the Council or the Lead Councillor with portfolio responsibility for finance, as the proposer of the original motion, and any Member who has proposed an amendment will have a right of reply. Each speaker will be taken in the reverse order in which the proposals were moved and seconded, with the Leader of the Council or the Lead Councillor with portfolio responsibility for finance (as applicable) having the last right of reply on behalf of the Executive. Each speaker with a right of reply has up to 10 minutes to respond.
- 7.23 The Mayor, or person presiding, will if they think fit, sum up the debate before putting each of the amendments to the vote. In doing so they may request the Joint Strategic Director – Finance and Resources to draw the attention of the meeting to any relevant facts to be taken into account.
- 7.24 The Mayor, or person presiding, will then put the amendments to the vote in the order of the amendments proposed by the largest Opposition Group first, followed by the next largest and then any ungrouped Member. Each amendment will be voted on in turn by way of a recorded vote.
- 7.25 Some proposed amendments may impact on others and there may be inter dependencies. For example, if one amendment is lost it may result in others automatically being lost, whilst some amendments may have no impact on others and may stand alone regardless of the outcome of voting on other amendments. The Joint Strategic Director – Finance and Resources will advise accordingly, and the Mayor, or person presiding, may adjourn the meeting to facilitate the provision of that advice.
- 7.26 Following the conclusion of the voting on the amendments, the Joint Strategic Director – Finance and Resources will confirm how the individual amendments

that have been carried affect the proposed Council Tax resolution as necessary.

- 7.27 There may be a need for a short adjournment to allow for any amendments to be made to the Council Tax resolution to reflect the budget proposals, as amended, and for any amendment to the Council Tax resolution to be circulated prior to the substantive vote.
- 7.28 The Mayor, or person presiding, will then put the original motion or, if any amendments have been agreed, the substantive motion to the Council for a vote. A recorded vote will be taken and recorded by the Democratic Services Officer present.
- 7.29 If the Executive's proposed budget is accepted without amendment by the Council, the Council may make a decision which has immediate effect. If the Executive's proposed budget is approved as amended by full Council, the Leader of the Council will be asked by the Mayor, or person presiding, if they accept the budget as agreed by Council.
- 7.30 If the Leader of the Council confirms that they do accept the budget proposals as amended by Council, the Council decision will have immediate effect.
- 7.31 If the Leader of the Council does not accept the amended budget proposals agreed by the Council, the matter will be referred back to the Executive for further consideration¹and revised Executive proposals will need to be submitted to the Council at a future meeting; this will cause an inevitable delay to the lawful setting of the budget and the Council Tax and the associated consequences of such a delay will need to be considered.

8. S106 Local Government & Finance Act 1992

- 8.1 Under S106 Local Government & Finance Act 1992, a member who has not paid an amount due in respect of their council tax for at least two months after it became payable is unable to vote on any matters affecting the level of Council Tax or arrangements for administering the Council Tax (although they are able to speak). They must make any declarations to this effect at the commencement of the meeting or immediately upon arrival if this is later. Failure to do so is a criminal offence.

¹ The Council must specify a period of not less than five working days