

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

12 October 2011

Report of the Director of Finance

Part 1- Public

Executive Non Key Decisions

1 LOCALISING SUPPORT FOR COUNCIL TAX IN ENGLAND CONSULTATION PAPER

The Department for Communities and Local Government (DCLG) recently published a consultation paper entitled 'Localising Support for Council Tax in England'. This report outlines the main proposals set out in the consultation paper. Also attached to the report is a draft response to the questions asked in the consultation paper.

1.1 Introduction

1.1.1 On 2 August the DCLG published a consultation paper concerning proposals for the localisation of council tax support in England from 2013/14.

1.1.2 The consultation paper sets out and seeks views on the Government's proposals for the localisation of council tax support in England from 2013/14. The document is lengthy (some 59 pages) so rather than reproduce in hard copy, the consultation paper can be found at the following link:

<http://www.communities.gov.uk/documents/localgovernment/pdf/19510253.pdf>

1.1.3 The return date for responses to the consultation paper is 14 October 2011. A copy of our draft response to the consultation paper can be found at **[Annex 1]**. As Members will observe, I have prefaced the answers to the specific consultation questions with some general observations.

1.2 Background

1.2.1 The Government announced in the Comprehensive Spending Review 2010 that support for council tax will be localised from 2013/14 and expenditure reduced by ten per cent. On 17 February the government published the Welfare Reform Bill, containing provisions for the abolition of council tax benefit, paving the way for new localised schemes.

1.2.2 The Government is committed to ensuring local authorities continue to provide support for council tax for the most vulnerable in society, including pensioners. There are certain low-income groups, in particular pensioners, whom the government does not expect to work to increase their income. The Government, therefore, intends **protecting pensioners** from any change in award as a direct result of this reform and asks whether other groups should similarly be protected.

1.2.3 It is intended that local authorities will establish their own local schemes by **April 2013**.

1.3 Why Localise Support for Council Tax

1.3.1 The Government has decided to localise support for council tax to:

- Give local authorities a greater stake in the economic future of their local area.
- Provide local authorities with the opportunity to reform the system for working age claimants.
- Reinforce local control over council tax.
- Give local authorities a significant degree of control over how a ten per cent reduction in expenditure on the current council tax benefit bill is achieved.
- Give local authorities a financial stake in the provision of support for council tax.

1.4 Overview

1.4.1 Reform will be accompanied by a new Government grant to local authorities, who will be able to take this into account when setting the local scheme (there would be no separate funding arrangements for pensioner claimants). Government will consider whether maintaining the new grant allocations for several years will help to provide certainty for local authorities.

1.4.2 Under the proposals, someone of working age who currently receives council tax benefit may see changes to the amount of support they can claim as well as to the way they claim support. Councils will set the rules about how much support working age council taxpayers may be entitled to.

1.4.3 The principles to underpin local schemes as set out by the Government are:

- Local authorities to have a duty to run a scheme to provide support for council tax in their area.
- For pensioners there should be no change in the current level of awards, as a result of this reform.

