

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

19 November 2012

### Report of the Director of Finance

#### Part 1- Public

#### Matters for Recommendation to Council

#### **1 DETERMINATION OF THE COUNCIL'S COUNCIL TAX REDUCTION SCHEME**

**A report requesting Members to consider details of a council tax reduction scheme (CTRS) for the Tonbridge and Malling area, to be effective from 1 April 2013, and to recommend the scheme to Council.**

#### **1.1 Introduction**

- 1.1.1 As Members will be aware from previous reports, council tax benefit ceases to exist with effect from 1 April 2013. Each billing authority must therefore establish a local scheme for council tax support (known as a council tax reduction scheme). For practical and financial reasons, it is prudent for the full Council to approve the contents of our scheme by 30 November 2012.
- 1.1.2 The legislative framework for council tax reduction schemes is contained within the Local Government Finance Act 2012, which received royal assent on 31 October 2012. Under the Act, each local authority must design its own scheme and consult upon its design.

#### **1.2 The financial context**

- 1.2.1 In designing schemes, local authorities have to take into account the fact that the Government has announced an across-the-board reduction in financial support for council tax reduction schemes: under the scheme of council tax benefit, almost 100% of the cost of council tax benefit was funded by central government.
- 1.2.2 The foregoing has important consequences for us. Our estimated expenditure on council tax support for 2013/14, if financial assistance to claimants remained at the same level as in 2012/13, would be £7,203,168. Of that sum, 14.7% (£1,058,866) would be attributable to our element of the council tax, including parishes. The foregoing figures assume no change in the basic amount of council tax and no increase in caseload. Under the current benefit system, we would expect to receive back, from the Government, in the form of subsidy, virtually 100% of what we had paid out, i.e. £1,058,866.

- 1.2.3 Under the system of council tax reduction schemes, the cost of such schemes will be shared with the major precepting authorities, i.e. each major precepting authority will receive a share of the Government funding. However, the Government has announced that the national funding of CTRS will be 10% less than the funding for council tax benefit. We do not know yet exactly what our share of the cut in funding will be but the indication is that we will receive approximately £945,000 (to include an amount attributable to our parishes). As Members will see, this would leave us with a gap in funding of approximately £114,000 (£1,058,866 - £945,000).
- 1.2.4 Thus, if we were to do nothing and design a scheme that merely replicated a person's benefit entitlement under the council tax benefit scheme, we would have to find the £114,000 from elsewhere, e.g. increasing the level of the basic council tax. The same would apply to the major precepting authorities, e.g. they would have to increase their precepts.
- 1.2.5 Bearing in mind the above, I reported to Cabinet in June this year, asking for Members' guidance.

### **1.3 Guidance given by Cabinet in June 2012**

1.3.1 Members indicated at Cabinet in June (**Decision No: D120083CAB**) that:

- 1) The 10% cut in funding should not be met by cuts elsewhere in the Council's budget or by an increase in the basic amount of council tax;
- 2) The 10% cut in funding should, in principle, be reflected in an 18.5% across-the-board reduction in support for working-age claimants;
- 3) There should, in principle, be a reduction in the council tax allowance available to owners of unoccupied, unfurnished properties (currently exempt from council tax under Class C for a maximum period of six months);
- 4) In addition, it was agreed that we explore, in principle, whether it might be possible to implement a reduction of 15% in support, instead of 18.5%;
- 5) In exploring a reduction of 15% in support, we review the 10% council tax discount available to owners of second homes and long-term empty properties (properties empty for longer than six months);
- 6) Although not relevant to the funding of our CTRS, we review the council tax charge for properties currently exempt from council tax under Class A (uninhabitable properties/properties undergoing repair or alteration) and that we consider whether to levy a premium on properties that have been empty for longer than two years; and

- 7) In consultation with the Leader, the Cabinet Member for Finance and the Leader of the Liberal Democrats Group, I be given delegated authority to progress our proposed local scheme to public consultation, unless they considered that it should be referred to a special Cabinet meeting.

1.3.2 It is, perhaps, worth reiterating, for Members' benefit, why the 10% reduction in Government funding would result in an 18.5% reduction in support for claimants. This arises because the Government has decided that local authorities must continue to support claimants of pensionable age at the same level as under the national scheme of council tax benefit. Therefore the 10% reduction in funding falls entirely on claimants of non-pensionable age. Thus, the more claimants a local authority has of pensionable age, the greater the potential reduction in support to those of non-pensionable age.

