

Local Government Act 2003: Section 25 Report by the Director of Finance (Chief Finance Officer)

Background

1. Section 25 of the Local Government Finance Act 2003 requires that when a local authority is agreeing its annual budget and council tax precept, the Chief Finance Officer must report to it on the following matters:
 - The robustness of the estimates made for the purposes of the (council tax requirement) calculations
 - The adequacy of the proposed financial reserves
2. The council is required to have due regard to this report when making decisions on the budget. The law expects councillors to consider this advice and not set it aside lightly.
3. In expressing my opinion, I have considered the financial management arrangements and control frameworks that are in place, the budget assumptions, the adequacy of the Budget & Business Planning process, the financial risks facing the council and the level of total reserves.
4. Section 25 of the Local Government Act 2003 concentrates primarily on the uncertainty within the budget year (i.e. 2021/22). However, future uncertainties, particularly around the delivery of savings and the increasing pressures in demand driven services also inform the need for reserves and balances in the medium term.

Financial management arrangements and control frameworks

5. The council received an unqualified opinion on both the accounts for the Authority and the Pension Fund for 2019/20. In respect of securing value for money, the conclusions are based on whether the organisation has proper arrangements in place for securing financial resilience and for challenging how it secures economy, efficiency and effectiveness. The council received an unqualified value for money conclusion for 2019/20.
6. The council has strong governance arrangements in place and a robust assurance process that requires a statement at the year-end from the 'corporate lead officer' for various key control areas. The Director of Finance has responsibility for ensuring that an effective system of internal control is maintained to provide an assessment of the current position across the whole council and identifying areas for improvement where appropriate. Areas for improvement are reported to Audit & Governance Committee and monitored in year through the Corporate Governance Assurance Group.

7. The Code of Practice for Financial Management (the FM Code) was introduced by CIPFA in November 2019. The Code clarifies how Chief Finance Officers should satisfy their statutory responsibility for good financial administration as required in section 151 of the Local Government Act 1972. Full compliance with the FM Code is expected for 2021/22. The Financial Strategy set out at Section 4.5 sets out a compliance assessment against the Code's standards. All 19 Standards have been assessed as Green meaning that compliance can be evidenced. Where relevant, proposed further actions that can be taken to enhance compliance have been included in the assessment. The assessment will also be used to help inform the council's Annual Governance Statement (AGS) which will be published alongside the Statement of Accounts. CIPFA's Financial Management Code is expected to be in force from 2021/22. The Code sets out models of good practice. The council operates in line with the standards, with leadership, financial planning and financial resilience a strength. The main areas of attention for development and improvement during 2021/22 will be financial management competency across the council, and budget management.
8. Financial Management remains a key focus. A fundamental review of the Finance Service was completed in December 2019, and a new structure implemented in that has been designed to support effective financial management performance across the council. The new ways of working will become embedded in 2021/22 and will continue to be developed in line with other organisational change.

Financial Impact of COVID-19

9. Since March 2020, the pandemic has required local authorities to make rapid adjustments to meet new demands and to step up work in critical frontline services. These new and increased demands have resulted in significant additional expenditure. At the same time, council income streams have been severely damaged by lockdowns and other restrictions. During 2020/21, additional funding has been provided from central Government to help councils with the financial impact of COVID-19, however this has not matched projected additional costs and loss of income for the year.
10. Given the legal duty councils have to balance their budgets each year and act to avoid the possibility that expenditure might exceed available income in any year, in July 2020, the Cabinet asked Officers to address the potential overspend arising from COVID-19. A revised budget addressing the potential overspend taking into account expected additional funding received from government was agreed by Council on 7 September 2020. The revised budget ensured a balanced position for 2020/21 could be achieved and that budgets to meet the additional costs of COVID-19 were agreed to enable effective budget management.

11. The financial impact of COVID-19 will clearly extend beyond 2020/21 into 2021/22 and the medium term. It is possible that the profile and timing may mean that some costs expected in 2020/21 may fall into the following financial year. If any of the COVID-19 Budget created as part of the revised budget for 2020/21 to meet the costs and income losses remains unspent at the year end, it will be carried forward for use in 2021/22. In addition, there is £18.1m available in the COVID-19 reserve in 2021/22 to meet continuing costs.

Budget Assumptions

12. The formation of the 2021/22 budget and indicative budgets for the following three years to 2025/26 have allowed for best estimates of the total financial envelope over the medium term taking into account anticipated unavoidable pressures plus investments and the savings then required to match the funding available. In forming the estimates various assumptions have been made. The main assumptions together with an assessment of their risk are set out below:
 - a) Funding assumptions – General Government funding by way of the Settlement Funding Assessment for 2021/22 has been notified by MHCLG as part of the Local Government Finance Settlement. Where specific government grants have been notified, these are reflected in the Medium Term Financial Strategy (MTFS). Where grants have not been confirmed, which at the time of writing, include Public Health, these have been assumed to continue at the same level as 2020/21.