- Local authorities should also consider ensuring support for other vulnerable groups.
 - Local schemes should support work incentives, and in particular avoid disincentive to move into work.
- 1.4.4 The **design**: establishing the parameters of the scheme; **consultation**: submitting the proposed scheme to some form of public scrutiny or challenge, making the data underpinning the scheme publicly available and ensuring precepting authorities have a role in the process; and **feeding into the budget and council tax setting processes** are seen as the key steps in the process of establishing a local scheme.
- 1.4.5 Billing authorities would be free to come together and coordinate approaches to setting schemes where each authority retains responsibility for the scheme in their area or making one single authority, e.g. the county council or lead billing authority the responsible authority for developing a single scheme which applies across a number of authorities.
- 1.4.6 In designing and administering local schemes, local authorities will need to consider how to manage any possible financial pressures / risk and collaboration will be an important means of managing financial risk. Billing authorities should be able to share any financial pressure as a result of unexpectedly high increase in demand for support with major precepting authorities and should not be exposed to the totality of the financial pressure in-year.
- 1.4.7 It is envisaged that local authorities will be given powers to **develop their own local schemes for working age claimants, with the freedom to determine the levels of support that should be offered** and how the scheme should operate. It is proposed that support for council tax should be delivered as a new form of council tax discount, which reduces council tax liability once other discounts, e.g. single person discount have been taken into account. Currently the rebate and any discounts are set out on the council tax bill.
- 1.4.8 Currently, local authorities are responsible for the investigation of council tax benefit and housing benefit fraud. However, in 2013 responsibility for investigating and prosecuting fraud in relation to the housing benefit caseload will rest with the new Single Fraud Investigation Service, but the lead responsibility for investigating and prosecuting fraud in relation to a system of localised support for council tax will continue to rest with each local authority.
- 1.4.9 Funding to be distributed to local authorities will be **cash limited**. Moreover, the **amount to be distributed will be reduced by ten per cent**. The Government envisages funding to be paid to local authorities in the form of an unringfenced special grant.

1.4.10 I understand that a **separate detailed technical consultation** will be held on the specific factors and indicators which should determine the level of grant allocated to a particular authority. Factors could include the relative size of eligible claimant group – in particular pensioners – for which local authorities are required to provide support, and previous expenditure.

1.5 Overall Impressions

- 1.5.1 This latest proposal from the government is clearly part of the wider policy of **decentralisation**. Throughout the paper, the stated ‘theme’ is that this approach is intended to give councils a greater stake in the economic future of their local areas. Further, it is clear that the government intends local schemes to support the principle of work incentives, which are paramount to the welfare reform proposals. There are clear crosswalks here with the proposals in respect of local retention of business rates (encouragement to local authorities to promote growth) and the consultation in respect of the National Planning Policy Framework (the promotion of sustainable growth).
- 1.5.2 Whilst these points are understood, some may see the funding proposals (whereby the overall cost will be cut by 10%) as a smokescreen simply to pass on expenditure cuts from the centre and deflect criticism at councils (who will have the unenviable task of managing the new scheme on a reduced funding base). That said, the government openly states in the consultation paper (section 2 page 10, 4th bullet): **“Reducing the costs of support for council tax is a contribution to the government’s vital programme of deficit reduction.** Localisation is intended to help deliver savings of around £500m a year on the current council tax benefit bill across Great Britain”.
- 1.5.3 On the matter of savings, my initial understanding of the government’s thinking was that local authorities would be able to make significant savings through the simplification of the criteria for establishing eligibility to council tax support and operating a simplified system through the IT database used to operate the council tax billing, collection and recovery system. On further reading of the consultation paper and the questions posed in it, **I am very doubtful that such savings could be made.** The government, understandably, wishes to protect certain vulnerable groups and is considering whether to introduce a scheme of transitional protection. The latter, in particular, will add a layer of complexity to any local scheme and would almost certainly require the continued maintenance of a ‘benefits’ database separate from the council tax database, with the attendant costs thereof. That would have implications for the ability to undertake joint working (see below).
- 1.5.4 Although the proposed reforms are headlined as ‘localisation’, I think it is fair to question whether that will be the case or whether, in reality, we will see a scheme that is virtually a national scheme, administered at a local albeit at a lower cost. As referred to below, the government has indicated that pensioners will be protected from any reduction in the level of support. However, there are strong

indications in the consultation paper that other vulnerable groups will have to be protected. Although that intention is laudable, **the more groups that are protected the less funding there will be to support other groups.**

