

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

28 March 2012

Report of the Director of Finance

Part 1- Public

Executive Non Key Decisions

1 LOCALISATION OF COUNCIL TAX BENEFIT

A report advising Members of the outcome of the Government consultation in respect of the localisation of council tax benefit and seeking Cabinet approval of the proposed plan to progress the establishment of a local council tax benefit scheme for the Tonbridge & Malling area.

1.1 Introduction

- 1.1.1 Members might recall that I reported to Cabinet on 14 October last year on my draft response to the Government's consultation entitled 'Localising Support for Council Tax in England'. The consultation proposed the abolition of the national, but locally administered, council tax benefit scheme and its replacement with locally determined and administered schemes of council tax financial support.
- 1.1.2 Support under local schemes would, in effect, no longer be considered a 'benefit'. Instead the support would be looked upon as a discount on the council tax payer's council tax bill. Although the Government would, in effect, fund the scheme through grant, the totality of the grant available would be decreased by ten per cent, thereby leaving billing authorities to find ten per cent savings or fund the ten per cent decrease from other sources.
- 1.1.3 Across Kent (excluding Medway), there will be a reduction in Council Tax Support grant of approximately £13 million when the ten per cent reduction is applied.
- 1.1.4 It was, however, proposed that pensioners and those in vulnerable groups should not see any reduction in help, thereby implying that other groups receiving help would see a reduction in their entitlement to help of greater than ten per cent. The Government's objective is that there should be an incentive, through a reduction in benefit, for those who are able to work, to work. Members approved my response, subject to the inclusion of some additional points (**Decision No: D110138CAB refers**).

1.1.5 The Government duly published its responses to comments that it had received in respect of the consultation and I reported these to Cabinet on 11 January. To refresh Members' memories, I stated:

"The 'headline' is that the government will be pressing ahead with its plans to localise council tax benefit in the original timescales. This means that local authorities will need to have a new scheme designed and adopted by 31 January 2013, to take effect from April 2013.

"Billing authorities (i.e. this Council) will be the lead authorities in the design of schemes, although they will be able to design schemes jointly with other billing authorities or, if applicable, upper-tier authorities, i.e. county councils. The billing authorities will need to undertake consultation with the public and precepting authorities (who will share the effects of any increases or reductions in demand for council tax benefits).

"As mentioned above, the final scheme must be adopted by 31 January 2013 and will take the form of a reduction to the council tax bills of eligible persons. Where a billing authority does not adopt a scheme by this date, then a default scheme, to be set out in future Regulations, will take effect. This default scheme will retain the criteria and allowances in the current council tax benefit scheme.

"The scheme will be funded by a government grant paid to billing authorities and major precepting authorities in proportion to their share of the council tax. The government will consider whether grant should also be paid to local precepting authorities, i.e. parishes.

"As Members commented in their submission to CLG, this timescale is extremely tight and work will need to commence immediately if it is to be achieved.

"I shall report in greater detail to either the Cabinet or the Finance & Property Advisory Board in due course as my staff and I get to grips with what is required."

1.2 The current position

1.2.1 I would ideally like to be in the position where I could report to Members with further details on such matters as the proposed legislation covering the establishment and administration of local schemes; the financial arrangements with central government; details as to how pensioners and other vulnerable groups will be treated etc.

1.2.2 Regrettably, however, bearing in mind the currently proposed implementation date of 1 April 2013, very little firm information has been received from central Government. No draft regulations have been issued and I am still unaware of how grant will be distributed, i.e. whether the ten per cent reduction in overall grant will impact equally on all billing authorities or will be adjusted to reflect the make-up of each billing authority's benefit caseload.

- 1.2.3 We are promised a consultation paper on this subject soon. Matters also still need to be resolved in respect of the administration grant that we currently receive for the joint administration of council tax benefit and housing benefit. Furthermore, I am given to understand that grant will be available, possibly in the years 2012/13 and 2013/14, to assist with the costs of establishing the local schemes. Unfortunately, as at the time of writing, that has not been confirmed.
- 1.2.4 What I do know is that the government has shown no indication that it will postpone the implementation of local schemes and I, along with my staff, am working towards the April 2013 date.
- 1.2.5 As Members will recall from the consultation stage, one of the potential dangers of localising such a scheme is that a 'post code lottery' effect develops if one authority in Kent, for example, is more generous in its scheme than others. As one might expect, the major precepting authorities (and in particular the County Council) are keen to minimise such an impact.
- 1.2.6 I have been working with a small sub-group of Kent Financial Officers to investigate whether there is a way of finding a common set of criteria for the scheme. A report is being presented to the Kent Forum on 23 March seeking Leaders' and Chief Executives' views on a way forward.
- 1.2.7 As I mentioned earlier in this report, a ten per cent cut in Government support in Kent (excluding Medway) amounts to some £13 million. Approximately 40-45% of Kent claimants are pensioners, and their 'benefit' award must be protected. Therefore, by definition, any impact must be borne by working age claimants; or must be found by further cuts to services across all tiers; or offset by additional sources of revenue from, for example, council tax (see Para.1.2.9. below). For the County Council, on account of the proportion of council tax attributable to them, any requirement to cut services would be particularly significant.
- 1.2.8 A very simple model was discussed by the group whereby working age claimants would have to contribute more towards their council tax bills than they presently do, but certain 'disregards' would be honoured - (for example child benefit and disability living allowance could continue to be disregarded when it comes to assessing a household's income) – thereby offering some protection for 'vulnerable' groups. The group envisaged that this could be a 'stop gap' solution until a more refined model can be developed. This model will be presented to Joint Chief Executives and the Kent Forum for discussion as a potential way forward across Kent.
- 1.2.9 As an aside, Members, when they considered, last October, my response to the Government's consultation, asked me to include reference to the 25 per cent discount presently given to council tax payers who are the only occupants of their properties. Members felt that, if Councils had the discretion to vary the discount, any variation could be factored into the determination of the level of support that could be given through the local support scheme. I have been told that the