Beyond 2021/22, there is no certainty in terms of local government finance. This makes it difficult to plan for the medium term. Details and assumptions have been set out in the Financial Strategy at Section 4.5.

A Council Tax increase of 2.99% is proposed for 2021/22, comprising a general precept increase of 1.99% (within the referendum limit confirmed in the Local government Finance Settlement) and, of the possible 3.00% adult social care precept, a 1.00% increase for 2021/22 with 2.00% planned for 2022/23. Beyond 2022/23, assumed maximum increases of 1.99% are planned on the assumption that the adult social care precept does not continue.

Business rates forecast income for 2021/22 has been provided by the district councils. It is assumed that all growth will be removed when the business rate baseline is reset, now forecast to be in 2022/23, at the same time as the introduction of the proposed 75% Business Rates retention scheme.

Due to the impact of COVID-19, the increase in taxbase for 2021/22 was lower than the assumptions in the MTFS, with an actual increase of 3,054 Band D equivalent properties (1.19%) compared to 5,000 (1.95%) in the MTFS. The cause is due to both an increase in the number of council tax support claimants plus a slowing in the rate of house building. On the expectation that these

effects will continue beyond 2021/22, an increase of 1.5% (3,900) is assumed for 2022/23 and increases of 1.75% (c4,600) for the remainder of the MTFs.

Surpluses on Council Tax collection funds for 2021/22 remain above the budgeted £5.0m, despite the impact of COVID-19. The collection fund position reflects the high collection seen in 2019/20 prior to the pandemic and assumptions on collection for 2020/21 based on latest information and estimated collection for 2021/22. The Government has mandated that losses in 2020/21 will need to be spread over three years to 2023/24. Despite the overall surplus of £5.6m for 2021/22, within this sum, deficits are reported on two of the districts. Deficits of £0.7m will need to be accounted for in both 2022/23 and 2023/24. Given the overall position of the collection fund, it has been assumed that the council will not be eligible for 75% compensation for collection fund losses which the Government announced as part of the Local Government Finance Settlement. A reserve of £6.0m has been established to meet the costs of the deficits already expected plus provide a contingency for further losses in 2022/23. In light of the potential continuing impact of COVID-19, the proposed MTFs assumes the collection fund position for 2022/23 will be a surplus of £2.0m, rising to a surplus of £4.0m in 2023/24 and beyond.

- b) Inflation – The Spending Review 2020 set out that public sector pay rises would be paused for 2021/22. However, those earning less than £24,000 would receive a minimum £250 increase. Whilst the Government cannot impose this restriction on local government, as pay is determined between the employers and unions, it is not expected that any increase will be agreed. The budget includes £0.2m for the impact of the increase for employees earning less than £24,000. The estimated cost for a 1% pay increase is £1.8m.

The Government announced that the National Living Wage will increase by 2.2% per hour to £8.91, in April 2021. It is expected that the rates the council pays for care in 2021/22 can be managed within existing funding.

Contract inflation is provided for dependent on the index applied to the contract, based on inflation rates in September 2020. Whilst there has been some volatility in the last year primarily due to the impact of COVID-19, inflation has now been below the target rate of 2.0% for 17 consecutive months. The latest figures from December 2020 show decreases from the previous year, with RPI and CPIH at 1.2% and 0.8% respectively (compared to 1.8% and 1.4% respectively in December 2019). No inflation is built in for other categories of spend, however, a 1% inflation uplift on other areas of spend only equates to £0.25m so alongside the increases built in for contracts, there should be no inflationary pressure in 2021/22.

- c) Demographic/Demand Growth - Funding for demographic growth is built into the budget each year. Funding to meet forecast increases for older people,

adults with learning disabilities and physical disabilities are included the MTFS, as has growth in demand in children's social care and special educational needs home to school transport. In relation to adults and children's social care, demand increases have been built into the proposed budget and MTFP at the mid-point of growth projections. Any increase in excess of this would need to be met from the corporate contingency budget (see Paragraph 18).

- d) Treasury Management – all existing debt is under fixed interest rates so is not subject to interest rate variation and the MTFS assumes an extension of the strategy to borrow internally up to a maximum of £100m.

