

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	Executive / County Council
Date:	30 November / 8 December 2020
Subject:	Amending the constitutional process in relation to the setting of the Council's Budget
Portfolio Holder(s):	Councillor Dafydd Rhys Thomas Corporate Business Portfolio Holder
Head of Service / Director:	Lynn Ball Director of Function (Council Business) / Monitoring Officer
Report Author: Tel: E-mail:	Mared Yaxley 01248 752566 maredyaxley@ynysmon.gov.uk
Local Members:	Not a ward specific matter

A –Recommendation/s and reason/s
<p><u>Background</u></p> <ol style="list-style-type: none"> 1. Last year, a report was presented to the Executive on 29 November (leader's delegation to approve the report) and the Council on 10 December noting that the provisional and final Local Government settlement for 2020/21, because of the general election held in December 2019, would be announced much later than the normal timetable. 2. Confirmation has been received that the provisional and final Local Government settlement for 2021/2022 is also going to be announced late. The provisional settlement will not be announced until 22 December 2020 [8 days later than last year]. There is no known announcement date for the final settlement as yet. <p><u>Consequences of the delay</u></p> <ol style="list-style-type: none"> 3. As a result of the delay in announcing the settlement for the 2020/21 budget, Council agreed to suspend paragraph 4.3.2.2.8 of the Council's Constitution for the 2020/21 budget setting process and to allow the Corporate Scrutiny Committee to consider the Executive's Initial Budget Proposals, less than 2 weeks before the date the annual budget was adopted by the Council on 10 March 2020. 4. Due to the delayed announcement, the budget setting process will again need to be revised for setting the 2021/2022 budget as it will not be practically possible to follow the timetable included in this Council's Constitution. 5. Setting the budget contrary to the requirements of the Council's own Constitution may lead to a challenge that the annual budget and council tax have not been legally set. <p><u>The Constitutional requirement</u></p> <ol style="list-style-type: none"> 6. The timetable included in the Council's Constitution is what has been adopted by this Council by way of local choice matter. The only exception to this is the date on which the final budget must be adopted by Council; the Local Government Finance Act 1992 (paragraph 30 (6)) states that the amount of Council Tax must be set <u>on or before 11 March</u> in the financial year preceding that for which it is set.

7. In order to ensure the constitutional process is followed, one must start with that date as the absolute deadline and work back so as to build in the timeframe stipulated in the Constitution.
8. As this is the second consecutive year in which the Council is requested to adapt the budget setting process, due to reasons outside this Council's control, rather than asking for the Council's approval to suspend the requirement for one year only, Council is asked to agree to amend the Constitution so that there is flexibility built into the constitutional timetable; this would then be available should a similar situation arise in the future.
9. The below table sets out the current budget setting process (column 1) and an explanation of the current constitutional requirement (column 2). Where an amendment to the current arrangement is recommended, the new wording is included underlined (and in red text) and any words to be deleted have been struck through (column 3).

Budget Process Stage	Current constitutional requirement	Proposed constitutional requirement
Pre Budget Statement announced by Executive	Para 4.3.2.2.1 – Pre Budget Statement to be announced by Executive before 30 September.	<i>There is no proposal to amend this as this is a report based on internal data and thus not dependent on external factors that affects the timetable.</i>
Scrutiny Committee to consider Initial Budget Proposals	Para 4.3.2.2.4 – Executive shall take account of representations from the Corporate Scrutiny Committee before framing its Initial Budget Proposals.	<i>Amendment proposed:</i> 4.3.2.2.2 <u>Using best endeavours</u> , before 30 November in any year, <u>or as soon as reasonably possible</u> , the Corporate Scrutiny Committee shall consider the Executive's Pre-Budget Statement as regards its effect and having regard to the authority's corporate plans, service plans and proposals for their development. It may make representations to the Executive concerning the budgets for matters within its terms of reference and may additionally make representations concerning the budget as a whole.
Executive to publish Initial Budget Proposals	Para 4.3.2.2.5 – Initial Budget Proposals to be published before 15 January.	<i>Amendment proposed:</i> 4.3.2.2.5 <u>Using best endeavours</u> , before 15 January in any year, <u>or as soon as reasonably possible</u> , the Executive will publish Initial Budget Proposals for the year beginning the following 1 April. The Initial Budget Proposals will include the following: (i) if the Council has adopted a budget strategy, whether the proposed annual budget conforms to that strategy, and details of any departures or proposals to revise or update the strategy; (ii) how the proposals link to the assumptions of the Pre-Budget Statement and corporate and service plans adopted by the authority or to be proposed by the Executive; (iii) details of how the proposals have been influenced by consultation undertaken or by the feedback from the Corporate Scrutiny committee.