Government is strongly not minded to allow councils to vary the discount for single occupancy. However, in the Local Government Finance Bill (currently awaiting its third reading in the House of Commons) there is provision for new council tax discounts to be introduced; the level of which could be determined by billing authorities. It is assumed that such new discounts could replace some of the current council tax exemptions, thereby allowing billing authorities to determine, for instance, that no discount should be given in respect of properties undergoing building works or for properties that are vacant for less than six months. These provisions were mooted in the Government's consultation last year on 'Technical Reforms to Council Tax', which I reported to Cabinet on 11 January this year (**Decision No: D120008CAB** refers).

1.3 The way forward

- 1.3.1 As Members will hopefully appreciate from the foregoing, there is very little, in terms of enacted legislation, upon which to design and implement a local scheme. Nevertheless, if the Government adheres to its declared timetable, we will have to design; consult upon; and implement our local scheme by 1 April 2013. The reality is that the timetable is much tighter.
- 1.3.2 We understand that local schemes must actually be in place by 31 January 2013. However, the design of the scheme must, of necessity, be heavily influenced by the money available to finance the scheme and the interrelationship between the local scheme and the Council's council tax base. This is because any support given under the local scheme will be funded by not only this Council, as billing authority, but also by the major precepting authorities, i.e County, Fire & Police (and possibly by parishes, although we await further information on that issue).
- 1.3.3 The mechanism for apportioning the funding will be through the council tax base, which, of course, has an effect on the level of council tax. Any decisions on the level of support in the local schemes would have the most significant financial impact on the County Council, albeit that it would, as things currently stand, have no veto on the local schemes. As the council tax base has to be determined by the end of November, it appears that, apart from any minor changes to the local scheme, the scheme would have to be approved by Members by late September/early October this year, in order to permit the statutory consultation to be undertaken. I do not, as yet, know the extent to which the Government will prescribe the format of the consultation or whether there will be a fixed length to the consultation period.

1.4 Progress to-date

- 1.4.1 Members will have seen, from the foregoing paragraph, that, if the Government's timetable remains unchanged, we have approximately six months in which to design a local scheme. Additionally, considerable thought will have to be given to staffing resources; training etc. A major concern will be the provision of suitable I.T. to administer the local scheme.

1.4.2 Although I have very little 'concrete' information with which to work, quite apart from working with colleagues from across Kent as outlined above, I have already established a Working Group of key staff, who will be taking forward this project. I am pleased to report that the Group has already, so far as they are able, addressed some issues, such as drawing up an implementation timetable and liaising with our I.T. supplier. In that regard, I am able to report that the supplier has already designed software that we allow us to model the impacts of any draft scheme, both on the existing claimants of council tax benefit and on the finances of the Council. Regrettably, we will not be able to model a local scheme with any great certainty until such time as we receive the draft regulations, from the Government, pertaining to the design of local schemes. These are expected in May/June.

1.4.3 In view of the likely impact of this major change on both our residents and the Council, I shall, of course, be updating Members on a regular basis as to progress.

1.5 Legal Implications

1.5.1 Clause 8 of the Local Government Finance Bill requires each billing authority to establish a council tax reduction scheme by no later than 31 January 2013, to be effective from 1 April 2013.

1.6 Financial and Value for Money Considerations

1.6.1 As outlined in this report. The design of a local scheme could, if it were designed incorrectly, have a major financial impact on claimants for council tax support and on the finances of the Council and precepting authorities. If a local scheme is not in place by 31 January 2013, then a 'default' scheme will come into operation. The default scheme will be prescribed by the Secretary of State and is likely to be the council tax benefit scheme as it currently exists. The operation of a default scheme would have a severe, negative financial impact on the Council because it is funded virtually 100% by the Government. That 100% funding will not be available after 1 April 2013.

1.7 Risk Assessment

1.7.1 There is a high risk that a local scheme will not be in place within the timescale envisaged because, along with many others, I consider that the timetable is unrealistic.

1.7.2 The design and success of almost any new scheme is totally reliant on computer systems to make it work. The three providers of software for the administration of council tax benefit across the country, including our supplier, have openly raised significant concerns to the Government over their ability to provide software solutions on time and have urged the Government to expedite the regulations for the new régime.

1.8 Equality Impact Assessment

1.8.1 Not applicable at this stage.

1.9 Recommendations

1.9.1 Members are **REQUESTED** to **NOTE** the contents of this report and, unless financial considerations change, **AUTHORISE** me to (1) commence the design of a local scheme for Tonbridge & Malling Borough Council and (2), in designing the scheme, to take into account possible changes to the scheme of council tax discounts.

Background papers:

Nil

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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	Not applicable
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	NO	Not applicable
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.