1.3.3 I shall return, later in this report, to the possible changes to council tax discounts and exemptions.

## 1.4 The public consultation

1.4.1 Following discussions with the Leader, the Cabinet Member for Finance and the Leader of the Liberal Democrats Group, I was given delegated authority to progress our proposed local scheme to public consultation. I am extremely grateful for the assistance given by the Improvement and Development Manager in organising, administering, and analysing the results of, this exercise. We also engaged the services of The Consultation Institute (TCI) to provide an independent compliance assessment that our approach was in line with consultation best practice. TCI has formally 'signed off' all previous stages of the consultation process as compliant. Subject to our consultation reports also being compliant, the final stage, TCI will issue a Certificate of Best Practice Compliance. Such independent accreditation can but help to strengthen our position in the event of a legal challenge.

1.4.2 Our consultation included:

- A postal survey of all 3,871 council tax benefit claimants potentially affected (those of working age);
- A postal survey of all 439 owners of second homes/long term empty properties, who are also potentially affected;
- A postal survey of a random sample of 1,999 residents, who are neither claimants nor owners of second homes/long term empty properties, to obtain an impartial perspective; and
- An online survey enabling other people/organisations to provide their views.

1.4.3 For Members' information an example of the postal survey forms (that sent to benefit claimants) is attached at **[ANNEX 1]**. Members should note that Option 1

was the Council's draft (and preferred) scheme; being a scheme that calculates entitlement to support in the same way as entitlement to council tax benefit but reduces the resultant entitlement to support by 18.5%.

1.4.4 The consultation period opened on 8 August and closed on 5 October. Two briefing sessions were offered to Members during August to explain the consultation, and these were well attended.

1.4.5 A summary of the results for each of the main stakeholder groups (see Paragraph 1.4.2.), and the extent of their support for each of the options to be decided, is included at **[ANNEX 2]**. This shows that:

- More claimants favour Option 1 (reducing the support by 18.5%) than Option 2 (protecting some groups), although Option 1 did not achieve an overall majority and 19% of claimants are not sure which option they prefer;
- An overall majority of claimants support Option 3 (removing the council tax discount on second homes and long-term empty properties);
- Claimants were not sure about Options 4 and 5 (capping the amount of support to that applicable for a Band D property / removing second adult rebate). Claimants, in particular, found these options difficult to understand with around 40% responding with "Not sure";
- A minority of owners of second homes / long-term empty properties agree with Option 3. A large overall majority disagree with removing the council tax discount;
- More residents favour Option 1 than Option 2 and Option 1 achieved a clear majority; and
- An overall majority of residents support Options 3, 4 and 5.

1.4.6 Hence, overall:

- There is more support on the part of both claimants and residents for Option 1 than for Option 2;
- Claimants and residents support Option 3. Owners of second homes/empty properties do not support Option 3. Claimants and owners results are in line with their self interest; and
- Most residents support Options 4 and 5, whereas a minority of claimants support these options.

1.4.7 A summary of results of the analyses for the main demographic groups is also included at **[ANNEX 2]**. This has informed the equality impact assessment.

1.4.8 Apart from the postal and online surveys, we were also anxious to garner the views of advocacy groups and organisations (such as social landlords). The information finally captured from the exercise comes from a good range of stakeholders, including all those with the highest levels of interest and day-to-day contact with the current service, such as the Tonbridge CAB, West Kent Debt Advice Service, Russet Homes and Porchlight.

#### 1.4.9 Summary of Responses

- 1) **Q1. Do you prefer Option 1 (a general reduction of council tax support by 18.5%) or Option 2 (give more protection to vulnerable groups than is provided under Option 1)?**

There is support for Option 1 from internal stakeholders and the National Landlord Association but it is not the favoured option of other external stakeholders.

- 2) **Q2. Which vulnerable groups do you think should receive more protection than is provided under Option 1? Please remember that the groups not selected will have their award reduced by more than 18.5% to make up the difference.**

Suggestions made for protected vulnerable groups being people:

- with severe disabilities;
- unable to work;
- leaving care, prison or hostel accommodation; and
- with 'floating support'

There is also opinion that vulnerability should not be classified in this way but assessed on an individual basis. Financial assistance, where necessary, should then be applied through the use of a discretionary fund.