- 1.5.5 The consultation paper clearly states that **low income pensioners should see no change to the financial support** they get towards their council tax bills. In many cases, this will be 100% funding. Whilst I am not advocating any change to this principle, the fact that the overall sum available for this support borough-wide will be cut by 10% means, mathematically, that a greater proportion of the financial burden shifts to working age claimants. **Different councils could see different 'pressures'** depending on the distribution of pensioners and working age claimants within their respective areas. For information, at Tonbridge & Malling, based on existing caseload, the split between pensioner and working age claims is now 41% pensioners compared to 59% working age. Of the 41% pensioner claims, I would deem roughly just under half to be low income pensioners.
- 1.5.6 The **disadvantage of local schemes** is that they are what they say – local – and **will vary from area to area.** The consultation paper mentions the development of model schemes and potential joint working between local authorities. Within Kent, perhaps, there could be the opportunity to develop a local scheme that is consistent throughout. However, even with the potential to develop, within Kent, a local scheme that is consistent throughout, it has to be recognised that we do not operate in isolation to the remainder of the country. Even if other adjoining counties have county-wide schemes, it is unlikely that they will be identical to the one that might be developed in Kent. That, of course, is what is envisaged by the consultation paper but will, I suggest, be something that the general public will have difficulty in accepting. If a benefit claimant moves into Kent from, say, East Sussex and suddenly finds that they get less support towards paying their council tax here (even though their gross bill might be exactly the same), will they readily understand why that should be? As with the availability, or otherwise, of certain treatments through the national health service, I envisage reports in the media of a 'postcode lottery'.
- 1.5.7 It is clear that grant allocation will have to take account of relative size of eligible claimant groups; in particular pensioners and any other protected groups where the local authority has no control over the level of support they will need to give. Details of how the grant will be worked out will be set out in a future technical paper, so it is difficult at this stage to know just how much funding the Council would receive.
- 1.5.8 It is worth noting that whilst maintaining the new grant allocations (cash limited) for several years will help to provide certainty for local authorities, on the other hand not uplifting grant allocations by say a predetermined percentage for increases in council tax / inflation will result in the local authority paying a progressively larger share of the cost each year.

- 1.5.9 The accounting treatment for the new 'discount is not clear in the paper, but presumably the cost of council tax support rebates and the associated grant is to be wholly accounted for in the Collection Fund; and cost of administration and associated administration grant in the General Fund. Discretion to be given to the billing authority to amend precept payments, in consultation with major precepting authorities, where there is a marked change in case load
- 1.5.10 It had been suggested in other forums that council tax benefit could be an element of the **universal credit**. That would certainly simplify, and rationalise, council tax support, although, as Members will be aware, I and my staff have significant reservations about the operation of universal credit and the timescale for its introduction. However, I have been given to understand that the government has **now ruled out council tax support being incorporated within universal credit**. I believe that the thinking behind that decision was that recipients of universal credit might not use part of their universal credit entitlement to pay their council tax thereby impacting on the collection of council tax by billing authorities. Although that decision is to be welcomed in one respect, I find it difficult to reconcile to the fact that the government intends that the housing element of universal credit should be paid, as far as possible, direct to claimants and not to landlords.

1.6 Key Issues Raised in Draft Response

- 1.6.1 Given the Government's firm commitment to protect pensioners, **we believe that the current system is the best way to guarantee support**.
- 1.6.2 We also believe that central government must define those that it considers **vulnerable** in order to avoid differences of definition and support to such groups between local authorities.
- 1.6.3 We see the requirement for external scrutiny as a diminution of the role of elected members. If there were to be a level of external scrutiny, such scrutiny would have to be consistent across the country, otherwise local authorities could be given conflicting messages regarding their schemes.
- 1.6.4 Councils should be able to change schemes from year to year, as restrictions would reduce flexibility.
- 1.6.5 Billing authorities should normally be able to share risks with major precepting authorities.
- 1.6.6 There must be consistency in respect of decisions reached on appeal in respect of factors, such as income and capital, where the definitions of those factors would be likely to affect all local schemes.
- 1.6.7 We suggest that there should be a **single, common claim route for all applicants, through a national portal**, and a single, mandatory claim form (electronic and paper), for use by all local authorities, which would initiate an

application to a local scheme. It would then be open to authorities to ask for supplementary information depending on the nature of their individual schemes. This would enable inter-authority data-matching and assist with the prevention and detection of fraud.