The proposed MTFS assumes the bank rate will remain at 0.10% during 2021/22 and across the medium term. Based on the current portfolio of deposits and market rates, the target in-house rate of return is 0.58% for 2021/22 and 0.25% across the rest of the MTFS period. The longer term lending limit has been maintained at £215m for 2021/22 reducing to £185m by 2025/26 to reflect higher forecast cash balances. This will allow the council to take advantage of higher peer to peer lending rates and provide more certainty of achieving the assumed rate of return over the medium term.

As at 30 November 2020, the council had £98m invested in external funds with an original purchase value of £101m. Externally managed funds have a variable net asset value which means that the value of the funds can decrease as well as increase. There is a statutory override which allows for any movement in the value of the pooled funds to be held on the balance sheet until the asset is sold, thereby not impacting on the general fund. An estimated return of 3.75% is assumed for 2021/22 compared with a target return on the funds of between 4.00% - 5.00%. Therefore, there is no optimism bias in the income forecasts.

- e) Capital Programme – Where confirmation has not been received, estimates of future capital grant allocations have been assumed across the programme. Secured or estimated S106 funding is also built in as well as use of reserves. Prudent assumptions have been made about future capital receipts and reflect only those for which there is an agreed approach in terms of disposal. Proposing a programme for ten years allows for a planned approach to the management of assets, services and needs.

As set out in the Capital & Investment Strategy, the existing programme includes up to £120m investment in highways and property funded by borrowing (external, internal, or a combination of both) afforded by growth in the taxbase over the level assumed in the MTFS. Whilst the taxbase increase for 2021/22 has not exceeded the planned level, cash balances are forecast to remain high over the medium term. The council will therefore use internal borrowing to meet the costs over the medium term and the interest earned on the cash foregone is built into the proposed MTFS. Therefore, despite not achieving extra income

from council tax revenues to pay for the borrowing, the investment is currently considered affordable, but will continue to be reviewed each year.

The proposed Capital Programme has a balanced funding position over the ten-year period to 2030/31 compared to a shortfall of £18.4m in the programme agreed last February. The link between the schemes in the programme and the strategies which underpin the programme has been strengthened during 2020/21. As part of the budget setting process, the programme has been reprofiled and work has been undertaken to distinguish between firm schemes which have defined costs and outcomes to meet identified needs and pipeline schemes which have estimated scope and costs to meet predicted needs. This approach will be taken forward into the capital monitoring report for 2021/22.

Budget & Business Planning Process

13. The financial planning principles for the budget and medium-term strategy set out the Financial Strategy are the critical elements to ensure the council can succeed in long term sustainability and financial resilience. These set out the framework in which the budget for 2021/22 and MTFS to 2025/26 have been proposed.
14. The Budget & Business Planning process is well established. The construction of the budget and examination of the budget proposals has been subject to challenge by the Directorate Leadership Teams, the council's leadership team and the Director of Finance. There has been engagement with Cabinet, the Political Group Leaders as well as a number of member engagement and briefing sessions. A briefing session was also held with union representatives.
15. Performance Scrutiny Committee considered the revenue savings, pressures and investment proposals at their meeting in December 2020. In January 2021, the Committee considered the Capital & Investment Strategy and the draft capital programme. Comments from both meetings were considered by Cabinet.
16. A public consultation on the budget was also held over a four-week period which closed on 13 January 2021. 651 online survey responses were received as well as two written responses. Scrutiny of the budget savings has also been considered from an equalities perspective.

Financial Risks

17. Given the reductions in government grant funding, the limits placed on the level of Council Tax increases, the continuing impacts of COVID-19, the growing unavoidable pressures and the need to deliver savings, the budget will inevitably contain a degree of risk. The key risks are set out in the following paragraphs. However, to help manage the impact of financial risk, a corporate contingency is held. The proposed level of corporate contingency for 2021/22

is £5.6m. This is in line with levels held in previous years. The corporate contingency budget is held to cover;