- 3) **Q3. Do you agree with Option 3 – removing the council tax discount on second homes and long term empty properties?**

There is complete support to reduce or remove the Council Tax 10% discount for second homes and long term empty properties (The National Landlord Association goes so far as to say it supports the levy of additional charges for long term empty homes).

- 4) **Q4. Do you agree with Option 4 – cap the amount of support to the level for a Band D property ?**

The response was mixed but comments raised were that there should be provision of a discretionary fund for those families facing genuine financial

hardship and the suggestion that the cap could be applied after six months or a year of support at the full level.

5) **Q5. Do you agree with Option 5 – removing the second adult rebate?**

All agreed

6) **Q6. Other Comments**

- Families with children have a greater potential to manage their budgets due to combinations of child benefit, child tax credits and child maintenance payments.
- Often, people with disabilities have reasonable incomes from benefits compared to those who do not have disabilities.
- Many vulnerable people single, under 25 year olds.

1.4.10 Overall, the consultation process worked well. The surveys of claimants, owners of second homes / long term empty properties and residents achieved the highest response rates that we are aware of when compared to those of other councils. The opportunity to provide feedback was well received by an over-whelming majority of respondents and there was no controversy or concerted negative feedback about the legitimacy of the consultation. The full consultation reports, should Members wish to refer to them, are available on our website at: <http://www.tmbc.gov.uk/consultations/council-tax-benefit-replacement-scheme>.

1.4.11 My interpretation of the results is that:

- 1) Overall, there is more support from consultees for Option 1 than Option 2. This is in-line with the Council's preferred scheme, which recognises that Option 1 already provides more support to the groups that consultees identified as deserving more protection under Option 2. Hence the recommendation from the consultation feedback is Option 1: a general reduction of 18.5% in council tax support;
- 2) While claimants favour Option 3, and owners of second homes/empty properties disagree with Option 3, in line with their own interests, other residents are clearly in favour. Hence the recommendation, from the consultation feedback, is implementation of Option 3: removal of the 10% discount on the full council tax charge for second homes and long term empty properties; and
- 3) Options 4 and 5 were favoured by a minority of claimants but not fully understood by a large proportion of claimants. A majority of other residents are in favour but the majority is smaller than for Options 1 and 3. Hence the consultation feedback for Options 4 and 5 is less clear-cut.

1.4.12 Therefore, it appears to me that the results from the consultation exercise support the following:

- 1) Reduce council tax support by 18.5% for all working-age claimants; and
- 2) Remove the discount available to owners of second homes and long-term empty properties.

In respect of Options 4 and 5, the consultation feedback is not clear cut. That being the case, I would suggest that we:

- 3) **Do not restrict support to that applicable to a Band D property.** To do so would inevitably result in anomalies. For instance, because council tax bandings are based on a property's capital value, a property in one area of the Borough could be in Band D whereas an identical property in a more salubrious area of the Borough would be in Band E.; and
- 4) **Do not remove the second adult rebate.** Second adult rebate is given when the person liable to pay the council tax – and therefore eligible to apply for council tax benefit – would not be entitled to any benefit, or a lesser amount of benefit, than another adult living in the property. The amount of benefit is therefore awarded according to the other adult's income. However, abolishing that other adult's entitlement to benefit would not make a great difference to the bill for council tax support. This is because, in many cases, the person liable to pay the council tax would then have entitlement in their own right.

## 1.5 Public Sector Equality Duty

1.5.1 Members need to have due and full regard to their responsibilities under the Public Sector Equality Duty before making any decisions about the 'final' scheme. In view of the potential impacts on people with protected characteristics under the Equality Act (2010), and to assist Members in considering these, a full and detailed equality impact assessment has been completed. The equality impact assessment was carried out prior to consultation; the findings were summarised in the information sent to respondents and the assessment was published on the Council's website, to allow respondents to provide informed feedback. The equality impact assessment was updated to reflect the findings of the consultation and the Government's offer of a transitional grant (see paragraph 1.8).

1.5.2 The equality impact assessment shows that the proposed reduction of 18.5%, for all working age claimants, has the potential to have a negative impact on people with disabilities, carers, women and some working age groups. These impacts can be further summarised as follows:

- The main area of concern, as highlighted by the consultation, relates to the impact on people with disabilities, as they would receive a higher percentage reduction, when compared to people without disabilities (the actual difference

equates to less than 35 pence per week). The consultation showed that, should more protection be offered to some groups, both claimants and residents with disabilities were in favour of offering protection to people with disabilities. Comments from the consultation suggest that claimants with severe disabilities would be unable to cope with the reduction and unable to work.

