

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE and PROPERTY ADVISORY BOARD

01 October 2008

Report of the Director of Finance

Part 1- Public

Matters for Recommendation to Cabinet

1 HOUSING & COUNCIL TAX BENEFITS AND WAR PENSIONS

A report reviewing the current arrangements for disregarding certain war disablement and war widow's pensions in housing & council tax benefit calculations

1.1 Background

1.1.1 Members might recall that, during 2005/06, a best value review was undertaken in respect of council tax, business rates and housing benefit. As part of that review, I, in conjunction with Members, considered the operation of the Council's previous decision to disregard certain war widow's and war disablement pensions in the calculation of council tax and housing benefit entitlement. At the conclusion of the review, the report to the Policy and Best Value Committee on 18 October 2005 stated, in respect of whether to change the operation of the local scheme, that

"However, in the circumstances, particularly in view of the opportunity to minimise the cost to the Council through the promotion of pension credits, it would seem wise to retain the 'status quo' for the time being and review the position again in a few years' time. Members, at the meeting of the Sub-Committee on 23 August, considered that there was no convincing case supporting the alteration of current practice."

1.1.2 The above-mentioned approach was endorsed by Cabinet.

1.1.3 Since the time of the best value review, my staff have promoted take-up of pension credits. However, as three years have passed since the report to Policy and Best Value Committee, it now seems appropriate to review the position. A review of the scheme is also particularly apposite because Cabinet considered, in April this year, options for addressing, within the context of the medium term financial strategy, the 'funding gap' identified during the 2008/09 budget cycle. Cabinet decided, having considered the options available, that your Board should review the existing housing and council tax benefit local scheme.

- 1.1.4 This report sets out the conditions, costs, risks and other matters to consider in deciding whether the current arrangements are appropriate.

1.2 Local Scheme

- 1.2.1 Councils may decide to disregard the income from certain war disablement and war widow's pensions in the calculation of housing and council tax benefit. If a council so decides, it is considered to operate what is commonly known as a 'local scheme'.
- 1.2.2 The pensions that may be disregarded are listed in the statutory instrument appended at **ANNEX 1**.
- 1.2.3 A council deciding to operate a local scheme must do so by resolution. Decisions must be made for both the housing benefit and council tax benefit schemes.
- 1.2.4 A council may revoke or vary the decision, by resolution, at any time.

1.3 Local Scheme at Tonbridge & Malling

- 1.3.1 This Council has previously resolved to disregard all the pensions listed at Annex 1.
- 1.3.2 The Borough has a higher than average percentage of households receiving war disablement and war widow's pensions. Approximately 60 households benefit from the local scheme. This is due to the location of the Royal British Legion village.
- 1.3.3 Some of these households have as much as £250 per week disregarded from their income in their benefit assessments. Many of the claimants would not qualify for any housing or council tax benefits if the Council chose not to disregard the pensions. In this situation, the remaining claimants would also face reductions in the amounts they receive.
- 1.3.4 All but a few councils throughout England, Scotland and Wales now operate local schemes granting the full disregards of war disablement and war widow's pensions. The Royal British Legion, among others, has campaigned vigorously to bring about this position.

1.4 Cost to the Council

- 1.4.1 The prescribed pensions are generally disregarded under the national scheme to the extent of £10 per week. The decision whether to disregard the remainder and bear the cost of so doing, lies with the Council. Pensions known as 'pre-1973' war widow's pensions are disregarded under the national scheme in full.
- 1.4.2 At **ANNEX 2** I have provided a worked example of an actual case showing how housing benefit entitlement is affected by reducing the disregard. The example is a standard claim of an 80 year old widow. It is important to note that a reduction

in the disregard of 50% or 25% does not translate into a similar level of cost saving to the council.

