

Decision Report

Committee: Full Council

Meeting or Proposed Decision Date – 5 March 2025

Key Decision – Yes

Section 25 Report - Section 151 Officer Report on the Robustness of the Budget Estimates and the Adequacy of Reserves

Chair of Committee: Cllr Bill Revans Leader of the Council and Lead Member for Governance & Communications

Executive Member(s): Cllr Liz Leyshon Deputy Leader of the Council and Lead Member for Resources, Procurement and Performance

Local Member(s) and Division(s) affected: All

Executive Director: Maria G. Christofi Interim Chief Finance Officer (Section 151 Officer)

Executive Summary

- 1 The report is a statutory requirement made under section 25 of the Local Government Act 2003, which requires the Section 151 Officer to report on the following matters to Council Members when agreeing its annual budget and Council Tax levels.
 - a. the robustness of the estimates made for the purposes of the budget calculations, and
 - b. the adequacy of the proposed financial reserves.
- 2 Council must have regard to this report when making its decisions around the annual budget and the level of Council Tax for 2025/26 in accordance with section 31A of the Local Government Finance Act 1992.
- 3 For members of the Council the Section 25 report provides critical context for budgetary discussions in relation to the entire suite of the 2025/26 General Fund Revenue Budget and MTFP, including Capital and Treasury Management Strategy and HRA reports on this agenda setting the 2025/26 Council Tax. The provision of this information is a legal requirement and ensures that all Members have regard to the professional advice provided by the authority's Chief Financial Officer when final budget decisions are made being made.
- 4 The Council has been unable to balance the Budget for the second successive year without reliance upon Exceptional Financial Support (EFS) from the Ministry of Housing Communities and Local Government (MHCLG). The Council received approval on 3 February 2025 to increase the Council Tax by an additional 2.5% above the limit which would normally require a local referendum, a total of 7.49% for 2025/26. The Council received an 'in principle'

approval for a Capitalisation Direction of £43.000m on 20 February 2025 provided by the Minister for Local Government. The 'in principle' decision is subject to a range of conditions on the Council as set out in the letter and final approval of the Capitalisation Direction will be subject to the Council meeting those conditions over a period to be determined.

5. The letter references that the Minister is minded to attach the following conditions:
 - The authority may only capitalise expenditure when it is incurred;
 - Where expenditure is capitalised, the authority shall charge annual MRP using the asset life method with a proxy 'asset life' of no more than 20 years;
 - If the Authority is considering financing capitalisation support through capital receipts, there is an expectation that Authority should avoid the disposal of community heritage assets where possible to protect the public ownership of locally significant sites to ensure residents can continue to benefit from them; and
 - The approval of any capitalisation directions will also be contingent on the council reporting to the department the final amounts identified for which it requires capitalisation for each year, with the agreement of the council's external auditors.
6. The Council will take the final decision on the level that the Council Tax will be set and is required to accept the conditions of the 'in principle approval of the capitalisation direction.
7. The Section 151 Officer considers that the proposed Budget, including its reliance upon MHCLG approval of EFS in the form of an 2.5% additional Council Tax increase and a Capitalisation Direction of £43.000m, is robust and constitutes a balanced and lawful Budget.
8. The Section 151 Officer considers that subject to the approval of EFS set out in paragraph 4, the level of Reserves for 2025/26 is adequate.
9. However, the Section 151 Officer's report sets out serious concerns and advice in respect of the critical financial position of the Council and its financial viability over the medium term.
10. The forecast Budget gap for 2026/27 is £101.384m rising to £190.041m by 2029/30. Without management action to develop and implement further Transformation and savings plans at significant scale and pace during 2025/26 for implementation in 2026/27, the Council will exhaust its available revenue reserves by the end of 2026/27. It is highly likely that the Council will need to rely on further EFS in 2026/27 and possibly longer to support its transition to an operating model that is Financially Sustainable.

11. The Section 151 Officer highlights their concern that the statutory override in relation to the forecast cumulative deficit of £99.125m of the Dedicated Schools Grant (DSG) ends on 31 March 2026. Whilst work is ongoing in relation to the development and implementation of a revised Deficit Management Plan, measures taken to date have not been sufficient to control expenditure within available DSG funding for the provision of SEND.
12. This is a national issue for which the Government has indicated it is working to develop a sector wide solution. However, if the statutory override is removed at the end of 2025/26 as planned without a financially sustainable solution for the future and to address the accumulated deficit, this presents a further critical impact upon the Council's reserves position and **would result in the requirement to issue a Section 114 Notice.**