- Carers would receive a higher percentage reduction, compared to those without carers in their household. The consultation showed that claimants and residents with carers in their household also supported more protection being offered to some groups.
- Whilst females would receive a higher percentage reduction than males, the consultation showed that female claimants support a reduction of 18.5% and, whilst male claimants showed more support for protecting some groups, they would not see a negative impact under the 18.5% reduction.

1.5.3 These impacts can be mitigated to some extent by continuing to treat people with disabilities and carers more favourably by disregarding some income in the calculation of their 'benefit', thereby giving them a higher amount of council tax support. We will also continue to make allowances for childcare costs (which would mitigate the impact on female claimants as they are more likely to be the primary applicant and be the primary caregiver), in line with the national scheme. Whilst the 18.5% reduction also has potential to result in a degree of negative impact on some non-pensioner age groups, this is as a result of the protection of pensioners being prescribed by Government. We therefore have no discretion in implementing this aspect of the scheme.

1.5.4 The full equalities impact assessment is attached at **[ANNEX 3]**.

## **1.6 Interim conclusion**

1.6.1 Subject, of course, to discussion, it seems that a decision to recommend for adoption the 'draft scheme' we devised, and consulted upon, is valid.

1.6.2 Members will also need to decide whether they wish to recommend the removal of the 10% council tax discount available to owners of second homes and long-term empty properties. The additional council tax yield due to us via this change would be approximately £10,000 based on current 'best' estimates. Unfortunately, the removal of this discount, which was recommended by the consultation feedback (see Paragraph 1.4.11. above) would be insufficient to enable us to move from an 18.5% reduction in support to a 15% reduction in support (as mooted at Cabinet in June – see Paragraph 1.3.1). However, in year one of the CTRS it would enable us to close the funding gap left after receipt of transitional funding (more on this at Paragraph 1.8).



## **1.7 The Kent-wide agreement**

- 1.7.1 Members will recall that we had agreed (in principle) with all districts in Kent to seek to have a common 'platform' for our schemes. The major precepting authorities (Kent County Council, Kent Police and Fire & Rescue) had agreed that, if districts signed up to this common platform, and the fundamental principles/caveats underlying it, each district council would be:
- paid an "administration fee" of £125,000 each year, for three years, from the major precepting authorities to assist in the delivery and management of the scheme; and
  - reimbursed reasonable administrative costs associated with an increase in caseload of greater than 15%.
- 1.7.2 One of the fundamental underlying caveats was that we agree to a reduction in the council tax discount available to owners of unoccupied, unfurnished properties (currently exempt from council tax under Class C for a maximum period of six months). Cabinet did agree to do this in principle (subject to ratification by Council) at the outset (see Paragraph 1.3.1).
- 1.7.3 We also agreed we would 'explore' other opportunities to increase the council tax yield, such as the removal of the 10% discount for second homes and long-term empty properties. However, there was no actual requirement to do these things. Some districts have in fact used these other opportunities to provide funds to, for example, allow additional protection for people with disabilities.
- 1.7.4 Other than a commitment to the Class C reduction from six to three months, we have not 'committed' to anything else. I will come back to this later.

## **1.8 Transitional funding**

- 1.8.1 At this point of my report, I would have expected to have reached the stage at which I asked Members to agree recommendations to Council in respect of our proposed council tax reduction scheme; changes to council tax discounts; and participation in the Kent-wide agreement. However, it was unexpectedly announced, a few weeks ago, that the Government was making available a pot of £100m for transitional funding of council tax reduction schemes.

- 1.8.2 The Government has stated that:

*"The Department for Communities and Local Government is making available an additional £100m for one year to support local authorities in developing well-designed council tax support schemes and maintain positive incentives to work."*

Importantly, it is then added that:

*“The grant will be payable in March 2013 to those authorities who adopt schemes that comply with criteria set by Government **to ensure that low income households do not face an extensive increase in their council tax liability in 2013-14** (my emphasis) . This funding will enable councils to explore more sustainable approaches to managing the funding reduction that minimise the impact on vulnerable taxpayers.”*

### 1.8.3 The grant:

- is to encourage authorities to keep any reduction in support to under 8.5%;
- would be payable only in respect of 2013/14;
- would not be ring-fenced;
- would be payable to us and the major precepting authorities;
- would have to be applied for after 31 January 2013; and
- (if appropriate) would be paid in March 2013.

