

# FINANCE & ASSETS PROTOCOL

## 1.0 Background

- 1.1 A new unitary council will come into existence from 1 April 2023 and all of the financial resources and commitments from the predecessor councils will transfer to the new Somerset Council at this date. It is important, therefore, that decisions and actions taken in the existing councils are made against the background of avoiding adverse financial pressures for the new Council where possible.
- 1.2 It is important that the financial pressures for the new Council are minimised to give the best possible start and that any residual financial pressures are identified at the earliest opportunity. In that way, effective financial planning can begin during 2022/23 for 2023/24 and beyond.
- 1.3 It is envisaged that the Secretary of State may issue a Direction under Section 24 Local Government and Public Involvement in Health Act 2007 after the Structural Change Order (SCO) is enacted. The purpose of such a Direction is to protect the finances and interests of the new Unitary Council. This has previously allowed the Secretary of State to direct that a relevant authority may not without the written consent of a person or persons specified to:-
  - (a) dispose of any land if the consideration payable for the disposal exceeds £100,000;
  - (b) enter into any capital contract under which the consideration exceeds £1m or which includes a term allowing the consideration payable to be varied;
  - (c) enter into any non-capital contract under which the consideration exceeds £100,000;
  - (d) commit existing financial reserves by a specified amount.
- 1.4 The s24 Direction cannot be issued until after the SCO comes into force. DLUHC officers have recommended that the 5 Somerset councils come together with a voluntary protocol.
- 1.5 Each Council has a Section 151 Officer who has responsibility for the stewardship of the Council's finances. Their duty is obviously to their employing Council. However, they also have a wider fiduciary duty concerning public funds. This Protocol is the product of discussion at Somerset LGR Finance Workstream – the group consisting of the five S151 officers and their deputies - and represents the proposed protocol for the 5 Somerset Councils.
- 1.6 It is suggested that the LGR Finance workstream formally takes on the key role of ensuring application of this protocol once agreed and assisting with negotiations with DLUHC on any Section 24 Direction.

## 2.0 Principles

2.1 It is proposed that all Councils sign up to these principles during the transition period and that they come into effect from April 2022 and apply to the 2022/23 financial year.

- Councils remain responsible for taking their own day to day decisions for spending on service delivery within the revenue and capital budgets for 2022/23 agreed by each Council;
- All five councils are committed to ensuring that the new Council is in the best possible financial position on vesting day in the interests of future taxpayers;
- Councils should not enter into any new financial or asset-related commitments (beyond those specifically agreed within their approved budgets), or create any new liabilities on behalf of the new Council - subject to agreed limits of **£100,000 for revenue** and **£1m capital**;
- Key areas covered by this protocol would include purchase, disposal and transfer of assets, new contracts and extension of contracts with significant on-going financial commitments (but not routine items like care packages), write off of debts / loans, new capital schemes (including those with on-going financial commitments) and use of reserves above those already approved
- That this protocol to control spending needs to be agile to avoid introducing delays and risks to decision making. It also needs to be able to adequately provide for unforeseen emergencies

2.2 As this protocol is in advance of a Section 24 Direction, it is voluntary and non-binding upon the constituent members. However, it creates an environment and framework that should provide confidence that all five councils can all operate functionally until vesting day while safeguarding the new council and our shared taxpayers. It may be that this protocol can continue for the period after a SCO has been enacted should the Secretary of State choose not to introduce a Section 24 Direction.

2.3 For the purposes of this Protocol “any new commitments” are deemed to be those that arise in addition to any existing approved 2022/23 revenue and capital budgets.

### **3.0 Implementation of this Finance & Assets Protocol**

3.1 This protocol requires the Section 151 Officer of each Council to report into the LGR Finance Workstream on any matters of concern or areas that may “breach” the principles set out in this document. This will ensure that all councils and Section 151 Officers have a clear understanding of the overall financial picture and associated risks. Areas of contention will be reported onwards to the LGR CEO Programme Board should that be deemed necessary and ultimately to the LGR Joint Committee if required.

3.2 A high level review of the 2022/23 budgets for the five existing Councils has been conducted as part and parcel of the work being undertaken by the LGR

Finance Workstream. This work is an essential first step in establishing the parts that will subsequently combine to produce the new Council's draft budget for 2023/24.

- 3.3 It is recognised that there may be situations that arise that will need practical application of flexibilities whilst remaining within the spirit of this Protocol. Examples of this may include emergency response, unforeseen additional costs on capital schemes (where there is already commitment to deliver) and opportunities to bid for external funding, including where there may be some form of contribution from one or more of the councils. Rather than try to legislate for all possible eventualities, this Protocol will rely upon the principles set out in this document, alongside the suggested thresholds, as the basis for discussion where there are such scenarios. Trying to determine a set of "hard rules" for all scenarios is likely to be impractical, if not impossible, and an escalation approach has been set out above should it be required.
- 3.4 It is also recommended that each Council includes a section in all of their future key decision reports on the financial implications of the decision for the new Council.