Recommendations

13. It is recommended that the Full Council consider and acknowledges:
 - a. The advice of the Council's Interim Chief Finance Officer (Section 151 Officer) in their Section 25 report (**Appendix A**) in relation to the robustness of the Budget estimates and the adequacy of the level of Reserves for 2025/26, as required by Section 25 of the Local Government Act 2003.
 - b. The Section 151 Officer's warning about the critical financial position of the Council, the £101.384m 2026/27 Budget gap increasing to £190.041m over the medium term, inadequate reserves and the lack of financial sustainability over the period 2026/27 to 2029/30.
 - c. The minimum level of Reserves is set at 10% of the Net Revenue income stream on 1 April 2025 which is £33.254m (excluding the use of EFS to meet the Net Revenue Budget). The appropriate level of General Fund Balance be set at £60.000m for 2025/26.
 - d. The responsibility of Council Members under Section 31A of the Local Government Finance Act 1992, to have regard to this report when making decisions on agreeing the Budget and setting the Council Tax for the financial year 2025/26.

Reasons for Proposals

14. The Council must set a balanced Budget and Council Tax by 11 March of the preceding financial year. Full Council is due to meet 5 March 2025.
15. Section 25 of The Local Government Act 2003 (the Act) includes the following statutory duty in respect of the budget report to Council:

'The Chief Financial Officer (CFO) of the authority must report to it on the following matters:

- a) the robustness of the estimates made for the purpose of the calculations; and the adequacy of the proposed financial reserves.'*
- b) the adequacy of the proposed financial reserves.'*

16. The Act also requires the Authority to which the report is made to have regard to the report when taking decisions about the budget and setting the council tax. The CFO is as defined in Section 151 of the Local Government Act 1972 and in Somerset Council this role is fulfilled by the Interim Chief Finance Officer (Section 151 Officer).
17. The Council is required under Section 31A of the Local Government Finance Act to have regard to this report when making decisions on agreeing the Budget and setting the Council Tax for the financial year 2025/26.

Report Author: Maria G. Christofi

Contact Details: Maria.Christofi@somerset.gov.uk

Main report and supporting information

Background and purpose of report

18. The report is a statutory requirement made under section 25 of the Local Government Act 2003, which requires the Section 151 Officer to report on the following matters to Council Members when agreeing its annual budget and Council Tax levels.
 - a. the robustness of the estimates made for the purposes of the budget calculations, and
 - b. the adequacy of the proposed financial reserves.
19. Council must have regard to this report when making its decisions around the annual budget and the level of Council Tax for 2025/26 in accordance with section 31A of the Local Government Finance Act 1992.
20. For members of the Council the Section 25 report provides critical context for budgetary discussions in relation to the entire suite of the 205/26 General Fund Revenue Budget and MTFP, including Capital and Treasury Management Strategy and HRA reports on this agenda setting the 2025/26 Council Tax. The provision of this information is a legal requirement and ensures that all Members have regard to the professional advice provided by the authority's Chief Financial Officer when final budget decisions are made being made.
21. The Section 25 report is set out in detail at **Appendix A**.

Links to Council Plan and Medium-Term Financial Plan

22. The Section 25 report is a statutory requirement in setting the annual budget, MTFP and council tax. The budget and MTFP is the financial expression of the Council's plans and underpins the resourcing of the delivery of the priorities which are:
- a greener, more sustainable Somerset
 - a healthy and caring Somerset
 - a flourishing and resilient Somerset
 - a fairer, ambitious Somerset

Other options considered

23. The Council has a legal duty to set a balanced Budget each year and these proposals fulfil that requirement

Key considerations for the Council

Scrutiny comments / recommendations:

24. This report was presented to the Corporate and Resources Scrutiny Committee on 24 February 2025.

Financial and Risk Implications

25. The financial risks and issues are set out in the Section 151 Officer's report at Appendix A.

Other Issues and Risks

26. Given the issues set out in this report and despite all of the actions taken and mitigations put in place, the risk score on Strategic Risk ORG0057 – Sustainable MTFP remains at 25 the highest risk score possible.

Current Risk Score:

Likelihood	5	Impact	5	Risk Score	25
------------	---	--------	---	------------	----

Projected risk score if recommended actions are agreed and delivered:

Likelihood	5	Impact	5	Risk Score	25
------------	---	--------	---	------------	----