The full details of the scheme are contained in the document entitled ‘Localising support for council tax – Transitional grant scheme’ available at:  
[www.communities.gov.uk/publications/localgovernment/localtransitionalgrant](http://www.communities.gov.uk/publications/localgovernment/localtransitionalgrant)

### 1.8.4 The criteria for eligibility to the grant are that our scheme has been designed so that:

- Those who would be on 100% support under current council tax benefit arrangements pay between zero and no more than 8.5% of their council tax liability;
- The taper rate does not increase above 25%; and
- There is no sharp reduction in support for those entering work - for claimants currently entitled to less than 100% support, the taper will be applied to an amount at least equal to their maximum eligible award.

### 1.8.5 There was considerable debate amongst professionals as to the meaning of, particularly, the last of the criteria and therefore whether our current draft scheme had been designed so that we could qualify. However, following clarification from the Department for Communities and Local Government, I am satisfied that we can qualify, provided we drop the 18.5% to 8.5% for all working-age claimants – not just those who would have been on 100% support under the council tax benefit scheme.

### 1.8.6 Individual grant figures have been clarified by CLG. The total grant for the Tonbridge and Malling area (the Borough – including local preceptors - plus major

preceptors) would be £173,735, of which the Borough Council's share (including local preceptors) would be £25,553. What is important, however, is how this relates to the 'cost' of moving from an 18.5% reduction to an 8.5% reduction. Having modelled this based on 'best' data at today's date, we estimate that the 'cost' for the Tonbridge and Malling area, assuming a reduction from 18.5% to 8.5%, would be approximately £380,000 - of which this Council's share (including local preceptors) would be around £56,000. Therefore, it can be seen that the grant on offer covers less than half of the real cost and, if the Council chooses to apply for the grant, leaves us with a net cost of circa **£30,000**.

- 1.8.7 This net cost can be offset by the other 'options' I have set out in this report. The reduction of the exemption period in respect of unoccupied, unfurnished properties (Class C), from six to three months, which is part of the Kent-wide agreement, generates additional potential council tax receipts of which the Borough Council's share would be circa **£26,000**. In addition, if Members were minded to remove the 10% discount for second homes and long-term empty properties, the Borough Council's share of the potential additional receipt would be circa **£10,000**.
- 1.8.8 Therefore, if Members are minded to apply for the grant and cushion the impact on claimants during 2013/14, the additional net cost that would fall on the Borough Council in that year could be met from the adjustments to discounts and exemptions set out in the paragraph above.
- 1.8.9 If we choose to move to an 8.5% reduction and apply for the grant, applications are to be submitted in January, and will be paid in March 2013. We will therefore have set our taxbase and budget without any guarantee of success, which is clearly a risk. Nevertheless, my considered view is that the risk is relatively low, as the Government is clearly keen that authorities offer transitional help to those on council tax support.
- 1.8.10 If we were to accept the transitional funding and bear the additional net cost for 2013/14, I believe we could adopt the draft scheme as our final scheme to be effective from 1 April 2013; but offer a one year transition for 2013/14 whereby the anticipated 18.5% impact is reduced to 8.5%. That would show our support, in 2013/14, for those residents whose incomes are currently low enough to qualify them for 'benefit'. The one-year transition would also reduce the extent of the negative impacts on people with disabilities, carers, women and working age groups (as highlighted previously in paragraph 1.5) although minimal impacts would still remain.
- 1.8.11 I do not believe we would have to re-consult with that proposal (subject to what I say in the next paragraph about the major precepting authorities), as it is a 'good news' item: claimants would pay less in 2013/14 than we anticipated, so are extremely unlikely to challenge.

## **1.9 Impact of transitional funding on major precepting authorities and the resultant effect on the Kent-wide agreement**

1.9.1 I mentioned above the major precepting authorities because the impact of the transitional cost does not solely lie with the Borough Council. The smaller the reduction in council tax support, i.e. 18.5% moving to 8.5%, the greater the impact on the major precepting authorities. However, the major precepting authorities have said that they are still willing to move forward with the Kent-wide agreement (see Paragraph 1.7 above) if districts undertake to apply for the transitional funding (which, under the terms of the scheme, we would have to do both for ourselves and on their behalf). Importantly, however, if a district were not successful in gaining the funding, the agreement with the major preceptors would still hold good.