- the risk that demographic pressures are higher than forecast;
 - any unfunded new burdens or unfunded elements of government grant;
 - any potential green book pay award plus other outstanding inflationary elements; and
 - the risk that proposed savings are not achieved in full, based on the performance targets set out in the Financial Strategy.
- a) COVID-19 –The impact of COVID-19 on public health, the economy and services will be a continuing and emerging situation throughout 2021/22 and over the medium term. This will present several risks to the council including:
- Insufficient market capacity to meet demand;
 - Sustainability of existing contracts for supply of works, goods and services;
 - Increase in price for goods and services;
 - Reduced capacity and availability in the supply chain creating delays in delivery;
 - Workforce availability, recruitment and retention;
 - Reduced income.
- b) Achievement of planned savings – the council has a history of successfully delivering significant savings. Whilst delivery in 2020/21 has been impacted by COVID-19, those savings which are not as a result of slippage, and can no longer be achieved, are reflected in the proposed budget and MTFS. Progress against delivery of savings is reported to Cabinet monthly as part of the Business Management Report. There are further savings in the existing and proposed MTFS which are still to be delivered up to 2025/26 totalling £23.9m. Savings plans continue to focus on managing demand, redesign services and income generation.
- c) Social Care Demand led pressures – There are some budgets where client numbers for statutory services are notoriously difficult to control and where a degree of judgment has to be applied to estimate the level of risk to the budget. Growth in demand and cost in Children’s Social Care continues to be an issue. Compared to statistical neighbours, Oxfordshire is within the range expected based on population size and characteristics. However, whilst the number of looked after children during 2020/21 remains within forecasts, the number of children requiring high cost placements has increased costs significantly. The implementation of the Family Safeguarding plus Model during 2021/22 should help with managing and reduce demand. However managing risk to children in the community and supporting them to stay within the family home (the key outcome and financial impact of the Family Safeguarding Model)

is particularly challenging at this time and the service has had to make difficult risk-based decisions given the limitations of education and community protective factors during the three lockdown periods.. If the Family Safeguarding Model alongside commissioning initiatives in Fostering and Young Peoples accommodation can still deliver on planned savings, it is expected that the funding in the proposed MTFS should be sufficient to meet current and future demand. Overall, the effects of the COVID-19 pandemic on children and their families means there is significant uncertainty in 2021/22 and the medium term in terms of rising demand, complexity of need, increased safeguarding risk and the market for both placements and social workers.

The number of people receiving adult social care services remains broadly in line with forecast increases. However, there is a continuing risk that if the combined effect of demand and the level of assessed need starts to rise at a faster rate than assumed this will put pressure on the adult social care budget.

- d) High Needs - In recent years there has been a significant increase in demand in services for children with special educational needs and disabilities. The cost of providing education is met from the Dedicated Schools Grant. Due to significant increases in the number of out of county placements and increasing numbers of Education, Health & Care Plans, the cost of high needs far outstrips the funding available.

Furthermore, the High Needs DSG Reserve was in deficit at the end of 2019/20 by £11.2m and is expected to be in deficit at the end of 2020/21 by £22.2m. This is forecast to rise significantly over the medium term, with an estimated deficit of £58.9m by 2025/26. The development and implementation of a deficit recovery plan as required by the Department for Education and the creation of additional places and related capital investment as part of the SEND Sufficiency Strategy should help to reduce the pressure over the longer term. However, this is not likely to reduce the accumulated deficit.

As set out in the Financial Strategy (Section 4.5), the Department for Education (DfE) has confirmed that the DSG is a ring-fenced specific grant separate from the general funding of local authorities and that any deficit an authority may have on its DSG account should be carried forward and not funded by the authority's general reserves. However, the Council is still required to hold a positive level of overall earmarked reserves. In order to help mitigate the impact of this negative reserve on the council's cash position and overall level of financial resilience, contributions will continue to the demographic risk reserve over the MTFS bringing the reserve total to £25.0m by 2025/26.

- e) The Health and Social Care system – The use of the BCF and iBCF funding has to be agreed with health partners through the Better Care Fund plan. Whilst the iBCF funding will remain at the current level in 2021/22 and the BCF

contribution to funding adult social care is expected to increase in 2021/22, there remains a risk that the level of future funding and the council's access to that may be impacted by national or local changes.

From April 2021 all parts of the health and care system across the country are required to work together as Integrated Care Systems. Options for giving these a firmer footing in legislation are being considered and, pending government legislation, are likely to take effect from April 2022. There is a specific commitment to work much closer with local government and the voluntary sector at a "place" level, with the prospect of opportunities to further strengthen partnership working as ICSs evolve. The outcome, and financial impacts of this locally, remain unclear, but there is a risk that there will be direct or indirect financial implications for the Better Care Fund and adult social care services more generally.

In December 2019 the Queen's Speech set out that the Government intended to seek cross-party consensus on the long-term reform of adult social care. As part of the chancellor's spending review in November 2020, the government again said it was committed to improving the adult social care system and would bring forward proposals on how to do this in 2021. Any change to the current arrangements is likely to have significant implications for the funding and potentially the management of adult social care.

