

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	3 rd July 2024
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Scheme of Governance – Budget Protocol
REPORT NUMBER	CORS/24/174
EXECUTIVE DIRECTOR	Andy Macdonald
CHIEF OFFICER	Jonathon Belford
REPORT AUTHOR	Vikki Cuthbert
TERMS OF REFERENCE	17

1. PURPOSE OF REPORT

- 1.1 To propose revisions to the Budget Protocol in response to the lessons identified within the first year of operation and reported to Council on 17th April.

2. RECOMMENDATIONS

That Council:-

- 2.1 Approve the revised Budget Protocol at appendix A.

3. CURRENT SITUATION

- 3.1 The Governance Reference Group has met five times since the last Council meeting and agreed to instruct officers to report only the Budget Protocol to this meeting, with the remaining Scheme of Governance documentation to go to August Council. This is to allow additional time for elected members to consider officer proposals.
- 3.2 Council received a report at its last meeting on lessons identified during the first year of operation of the Budget Protocol. This recognised that the Protocol had significantly improved our engagement with the public, allowing us to build a narrative on the challenging financial position and to make it clear that difficult choices would continue to be needed. It had also ensured that elected members were clear on the range of options being considered by officers much earlier in the cycle, enhanced our compliance with the Public Sector Equality Duty and facilitated a culture change in the organisation in relation to Integrated Impact Assessments. At the same time, it was recognised that further consideration was needed on future use of the digital tool used for public engagement and there were potential benefits of beginning face to face stakeholder engagement earlier in the year and briefing all members on the budget options.
- 3.3 A revised Protocol is attached at appendix A, including tracked changes. The main revisions are outlined below:

- Face to face engagement with the public will begin earlier in the year, recognising that we obtained some valuable feedback through these sessions which could inform the preparation of budget options.
- Officer budget papers will be published earlier than is required by legislation to provide members with more time to finalise their proposed budgets.
- There will also be consultation, as appropriate, with statutory bodies, funding providers and other relevant parties, if options relate to statutory requirements, guidance or grant conditions.
- Members will then submit their budgets to the Chief Officer – Finance four working days before the Council budget meeting – one day earlier than stipulated last year.
- The Chief Officer – Finance and Finance Teams will support members with any changes required to their budgets to ensure competency and following final sign off these will be published the day before the meeting. After this point, no further changes can be made.

3.4 The lessons learned exercise provided helpful insight from members and officers into the potential improvements to be made, whilst also confirming that some benefits were realised from the introduction of a Budget Protocol. The improvement areas relating to public engagement, including the digital tool used, are being addressed separately by officers and the improvements being made are not included below:

Improvement Area	Response
It would have benefited members to receive budget options earlier in the year.	These will be shared with members from Q2 onwards.
Whilst an improvement on previous years, there were significant last minute alterations to all budgets submitted. This included a requirement to prepare competent instructions to sit alongside all budgets. This created significant pressure on the Chief Officer – Finance and risks a resilience failure given the scrutiny required	The earlier submission of budgets by elected members and sign off by members the day before the meeting.
Council was required to suspend Standing Orders to enable all budgets to be debated, as modifications were made to all budgets after the deadline for submission.	The revised Protocol builds in time for modifications prior to publication.
It was not possible to create a cumulative IIA describing the effect of the proposed budget on protected characteristics as these were proposals for elected members to choose from.	A cumulative IIA remains an aspiration for the Council as it would increase our collective visibility on the impacts of a combination of budget options on protected characteristics. Officers will continue to work towards this for future years and in the meantime the earlier preparation of budget options and IIAs goes some way towards this.
The budget options did not cross-refer to service standards and commissioning	Service standards linked to budget options will form part of the first phase of public and member engagement.

Improvement Area	Response
intentions which were developed later in the year.	
Lack of specific reference to capital projects and their impact on revenue funding. Public engagement concentrated only on services funded by the General Fund.	Public engagement last year included a number of specific capital projects and this will be repeated in 2024. Plans for rent increases and the Housing Revenue Account budget is subject to consultation with tenants and will be separately undertaken in Q3.
Whilst the Protocol provides an option for submitting four year budgets, this option was not taken by any political group or member.	Officers will continue to work up a 5 year budget in line with the Medium Term Financial Strategy. Budget options will cover that period.
Partner engagement in the development of budget options could have been stronger.	Engagement with partners will begin in Q1.
The rigour applied in preparing IIAs and risk assessments for officer proposals was not possible for elected member proposals which were submitted three days before the meeting, increasing the risk to the Council.	The earlier submission of budgets by elected members and sign off by members the day before the meeting.
Budget packs could not be circulated until full details of the settlement had been received and analysed. It remains a challenge for elected members to prepare budgets based on best, worst and central case scenarios without the financial settlement being clear. Given that there is little or no prospect of the settlement being shared any earlier, there needs to be a realistic approach taken with budget options for members to manage the worse case scenario.	Budget packs include options for members to propose, based on calculated worst, best and central case scenarios. The financial settlement is one aspect of these assumptions due to the timetable for release by Scottish Government, however budget options will be provided to cover the worse case scenario.