1.9.2 In addition, under a separate (yet unrelated) initiative, Kent County Council has agreed to pass back to us 25% of their share of the additional revenue arising from increases to the taxbase as a result of the removal of the discount for second homes and long-term empty properties.

1.9.3 The revised Kent-wide agreement would therefore be:

### **All districts, in 2013/14, to agree to:**

- Apply for the transitional funding (and any other grants offered in subsequent years);
- A base reduction of 18.5% in support for claimants, reduced to 8.5% after the receipt of transitional funding; and
- A reduction in the period of nil charge for properties falling within Class C to three months.

### **And, for 2014/15 and 2015/16:**

- Agree to revert to an 18.5% reduction in support for claimants (or produces an alternative local scheme that achieves the equivalent of a 10% saving in expenditure on support); and
- A reduction in the period of nil charge for properties falling within Class C to three months.

### **Then, the major precepting authorities will agree:**

- If a district incurs a cost on new council tax discounts (other than as a result of local decisions to increase council tax) from the local scheme that is higher than their share of the grant from Government, then major precepting authorities (jointly) will reimburse the district the difference.

- To jointly pay £125,000 to each district each year as a contribution to the increased administrative, collection and recovery costs of the new scheme.
- To jointly reimburse each district reasonable increased administrative costs necessarily incurred if the case load on the local scheme (during the period of the agreement) exceeds the case load of the council tax benefit scheme (as at 31 March 2013) by more than 15%.

1.9.4 The agreement to run for three years from 2013/14 (subject to variation in the light of changes to Government funding) with a review between April and June 2015.

1.9.5 There are other clauses in the agreement that relate to such matters as the monitoring and accounting arrangements in respect of the agreement but they do not affect its substance. These clauses are subject to negotiation.

1.9.6 With reference to the pledge to review other discounts/exemptions in year 1, Members are advised of a letter, to all Kent Leaders, from Cllr John Simmonds at KCC on this subject. The letter is attached at [ANNEX 4]. This part of the Kent-wide agreement is in response to that letter.

#### **1.10 The position after 2013/14**

1.10.1 As Members will have noted from the above, the funding on offer from the Government relates solely to the year 2013/14. Therefore, all other things being equal, once the transitional funding drops out of the equation, the reduction in council tax support effectively reverts to 18.5%, i.e. the reduction resulting from our draft scheme. Therefore, Members will have a choice if no further central Government funding becomes available:

- Allow the reduction in support to revert to 18.5%; or
- Consider ways in which the reduction in the level of support can be maintained at 8.5%; or
- Consider ways in which the reduction in the level of support can be lowered to level between 8.5% and 18.5%.

1.10.2 Members will have noted that, in the extract from the transitional funding guidance, the Government is offering this funding to enable councils “*to explore more sustainable approaches to managing the funding reduction that minimise the impact on vulnerable taxpayers*”. How far this can be minimised in the future remains to be seen, but I am sure Members would wish, without commitment, to explore opportunities as the guidance suggests.

1.10.3 Along these lines and referring back to Paragraph 1.3.1., Members agreed, in principle, at Cabinet last June that we review the council tax charge for properties currently exempt from council tax under Class A (uninhabitable properties/properties undergoing repair or alteration) and that we consider

whether to levy a premium on properties that have been empty for longer than two years.

- 1.10.4 In respect of properties currently exempt, for up to one year, from council tax under Class A (uninhabitable properties/properties undergoing repair or alteration), if the period during which there was no charge were reduced to six months, then, by way of example based on current data, the additional yield to us would be approximately £6,000. Similarly, if properties that had been empty for longer than two years were subject to a 50% premium, then the additional yield to us would be in the order of £9,000.
- 1.10.5 Clearly the potential for additional yield from council tax and the possible impact of that increased yield on the funding of our council tax reduction scheme, is something that requires careful consideration. However, I think we require more time to consider these options. As Members are fully aware, the timescale for the introduction of council tax reduction schemes has been very demanding and the implications of the transitional funding have added another layer of complexity. I have yet to see the final draft of the regulations allowing local authorities to amend the period of time during which Class C applies. I therefore suggest that these matters should be considered during 2013/14, allowing us to make adjustments for the years 2014/15 and 2015/16 if appropriate.
- 1.10.6 What I have said, in the previous paragraph, would align with the latest version of the Kent-wide agreement, which is for a three year period and subject to review.

