

## APPENDIX H

1. The Council is required to set a Council Tax for 2018/19 before 11 March 2018. It may not be set before all precepts have been issued and the decision cannot be delegated to a committee or to Officers. Before setting the level of the tax the Council must have agreed a balanced budget, differentiated by services, which is sufficient to meet estimated revenue expenditure, levies, contingencies, any deficit estimate to be brought forward from previous years, and any amounts required to be transferred between funds. The tax itself must be sufficient to cover the difference between the agreed budget less government grants retained Business Rates and other grants credited to the consolidated revenue account, and any other expenditure which must be met from the Collection Fund, less any surplus (or plus any deficit) brought forward from previous years.
2. In reaching decisions on these matters, Members are bound by the general principles of administrative law and must not fetter their discretion. All relevant considerations must be taken into account and irrelevant ones disregarded. Any decision made must be one that only a reasonable authority, properly directing itself, could have reached. Members must also balance the interests of service users against those who contribute to the Council's finances. The full resources available to the Council must be deployed to their best advantage and Members must act prudently.
3. Among the relevant considerations, which Members must take into account in reaching their decisions, are the views of business ratepayers and the advice of officers. The duty to consult representatives of non-domestic ratepayers on the Council's expenditure plans which existed under previous legislation is repeated in Section 65 of the Local Government Finance Act 1992.
4. In considering the advice of officers, and the weight to be attached to that advice, Members must have regard to the personal duties placed upon the Council's Section 151 Officer (see para 5 below). The Council may take decisions which are at variance with her advice, providing there are reasonable grounds to do so. However, Members must take into consideration the Council's exposure to risk if they disregard clearly expressed advice, for example, as to the level of provision required for contingencies, bad debts and future liabilities.
5. The Section 151 Officer is required by the Local Government Act 1972 and by the Accounts and Audit Regulations 2015 to ensure that the Council's budgeting, financial management and account practices meet relevant statutory and profession requirements. Furthermore Section 25 of the Local Government Act 2003 requires the Corporate Director of Finance and Resources to report on the robustness of the budget estimates and the adequacy of reserves to which Members must have regard.
6. Members must also have regard to, and be aware of the wider duties placed upon the Council by various statutes governing the conduct of its financial affairs. These include the distinction between revenue and capital expenditure, specified within the Local Government and Housing Act 1989.

The Local Government Act 2003 requires that the prudential borrowing limits are set by the Council having regard to the Chartered Institute of Public Finance and Accountancy (CIPFA) Prudential Code. This sets out a framework for self-regulation of capital spending, in effect allowing Councils to invest in capital projects without any limit, so long as they are affordable, prudent and sustainable. To facilitate this arrangement the code requires the Council to agree and monitor a number of prudential indicators.

7. Section 106 of the Local Government Finance Act 1992 makes it a criminal offence for any Member to attend any meeting of the Council or one of its committees at which a decision affecting the budget is to be made, where a payment of Council Tax that a member is liable to make has been outstanding for two months or more, unless the Member concerned declares at the outset of the meeting that he or she is in arrears, and will not be voting on the decision for that reason. The Member concerned must then abstain from voting. The application of Section 106 is very wide and there have been successful prosecutions under this legislation. It can include meetings held at any time during the year, not just the annual budget meeting, and it may include meetings of committees or sub-committees as well as Council meetings. Members should be aware that the responsibility for ensuring that they act within the law at all times rest solely with the individual Member concerned.
8. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 provide that the Council's procedures must provide for the minutes to record how each Councillor voted (including any abstentions) when determining the Council's budget and the level of Council Tax to be levied.
9. Having set a budget at the beginning of the year, the Council is also under a duty to monitor that budget during the course of the year and to take remedial action if at any time it appears likely that expenditure will exceed available resources. Members are aware of the duty of the Section 151 Officer under Section 114(3) of the Local Government Finance 1988 Act to report to the Council if it appears that this will happen, and of the impact of Section 115(6) which prohibits any new agreement which would incur expenditure from being entered into following the issuing of such a report and pending its consideration by the Council. The Members of the Council, having received a Section 114 report are obliged to take all reasonable practicable measures to bring the budget back into balance.
10. A Section 114 report is a serious matter which can destabilise an authority and can only be avoided by prudent budgeting and effective budgetary control. This adds emphasis to the need for an adequate contingency provision and a strong corporate commitment to holding chief officers accountable for containing expenditure within cash limits approved during the budget process.
11. It is the duty of the Chief Financial Officer as the Section 151 Officer to provide the relevant financial information, which is or ought to be available and advise on the financial prudence of options before Members, and Members must take account of such information and advice in reaching their

decisions. The Council is however free to take decisions which are at variance with the advice of those officers, providing there are reasonable grounds to do so.

12. The Section 151 Officer must consider whether in her view the Council had agreed a balanced budget which is capable of delivery taking all know factors into account. In the event that she considers this not to be the case, then she has a personal duty to indicate this by issuing the Council with a notice under Section 114 Local Government Finance Act 1988.
13. Any questions arising regarding the ability of members to vote on matters within this report having reference to any disclosable pecuniary interest or any personal or prejudicial interests will be addressed at the beginning of the council meeting.
14. Section 149 of the Equality Act 2010 sets out the public sector equality duty which requires the Council, when exercising its functions to have 'due regard' to the need to eliminate discrimination (both direct and indirect discrimination), harassment and victimization and other conduct prohibited under the Equality Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic.
15. A 'protected characteristic' is defined in the Equality Act as:
  - age;
  - disability;
  - gender reassignment;
  - pregnancy and maternity;
  - race; (including ethnic or national origins, colour or nationality)
  - religion or belief;
  - sex;
  - sexual orientation.

Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination Having due regard to the need to 'advance equality of opportunity' between those who share a protected characteristic and those who do not, includes having due regard to the need to remove or minimize disadvantages suffered by them. Due regard must also be had to the need to take steps to meet the needs of such persons where those needs are different from persons who do not have that characteristic, and encourage those who have a protected characteristic to participate in public life.

Complying with the duty may involve treating some people better than others, as far as that is allowed by the discrimination law. Due regard to the need to eliminate discrimination, advance equality, and foster good relations must form an integral part of the decision making process. The Council must consider the effect that implementing a particular policy will have in relation to equality before making a decision.

16. There is no prescribed manner in which the equality duty must be exercised. However, the council must have an adequate evidence base for its decision making. Where it is apparent from the analysis of the information that the proposals would have an adverse effect on equality then adjustments should be made to avoid that effect (mitigation). The duty is not to achieve the objectives or take the steps set out in s.149. Rather, the duty on public authorities is to bring these important objectives relating to discrimination into consideration when carrying out its functions. “Due regard” means the regard that is appropriate in all the particular circumstances in which the authority is carrying out its functions.
17. There must be a proper regard for the goals set out in s.149. At the same time, the council must also pay regard to any countervailing factors, which it is proper and reasonable for them to consider. Budgetary pressures, economics and practical factors will often be important. The weight of these countervailing factors in the decision making process is a matter for the Council. The equality and diversity implications of budget proposals are considered at all stages of the budget process, from the development of the initial budget strategy, through consideration of individual growth and savings proposals, to the production of service development plans. The processes in place are therefore aimed at ensuring that the budget proposals in this report do not discriminate against communities or individuals because of age, ethnicity, gender, disability, religion, or sexual orientation, and support the council in meeting its other duties to promote equal opportunities.