- 1.4.3 There is no subsidy directly payable on expenditure incurred as a result of the voluntary disregarding of war widow's and war disablement pensions. To calculate the subsidy lost for a claim it must be calculated twice, including and disregarding the pension. The difference in benefit entitlement between the two calculations is the amount of expenditure that is not subsidised. The cost varies for each claim depending on elements in the claim such as other income and the claimant's applicable amount.
- 1.4.4 Central Government contributes to the funding of councils' local schemes. A council operating a local scheme receives the lower of 75% of the additional expenditure incurred under its local scheme or 0.2% of the total housing & council tax benefit subsidy claimed for the year. For example, in 2007/08, a fairly typical year, the total expenditure due to the scheme was £105,816. The maximum funding we potentially could have received (75%) was £79,362 but 0.2% of the total subsidy claim was £50,332 and this was the amount we received. Thus the net cost of the scheme to the Council in this case was £55,484 for the year (£105,816 - £50,332). This compares to a net cost in 2004/05, the year focused on during the best value review, of £80,427.

1.5 Options for change

- 1.5.1 Choices are numerous and varied. As Members will have noted, a percentage decrease in the disregarded amount of a pension will not necessarily translate into the same percentage decrease in expenditure. Therefore, should Members be minded to recommend to Cabinet a change to the current scheme, other than complete cancellation, I would suggest that, before doing so, I return to the Board at a later date with detailed evaluation(s) of the proposal(s).
- 1.5.2 Some options that the Board may wish to consider are:
- Continuation of the present scheme;
 - Cancellation of the scheme, allowing only the national disregards;
 - A reduction from 100% in the percentage disregard;
 - Introduction of a phased percentage reduction to meet an agreed lower disregard;
 - Application of the scheme only housing benefit or council tax benefit claims;
 - Selection of only certain pensions from the prescribed list to disregard;
 - Continuation of the scheme for existing claimants only.

1.6 Conclusions

- 1.6.1 The net cost of the local scheme is not an insignificant amount of expenditure for the Council. However, if one considers the net cost for the year 2007/08 (£55,484), it amounts to only £1.16 per Band D equivalent property per year (just over two pence per week). Therefore, the question has to be posed as to whether the average council tax payer in the Borough would consider this expenditure to be without merit. It appears to be doubtful that they would, particularly in view of the high profile of the armed forces at the moment. There are, of course, other groups in society whose members risk their lives in public service, such as members of the fire service, who might be considered equally deserving. However, councils have not been given discretion by Parliament in terms of their pensions.
- 1.6.2 The difficult position that this Council finds itself in results from the fact that Government subsidy for the local scheme is effectively capped at 75% of the expenditure. Therefore there is no recognition of the fact that we have a higher proportion of residents who are eligible for help under the local scheme than authorities elsewhere operating similar local schemes. However, bearing in mind that this is one of the few areas of discretion that we have, Members might consider that, all matters considered, the scheme should remain as it is.

1.7 Legal Implications

- 1.7.1 The ability to operate and vary 'local schemes' is contained in s.134 & s.139 of the Social Security Administration Act 1992. The decision to operate or vary a local scheme is discretionary and could only be challenged by means of judicial review. Such a challenge could be successful if the Council were found to have acted unreasonably.

1.8 Financial and Value for Money Considerations

- 1.8.1 Potential for approximate cost saving of up to £55,000 per annum, as outlined above.

1.9 Risk Assessment

- 1.9.1 Should there be any change to the existing decision then the potential for adverse publicity is considered as high risk. Although these are national issues, the decision is particularly emotive in this Borough due to the presence of the RBLV. The Council would also have to take into consideration the impact of any change on the current beneficiaries of the local scheme.

1.10 Policy Considerations

- 1.10.1 The local scheme does not meet any of the Council's key improvement priorities.

1.10.2 There is a link to meeting overall aims of the Council in ‘improving the well-being of communities’ & ‘promote the well-being of the local economy and enhance the viability and vitality of population centres’ if Members decide to continue the scheme.

1.10.3 There is a link to meeting overall aims of the Council in ‘manage the Council’s financial affairs to support its service delivery objectives’ if Members decide to reduce or cancel the scheme.

1.11 Recommendations

1.11.1 Members are **REQUESTED** to **RECOMMEND** to Cabinet whether the local scheme should be retained in its current form, or terminated, or varied. If Members recommend a variation, then they are also requested to detail how the scheme should be varied.

Background papers:

contact: Andrew Rosevear

Annex 1 Statutory Instrument 2007 1619

Annex 2 Example calculation

Sharon Shelton
Director of Finance