## **1.11 Conclusions**

1.11.1 My thinking, subject to Members' views, is that we should adopt the council tax reduction scheme on which we consulted but which, for the year 2013/14, accords with the Government's wish that:

- Those who would be on 100% support under current council tax benefit arrangements pay between zero and no more than 8.5% of their council tax liability;
- The taper rate does not increase above 25%; and
- There is no sharp reduction in support for those entering work - for claimants currently entitled to less than 100% support, the taper will be applied to an amount at least equal to their maximum eligible award.

This can be achieved by 'damping' the reduction in working-age support under our draft scheme to 8.5% with use of the transitional funding offered by the Government.

1.11.2 I appreciate that, to some extent, percentage reductions are rather meaningless without a sense of how much this might mean in terms of pounds and pence. Therefore, to assist Members in reaching a conclusion, the following shows the

effect on claimants of an 18.5% reduction in benefit entitlement compared to an 8.5% reduction in entitlement:

Weekly Difference per band			
Band	Average Loss at 18.5%	Average Loss at 8.5%	Number of Claims
A	£2.58	£1.18	310
B	£2.97	£1.36	576
C	£3.38	£1.55	1952
D	£3.73	£1.72	779
E	£4.53	£2.08	229
F	£5.14	£2.36	69
G	£5.64	£2.59	32
H	£9.02	£4.14	2
			<b>Total claims 3949</b>
Difference per week by amount	18.5% reduction (number of claims)	8.5 % reduction (number of claims)	
£0 - £0.99	181	515	
£1 - £1.99	263	2497	
£2 - £2.99	741	901	
£3 - £3.99	1647	31	
£4 - £4.99	777	5	
£5 - £5.99	253		
£6 - £6.99	62		
£7 - £7.99	17		
£8 - £8.99	7		
£9 - £9.99	0		
£10 - £10.99	1		

1.11.3 The above figures are shown graphically at **[ANNEX 5]**

1.11.4 Should Members agree with my thinking concerning adoption of our council tax reduction scheme, we then have to decide the funding of the scheme, taking into account the interests of those council tax payers who are not claimants of support. In addition, we should also bear in mind the financial position of the major precepting authorities. Previously, the support under the council tax benefit scheme was of no financial interest to the major precepting authorities, on account of the fact that the Government fully funded the scheme. However, the new régime directly affects the major precepting authorities because the amount of support given to claimants must be reflected in the tax base. The greater the amount of financial support, the greater the negative financial impact on the

preceptors. For every £1.00 loss in our income, Kent County Council bears 71 pence of that loss.

1.11.5 The other important factor that must be borne in mind is that, in addition to any funding we might receive for council tax support, we also receive a yearly amount of administration grant from the Government. As council tax benefit (and housing benefit) were national schemes administered at a district level, the Government funded the cost of administering them. Once we have a scheme of local council tax support, the Government has concluded that it is not necessary to fund the local schemes to the same extent. Therefore, we have recently learnt that the combined administration grant that we receive for council tax and housing benefit will be reduced for 2013/14 by some £30,000.

1.11.6 As Members will no doubt appreciate by now, we, and the major precepting authorities, are in very difficult financial positions and, even if we wished to do so, would not be able to increase council tax by more than 2% without triggering a referendum (Members are invited to refer to the separate report on this agenda regarding the medium term financial strategy). We will not know the exact amount of the cut in our 'benefit' funding until quite late in December and we have to devise a reduction scheme not knowing whether the number claiming support will decrease, increase or remain static. The Government is predicting a decline in numbers but that is predicated on an increase in economic growth.

1.11.7 With all these uncertainties, it is apparent to me that we, along with the other Kent districts and the major precepting authorities, would be wise to enter into a Kent-wide agreement. Such agreement would;

- minimise financial risk by having reduction schemes that have common characteristics;
- Assist claimants, who would not be faced with vastly different amounts of support depending on where they lived in Kent;
- Give us an assured payment of £125,000 per year to assist with administration; and
- Guarantee further payments should there be significant increases in caseload during the next three years.

In accordance with the Kent-wide agreement, it will be necessary to reduce short term empty exemption period (Class C) from six to three months.

1.11.8 Then, if we enter into the agreement, during 2013/14 we would need to:

- examine closely the other discounts /exemptions and consider introducing changes from 2014/15; and



- seek to get KCC 'grant' from the review of those discounts/exemptions. KCC has given a commitment that it will pass back to districts 25% of the additional revenue it raises as a result of districts changing entitlements to council tax discounts and exemptions other than any change to Class C. Changes to Class C are outside of the commitment because they are already accounted for within the Kent-wide agreement.