- f) Implications new trading arrangements with the EU – Whilst the UK has new trading arrangements in place with the EU, the full impact of these are not likely to be fully appreciated until the end of the COVID-19 pandemic. The possibility of continued lower imports and exports coupled with increased costs remain a risk to the UK economy. If the roll out of the COVID-19 vaccine to the majority of adults in the UK is completed by the second half of 2021, then it is forecast that the UK economy will recover to its pre-pandemic level by mid-2022.
- g) Accountable body status – Oxfordshire County Council is the accountable body for both OxLEP and the Oxfordshire Growth Board. Government funding for these passes to the council and as recipient of the funding, the council is responsible for compliance with the grant conditions which include the obligation to repay. The council will enter into appropriate legal or funding agreements where delivery is being carried out by other organisations to ensure the risk to the council is minimized.

In relation to OxLEP, part of the City Deal agreement with central government is to deliver £40m of infrastructure schemes using growth in business rates from the Science Vale Enterprise Zone. As the accountable body for OxLEP, the council will need to borrow from the PWLB¹ in 2021/22 and repay the loan

¹ Public Works Loan Board (or its replacement body)

(principal and interest) from annual business rate income². Current forecasts indicate that there is sufficient income from business rate growth to meet the cost of the loan repayments. However, if there is any reform to the business rate system within the 25-year period of Enterprise Zone business rate ringfencing, this could have a negative impact on the income levels.

- h) Unfunded New Burdens – Where new duties, policies or initiatives are passed onto local authorities, central Government has agreed that all new burdens should be properly assessed and fully funded. The new burdens doctrine has been in place since 2011 and Government departments are required to adhere to it. The National Transfer scheme for Unaccompanied Asylum Seeking Children (UASC) allows for the transfer of children between local authorities to even out numbers across local authorities. At present, Oxfordshire has relatively few unaccompanied children, and therefore eligible to receive transfers into the authority. Grant funding is provided for these children and young people up to the age of 21, however the grant isn't always sufficient to meet all the costs incurred, and places pressure on the number of locally available placements and social workers required. If the full funding is not received, then it will need to be met from contingency.
- i) Sleep-in Care backdated pay obligations – An appeal on whether sleep-in shift workers are entitled to back-payments from employers was considered by the Supreme Court in February 2020. As at January 2021 the judgement has not yet been announced but the case has wide implications for all social care providers, and there remains a risk that they may still be required to meet backdated pay obligations. In turn, this could mean they either seek to raise contract prices and/or seek retrospective funding from commissioning authorities. In the worst case there is also a potential risk of provider collapse.

Level of total reserves

- 18. The Earmarked Reserves and General Balances Policy Statement at Section 4.6 sets out the council's policies underpinning the maintenance of a level of general balances and earmarked reserves. As well as holding a contingency budget, general balances are also held to ensure that a major incident or emergency can be managed without impacting on other services. In reaching the decision on the level of balances I feel are appropriate to be held for 2021/22, I have considered the strategic, operational and financial risks facing the authority including the ability to deliver planned savings, as well as external risks such as the impact of flooding. The recommended level of balances for 2021/22, based on the risk assessment is £28.8m.
- 19. Earmarked reserves are also held for specific planned purposes. In assessing the appropriate level of reserves, a review is undertaken annually to determine

² above the baseline at the date of creation of the enterprise zone in 2011

if they are both adequate and necessary. The Earmarked Reserves and General Balances Policy Statement sets out the details of that review.

Assurance Statement of the Chief Finance Officer

20. The proposed budget for 2021/22 and Medium Term Financial Strategy to 2025/26 addresses the demand pressures and impacts of COVID-19 which are expected to continue into the medium term.
21. Whilst the 2021/22 budget is balanced, there remains a gap between estimated spend and funding streams for 2022/23. This is solely due to the uncertainty of funding pending the next spending review alongside the implementation of the new needs led funding formula and business rates reset. Therefore, the council needs to maintain focus on financial sustainability and producing a balanced budget over the medium term.
22. The risks in the 2021/22 budget are predominantly in relation to the uncertainty and impact of COVID-19. There is also risk from the increasing demand in the high needs budget which is under significant pressure in the current financial year. To help mitigate these risks, a number of allocations are proposed in the 201/22 budget, namely:
 - a contingency budget of £5.6m
 - a COVID-19 reserve of £18.1m
 - a demographic risk reserve to help offset the DSG High Needs deficit of £9.0m.
23. The control environment and associated processes in place are robust. Financial management has been reviewed and actions are in place to strengthen them.
24. I believe the level of the council's total reserves is sufficient to provide both general balances to manage the impact of unexpected events in line with the risk assessment; and the setting aside of earmarked reserves to meet known or anticipated liabilities.
25. Therefore, I am satisfied that the budget proposals for 2021/22 recommended by the Cabinet are robust.

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1 February 2021