Legal and Procurement Implications

27. Local authorities owe a fiduciary duty to Council taxpayers, which means they must consider the prudent use of resources in the short and long term, including control of expenditure, the need to strike a fair balance between the interests of Council taxpayers and the community's interest in adequate and efficient services, and the need to act in good faith in relation to compliance with statutory duties and exercising statutory powers.
28. The Local Authorities (Functions & Responsibilities) (England) Regulations 2000 (as amended) set out the respective functions of Council and of the Executive. When setting the budget and Council Tax for the forthcoming year, formulating the plan or strategy (in relation to the control of the Council's borrowing or capital expenditure) and the preparation of estimates of the amounts to be aggregated in making the calculations under Section 32 of the 1992 Act is an Executive function, but the adoption of any such plan or strategy/calculations is the responsibility of Full Council.
29. Under section 25 of the Local Government Act 2003 the Chief Finance Officer (Section 151 Officer) **must** report to Full Council on (a) the robustness of the estimates made for the purposes of the calculations and (b) the adequacy of the proposed financial reserves in making the calculation of its budget requirement; and Full Council **must** have regard to that report making decisions about the calculations in connection with which it is made.
30. Section 114 of the Local Government Finance Act 1988 outlines the duties of the chief finance officer of a relevant authority. Section 114(3) of the Local Government Finance Act 1988 requires the chief finance officer (Section 151 Officer), having consulted the head of paid service and the monitoring officer, to make a report if it appears to the chief finance officer that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure. Where a Chief Finance Officer makes a report under Section 114 they must send a copy to all members of the authority and the external auditor. **Note:** the section 114 duty is a personal duty.
31. A Section 114 report must be considered by the authority within 21 days of issue and if the report was made under section 114(3), the authority is prohibited from entering into any new agreement which may involve the incurring of expenditure (at any time) unless the chief finance officer authorises it to do so in accordance with section 115 of the Act.

HR / Workforce Implications

32. There are no direct HR/Workforce implications arising from this report and any implications are reviewed as part of the budget report.

Equalities Implications

33. In summary, section 149 of the 2010 Act requires the Council, when exercising its functions, to have 'due regard' to the need to:
- a) Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act (which includes conduct prohibited under section 29);
 - b) Advance equality of opportunity between people who share a relevant protected characteristic and those who don't share it;
 - c) Foster good relations between people who share a relevant protected characteristic and those who do not (which involves having due regard, in particular, to the need to tackle prejudice and promote understanding).
34. Under the Public Sector Equality Duty (PSED) the relevant protected characteristics are:
- Age
 - Disability
 - Gender Reassignment
 - Pregnancy & Maternity
 - Race
 - Religion
 - Sex
 - Sexual Orientation
35. In respect of the first aim only i.e. reducing discrimination, the protected characteristic of marriage and civil partnership is also relevant.
36. 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, in particular, to the needs to:
- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - Take steps to meet the needs of persons who share a protected characteristic where those needs are different from the needs of persons who do not share that characteristic;
 - Encourage those who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
37. Further, section 149 provides that the steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

38. Compliance with the duties in section 149 may involve treating some persons more favourably than others, but that is not to be taken as permitting conduct that would otherwise be prohibited under the Act (which includes breach of an equality clause or rule, or of a non-discrimination rule).
39. Equality Impact Assessments are carried out to establish whether changes proposed to existing and/or new policies, services or decision outcomes are likely to have an impact, either positive or negative, on groups with protected characteristic status as defined by the Equalities Act 2010.
40. The full Equality Impact Assessment will be presented alongside the Budget 2025/26 report when it is considered by full Council in February 2025.
41. A Equality Impact Assessment has been completed for each budget proposal.

Community Safety Implications

42. There are no direct Community Safety implications arising from this report.

Climate Change and Sustainability Implications

43. There are no direct Climate Change and Sustainability implications arising from this report.

Health and Safety Implications

44. There are no direct Health and Safety implications arising from this report.

Health and Wellbeing Implications

45. There are no direct Health and Wellbeing implications arising from this report.

Social Value

46. There are no direct Climate Change and Sustainability implications arising from this report.

Background Papers

- Revenue and Capital Budget and Council Tax 2025/26 and Medium Term Financial Strategy 2025/26 - 2029/30
- HRA Budget Setting 2025/26

Appendices

Appendix A: Section 25 Report – Section 151 Officer report on the robustness of estimates and the adequacy of reserves

Annex A(i) 2024/25 EFS In Principle Agreement

Annex A(ii) 2025/26 EFS In Principle Agreement

Annex B Directorate Budget Assurance Statements:

- (i) Adults Services & Housing
- (ii) Children's, Families & Education
- (iii) Community, Place & Economy
- (iv) Resources, Strategy & Transformation
- (v) Finance & Procurement
- (vi) Chief Executive

**Report assurance checklist ahead of report publication
(for Audit, Executive, Full Council and Scrutiny Committees)**

	Officer Name	Date Completed
Legal & Governance Implications	Alyn Jones/ Jill Bryon	20/02/2025
Finance & Procurement	Nicola Hix	20/02/2025
Workforce	Dawn Bettridge	20/02/2025
Asset Management	Simon Lewis	N/A
Executive Director	Maria G. Christofi	21/02/2025
Executive Lead Member	Cllr Liz Leyshon	20/02/2025
Consulted:	Councillor Name	
Local Division Members	N/A	
Opposition Spokesperson(s)	Cllr Diogo Rodrigues	
Relevant Scrutiny Chair(s)	Cllr Steven Pugsley	