Initial Budget proposals to be considered by the Corporate Scrutiny Committee	Para 4.3.2.2.8 – At least 2 weeks before the date on which the annual budget is to be adopted by the Council, the Corporate Scrutiny Committee shall consider the Initial Budget Proposals.	<i>Amendment proposed:</i> 4.3.2.2.8 At least two weeks before the date on which an annual budget is to be adopted by the Council, the Corporate Scrutiny Committee shall consider the Executive's Initial Budget Proposals as regards their effect, and having regard to the authority's corporate plans, service plans and proposals for their development. <u>Using best endeavours, this will be done at least two weeks before the date on which an annual budget is to be adopted by the Council, or as soon as reasonably practicable.</u> The Corporate Scrutiny Committee may make any representations it considers appropriate to the Executive concerning the Initial Budget Proposals.
Final Budget Proposals to be announced by the Executive	Para 4.3.2.2.9 – At least one week before the date on which the annual budget is to be adopted by the Council, the Executive, having considered the responses of the Corporate Scrutiny Committee and the outcomes of the consultation undertaken, will publish its Final Budget Proposals.	<i>Amendment proposed:</i> 4.3.2.2.9 At least one week before the date on which an annual budget is to be adopted by the Council, the Executive, having considered the responses of the Corporate Scrutiny Committee and the outcomes of consultation undertaken, will publish its Final Budget Proposals. <u>Using best endeavours, this will be done at least one week before the date on which an annual budget is to be adopted by the Council, or as soon as reasonably practicable.</u> The Final Budget Proposals will include the following: (i) if the Council has adopted a budget strategy, whether the proposed annual budget conforms to that strategy, and details of any departures or proposals to revise or update the strategy; (ii) the proposed Council Tax for the year; (iii) any proposed transfers to or from financial reserves; (iv) a summary of proposed expenditure by service; (v) details of significant changes to service delivery implied by the budget; (vi) the extent to which the proposals take account of reports of Committees; (vii) the extent to which the proposal takes account of details of any consultation that has been undertaken; (viii) details of any other significant differences between the initial and final proposals; (ix) the Executive's proposal for virement provisions during the year; (x) proposals for borrowing; (xi) any other statutory matters to be decided by the full Council.
Final Budget adopted by Council	The Local Government Finance Act 1992 states that the amount of Council Tax must be set before 11 March in the financial year preceding	<i>This is a statutory deadline and no amendment is possible to this date.</i>

	that for which it is set.	
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10. Recommendation

Council is asked to agree that:

- 10.1 the Council's Constitution is amended as noted in the table in paragraph 9 above, and
- 10.2 the Monitoring Officer be given delegated authority to make any consequential amendments to the Constitution to reflect the amendments approved in 10.1 above.

B – What other options did you consider and why did you reject them and/or opt for this option?

To do nothing is not an option as setting the budget contrary to the requirements of the Council's own Constitution may lead to a challenge that the annual budget and council tax have not been legally set. By amending the Constitutional requirements, this allows the timetable to be more fluid, and so the risk of not meeting the constitutional process in this regard is nullified.

A report similar to last year could be presented, asking for a one-year approval again. But as this is the second consecutive year in which the settlement has been late, it seems more efficient to ask for Council's agreement that flexibility is inbuilt to the Constitutional requirements so that annual reports requesting Council consent will not be necessary.

C – Why is this a decision for the Executive?

Paragraph 2.15.2.1 of the Constitution details: "Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Executive."

CH – Is this decision consistent with policy approved by the full Council?

Yes

D – Is this decision within the budget approved by the Council?

Not applicable

E – Impact on our Future Generations(if relevant)

1	How does this decision impact on our long term needs as an Island	
2	Is this a decision which it is envisaged will prevent future costs / dependencies on the Authority. If so, how:-	
3	Have we been working collaboratively with other organisations to come to this decision, if so, please advise whom:	
4	Have Anglesey citizens played a part in drafting this way forward? Please explain how:-	
5	Outline what impact does this decision have on the Equalities agenda and the Welsh language	

DD – Who did you consult?		What did they say?
1	Chief Executive / Senior Leadership Team (SLT) (mandatory)	No comments.
2	Finance / Section 151 (mandatory)	No comment.
3	Legal / Monitoring Officer (mandatory)	Author of the report.
4	Human Resources (HR)	
5	Property	
6	Information Communication Technology (ICT)	
7	Procurement	
8	Scrutiny	
9	Local Members	Not a local matter.

F - Appendices:
None

FF - Background papers (please contact the author of the Report for any further information):
None