## 1.12 Legal Implications

1.12.1 Under the provisions of Schedule 1A to the Local Government Finance Act 1992 (inserted by Schedule 4 to the Local Government Finance Act 2012), a council tax reduction scheme must be made by the authority to come into effect from 1 April 2013. Should the authority not make a scheme, then the 'default' scheme takes effect from 1 April 2013. The default scheme has the same characteristics as the current council tax benefit scheme. For financial reasons, as detailed below, it is imperative that we have a council tax reduction scheme in place for 2013/14 in order to avoid having to operate the default scheme.

## 1.13 Financial and Value for Money Considerations

1.13.1 It is imperative that we have a council tax reduction scheme in place for 2013/14 in order to avoid having to operate the default scheme. If we had to operate the default scheme, we would have to calculate entitlement to council tax support using the same rules as for the calculation of council tax benefit. Although our reduction scheme proposes the use of the same calculation rules as for council tax benefit, it then reduces the claimant's entitlement by 18.5% (8.5% in the first year). To award an amount of support equal to that payable under the council tax benefit scheme, would have a severe negative impact on the finances of this authority and those of the major precepting authorities, as explained in Paragraph 1.2 (above), i.e. a shortfall in the region of £114,000.

1.13.2 As explained in earlier paragraphs, the indicative costs for this Council will be:

	£
Cost of moving to 8.5% reduction	56,000
Less transitional grant	25,553 -
Less additional income from Class C	26,000 -
Less additional income from second homes & long-term empty properties	10,000 -
Indicative excess/(shortfall)	5,553

## 1.14 Risk Assessment

- 1.14.1 Apart from the risks stated in Paragraphs 1.13 and 1.14 above, our reduction scheme could be open to challenge if it were considered that that we had not consulted properly those who have an interest in the operation of the scheme. However, I believe that our consultation process has been extremely robust and has been commended by The Consultation Institute.
- 1.14.2 In connection with the consultation process, there is a risk that we might be challenged because we have not re-consulted following the change wrought by the announcement of transitional funding. Although I cannot be certain that a challenge would not be made, I believe that such a challenge would be unlikely to succeed. The fundamentals of our draft scheme remain the same: we are essentially adopting the characteristics of the current council tax benefit scheme. The reduction in claimants' entitlements under our draft scheme is merely a result of the change in the funding arrangements. No claimant will be financially worse off as a result of the change from an 18.5% to an 8.5% reduction in entitlement.
- 1.14.3 There is a risk that the regulations permitting changes to the council tax discounts and exemptions will not be made in the form that has been promised.

## 1.15 Recommendations

- 1.15.1 Members are asked to **NOTE** the potential impacts on people with disabilities; carers; women; and working age groups and the following measures to mitigate these:
- Continuing to treat people with disabilities and carers more favourably by disregarding some income, thereby giving them a higher entitlement to council tax support;
  - Continuing to make allowances for childcare costs, in line with the national scheme;
  - The Introduction of a transitional year will reduce the extent of the impacts in year one;
  - The exploration, after year one, of opportunities to further assist for those with severe disabilities and carers, who are unable to work.
  - A review of the scheme, during the first three years of its operation, to identify any longer-term measures needed to mitigate any ongoing impacts.
- 1.15.2 Having considered the above, Members are asked to **RECOMMEND** to Council, that we:
- 1) Adopt our draft scheme as the council tax reduction scheme (CTRS) for the Tonbridge & Malling area, being a scheme which calculates entitlement to support in the same way as entitlement to council tax benefit but reduces the resultant entitlement to support by 18.5%;

- 2) In 2013/14, as a transitional arrangement, reduce the impact on entitlement to 8.5%;
- 3) Apply for the transitional grant on the basis that we are “adopting a scheme that complies with the criteria set by the Government to ensure that low income households do not face an extensive increase in their council tax liability for 2013/14 and that we will be exploring more sustainable approaches to managing the funding reduction that minimise the impact on vulnerable taxpayers”;
- 4) Reduce the period for which there is no council tax liability under Class C from six months to three months;
- 5) Reduce the discount applicable to second homes and long-term empty properties from 10% to 0%;
- 6) Review other discounts and exemptions in 2013/14; and
- 7) Acknowledge and accept the Kent-wide agreement.

Background papers:

contact: Paul Griffin

Nil

Sharon Shelton  
Director of Finance