- 1.6.8 Consistency across schemes would be desirable to enable claimants to have an idea of their entitlement to support if they move between areas. Consistency would also facilitate joint administration and could reduce the scope for fraud. If there were consistency between schemes, enabling a degree of joint administration, it would, if the schemes could not be administered through council tax databases, enable the sharing of IT. That would produce significant savings.
- 1.6.9 The more consistency there is, the less scope there is for individual councils to make savings. Greater consistency will leave less room for local discretion to create schemes to meet local needs.
- 1.6.10 **Bearing in mind the Government's desire to achieve consistency; protect vulnerable groups; and protect pensioners but, simultaneously reduce costs, it would be best to stay with a national scheme but change the parameters (tapers etc) within the national scheme to reduce costs.**
- 1.6.11 Transitional protection would impose a further degree of complexity on an already complex position.
- 1.6.12 A one-off introduction of local schemes is preferable.
- 1.6.13 I am particularly concerned over the impact of the equalities legislation on local schemes. Currently, local authorities administer council tax benefit on behalf of the Department for Work and Pensions. We work within national legislation and have very little room for local discretion. It seems to me that, if each authority has to create its own scheme (or act in conjunction with other authorities in its area), then authorities could be embroiled in endless challenges through the Courts in respect of their decisions as to which groups to support and the level of support to those groups. More significantly, if the level of funding given to local authorities diminishes, resulting in their having to scale back support, I envisage any decisions to reduce funding to particular groups would be open to challenge. The West Kent Equalities Officer shares my concerns.
- 1.6.14 Changes to both housing benefit and support for council tax will have implications for administration. The Government does not intend the administration of local schemes to put pressure on local government finances, in line with the new burdens doctrine, and acknowledge that detailed work will be needed to determine the amount of funding for the administration of local schemes.

1.6.15 As with the consultation on 'business rates retention', this has been a complex and time consuming consultation paper to respond to. I am very grateful to my Chief Accountant (Neil Lawley) and my Revenue & Benefits Manager (Paul Griffin) for the detailed and thorough work they have put into this report and the draft response.

1.7 Legal Implications

1.7.1 None in respect of the decision on the response to the consultation paper but fundamental implications should the government's proposals become law.

1.8 Financial and Value for Money Considerations

1.8.1 None at this stage but significant and wide-ranging should the government's proposals become law.

1.9 Risk Assessment

1.9.1 No risks at this stage.

1.9.2 In view of the return date for this consultation (two days after the date of this meeting) it will be necessary to circumvent the usual 'call-in' procedures. Accordingly, I have sent a draft of this report to the Leader of the Opposition Group and the Chairman of Overview & Scrutiny Committee to seek their agreement to this draft response also. I shall update Members on the evening of the meeting with any comments received.

1.10 Equality Impact Assessment

1.10.1 See 'Screening for equality impacts' table at end of report

1.11 Recommendations

1.11.1 Members are **RECOMMENDED** to:

- 1) Consider the draft response to the consultation paper outlining the Government's proposals for the localisation of council tax support in England from 2013/14 and make amendments as appropriate;
- 2) approve a final draft for submission to the Department for Communities and Local Government; and
- 3) in accordance with Overview and Scrutiny Procedure Rule 15(i), set aside the normal call-in procedures to allow the response to be submitted by the by the return deadline of 14 October 2011.

Background papers:

Neil Lawley

Nil

Paul Griffin
Sharon SheltonSharon Shelton
Director of Finance

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	This report outlines the main proposals for localising support for council tax in England set out in a consultation paper published by the Department for Communities and Local Government. Attached to the report is a draft response to the consultation paper.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	See above.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		Not applicable.

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.