4. FINANCIAL IMPLICATIONS

- 4.1 The financial implications arising from this report are two-fold, firstly the cost associated with procuring and using a digital consultation and engagement tool, a budget of £10,000 is available to procure this functionality; and secondly the opportunity cost of officer time to set up, prepare and implement digital and other engagement, e.g. face to face sessions. The notional cost of 2 hour face to face session (including preparation time) attended by up to 10 Chief Officers would be approximately £2,000.

5. LEGAL IMPLICATIONS

- 5.1 Paragraph 8 of Schedule 7 to the Local Government (Scotland) Act 1973 provides that “*Subject to the provisions of this Act, a council may make standing orders for the regulation of their proceedings and business and may vary or revoke any such orders*”.

- 5.2 The Budget Protocol is incorporated in the Council's Standing Orders which provide that "*Any motion or amendment in respect of the budget must be submitted to the Chief Officer – Finance...in accordance with the Budget Protocol*" (SO 29.2).
- 5.3 The 1973 Act requires that certain documents must be issued, or made available for public inspection, by the local authority at least three clear days before the meeting in question – and our Standing Orders exceed this minimum requirement in as much as they require notice of a meeting to be published at least five clear days before the meeting. However the 1973 Act does not address when amendments require to be issued by elected members – that is left to be determined by Standing Orders.
- 5.4 Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to 1) eliminate unlawful discrimination (both direct and indirect), harassment and victimisation, 2) advance equality of opportunity between different groups and 3) foster good relations between different groups. Integrated Impact Assessments capture these duties, as well as duties in relation to the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 ("the UNCRC Act").
- 5.5 The Council is required to balance its budget as part of its duty under section 95 of the Local Government (Scotland) Act 1973 to make arrangements for the proper administration of its financial affairs.
- 5.6 The Budget Protocol is intended to ensure that the Council produces a balanced budget whilst also complying with its statutory duties including equality legislation. Failing to do so would leave the Council's budget decisions open to legal challenge.
- 5.7 The UNCRC Act received Royal Assent on 16th January 2024. Section 6 of the UNCRC Act places a duty on the Council not to act in a manner which is incompatible with UNCRC requirements when exercising a "relevant function." Section 6 of the UNCRC Act will come into force on 16th July 2024.
- 5.8 In summary a "relevant function" is a duty created by the Scottish Parliament and does not extend to devolved functions created by legislation of the UK Parliament.
- 5.9 The Local Government (Scotland) Act 1973 is a UK Act of Parliament and as such the UNCRC compatibility duty does not directly apply to the duty implied by section 95 to set a balanced budget. However, in setting its budget there may be indirect impact on functions of the Council conferred by Scottish Acts of Parliament to which the UNCRC compatibility duty does apply. Furthermore, there is no barrier to the Council choosing to act compatibly with UNCRC requirements when setting a balanced budget.
- 5.10 The current IIA, Part 5, requires consideration of UNCRC requirements, including the four general principles of the Convention: non-discrimination

(Article 2); best interests of the child (Article 3); right to life, survival and development (Article 6) and right to be heard in decision making (Article 12). The budget protocol also requires targeted consultation with affected groups (paragraph 6).

- 5.11 The Scottish Government is currently consulting on draft statutory guidance on the UNCRC Act which may further inform amendments to IIA and the Budget Protocol. The consultation closes on 16th May 2024.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no environmental implications arising from the report recommendations.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	Lack of alignment between budget and strategic outcomes.	Alignment between budget and Council Delivery Plan agreed by Council.	L	Yes
Compliance	Risk of non-compliance with legal duty to agree a balanced budget. Lack of compliance with Equality Act 2010.	Budget Protocol is designed to ensure compliance with the legislation in each case.	L	Yes
Operational	Lack of a robust Scheme of Governance to guide officers stewardship matters.	Budget Protocol forms part of the Scheme of Governance and improves officer and elected member stewardship.	L	Yes

Financial	Risk of non-compliance with legal duty to agree a balanced budget.	Budget Protocol and Financial Regulations ensure this is met.	L	Yes
Reputational	Failure to transparently engage with public on budget options.	Two phases of public engagement to ensure transparency on budget options and receive feedback on these, providing public with the opportunity to offer alternatives.	L	Yes
Environment / Climate	None.			Yes

8. OUTCOMES

<u>Council Delivery Plan 2024</u>	
	Impact of Report
Aberdeen City Council Policy Statement <u>Working in Partnership for Aberdeen</u>	This supports the policy intention to “Consult citizens, community councils and other partners on the work of the City Council, including carrying out a public engagement and consultation as part of the annual budget setting process.”

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	New Integrated Impact Assessment has been completed
Data Protection Impact Assessment	Not required.
Other	None.

10. BACKGROUND PAPERS

None.

11. APPENDICES

11.1 Appendix A – Revised Budget Protocol

12. REPORT AUTHOR CONTACT DETAILS

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