

# TONBRIDGE & MALLING BOROUGH COUNCIL



## REVIEW OF FUNDING FOR PARISH COUNCILS A RESEARCH PAPER

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This is a research paper and it is important to stress that no recommendations, nor any decisions, have been made by Council Members prior to the consideration of this paper

## EXECUTIVE SUMMARY

The Borough consists of 27 parished areas, and 1 unparished area.

The Borough Council is currently looking for savings in order to balance its Medium Term Financial Strategy (MTFS) over the next 10 years. A Savings and Transformation Strategy (STS) has been adopted to assist both officers and members in delivering these savings.

Presently, funding paid to parish councils by the Borough Council is made up of two streams:

- the Financial Arrangements with Parish Councils (FAPC) Scheme ( circa £226,000 in total); and
- the Council Tax Reduction Scheme (CTRS) contribution (circa £175,000 in total).

Under section 136 of the Local Government Act 1972, the Borough Council currently pays contributions to the 27 parish councils for the delivery of concurrent services through its “Financial Arrangements with Parish Councils” Scheme (FAPC).

The cost of services provided within the unparished area is treated as general expenses in the Council’s Revenue Account and is shared by all taxpayers within the borough.

Reducing the funding provided under FAPC in liaison with parish councils will generate savings for the Borough Council; but it is recognised that this has the potential to create inequity between the level of council tax paid by households in the parished and unparished areas.

In conducting this review, therefore, two key objectives have been set:

- Make savings in the Borough Council’s revenue budget; *and at the same time*
- Promote ‘equity’ across the borough in terms of how much residents in different parts of the borough have to pay towards the cost of services

As an alternative to FAPC, the Borough Council could resolve to adopt a scheme of Special Expenses under S35 of the Local Government Finance Act 1992. Special expenses would facilitate what is termed ‘finance following the function’ in that local residents will be charged for the local provision of services. Were such a Special Expenses scheme to be adopted, the FAPC scheme would cease.

The main functions/services that would be assigned as ‘Special Expenses’ would be those that the Borough Council recognises as concurrent functions via its FAPC scheme.

Were a Scheme of Special Expenses to be adopted, the Borough Council’s ‘General Expenses’ would be reduced and therefore the Band D council tax associated with those General Expenses would also reduce across the entire borough. However, in the localities where Special Expenses were incurred (e.g. the unparished area), an additional Band D charge would be applicable specifically relating to those Special Expenses.

Any reductions in parish council income through the removal of FAPC grants could be passed onto the local parish taxpayers, increasing the parish element of council tax. However, as sovereign

bodies this would be a decision for individual parish councils and although modelling has been undertaken within this report on the basis of ‘all other things being equal’, the outcome of this modelling can only be treated as indicative.

The report has looked at other alternatives in reviewing the grants given under the FAPC stream, but has concluded that the introduction of Special Expenses is the only practical option which meets both of the key objectives set.

In respect of the grants paid to parish councils in respect of CTRS, the Borough Council has no statutory obligation to pass these funds on. In order to achieve savings, the Borough Council could cease payment but would need to have regard to the issue of ‘equity’. The report has concluded that if Special Expenses were to be implemented as an alternative to FAPC, the issue of borough-wide ‘equity’ is resolved and the grants paid to parish councils under CTRS could legitimately be removed on the grounds that no funding of this nature is made available to the unparished area.

### In summary

There is potential to make savings of circa £400,000 through the withdrawal of grants paid under FAPC and CTRS. To ensure there is borough-wide ‘equity’, a Scheme of Special Expenses would need to be introduced, and the Council’s Revenue Budget would need to be divided into General Expenses and Special Expenses.

Using the 2016/17 estimates and the **indicative modelling** undertaken in this paper, the Borough Council’s level of council tax for its ‘General Expenses’ would reduce by £19.13. In the unparished area, households would incur an additional charge of council tax in respect of the ‘Special Expenses’. The indicative modelling shows this would be in the order of £61.16, an overall increase of £42.03 after the reduction in ‘General Expenses’. Even with this additional charge, households in the unparished area would still pay lower than the average level of council tax across the entire borough.

Based on the **indicative modelling** in the parished areas, assuming that the parish councils pass on the costs of the loss of both grants through their element of the council tax, households in 20 of the 27 parished areas would see their combined council tax made up of Borough General Expense, Borough Special Expense and Parish Precept reduced from present levels.

### Final Considerations

This document is a ‘research’ paper and does not imply that the Members of TMBC have recommended, nor decided, to take a particular course of action.

The financial modelling that has been undertaken is indicative only.

Were Members of TMBC to consider the option of Special Expenses worthy of further examination, full consultation with relevant stakeholders would need to be commissioned.

At the time of finalising this draft, the research paper is due to be considered by TMBC Cabinet on 20 April 2016.

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# INTRODUCTION

## Background

1. For a number of years the Council has seen its central government funding reduce significantly. The Comprehensive Spending Review 2015 has shown that the Settlement Funding Assessment will reduce by 65% over the period 2016 – 2020.
2. At the time of writing, the Council's Medium Term Financial Strategy (MTFS) shows an 'outstanding' savings target of circa £1.8m which is required to balance the books over the next ten years. The Council has developed a Savings and Transformation Strategy (STS) in order to deliver the required savings.
3. This report examines potential changes to the funding awarded by the Borough Council to the parish councils. Funding to parish councils is made up of two streams:
  - a) the Financial Arrangements with Parish Councils (FAPC) Scheme (currently circa £226,000 in total); and
  - b) the Council Tax Reduction Scheme (CTRS) contribution (currently circa £175,000 in total).

## Objectives

4. The dilemma is that if funding to parish councils is reduced, particularly in respect of the FAPC Scheme, there is a danger of inequity across the borough. Therefore this research report has two key objectives in formulating options for change:
  - a) Make savings in the Borough Council's revenue budget; *and at the same time*
  - b) Promote 'equity' across the borough in terms of how much residents in different parts of the borough have to pay towards the cost of services.

## The Borough of Tonbridge & Malling

5. The Borough consists of 27 distinct parished areas and one non-parished area (Tonbridge). Tonbridge and Malling Borough Council provides services (the 'concurrent functions') in Tonbridge that parish councils provide in other areas of the borough. Concurrent functions is the term used to describe services or facilities being provided and maintained at two (or more) tiers of local government.
6. As the principal authority, TMBC has traditionally given grants to parish councils to compensate them for carrying out the concurrent functions. This is done through section 136 of Local Government Act 1972 and we term our funding scheme 'Financial Arrangements with Parish Councils' (FAPC).

7. All of the Borough Council's expenditure is treated as 'general expenses' when setting its budget; including those costs that relate specifically to the unparished area of Tonbridge. This general expense is then divided by the Council's total tax base to obtain a Band D Council Tax for the Borough (£192.51 for the year 2016/17). This means that all households across the entire borough take an equal share of the Borough Council's net revenue expenses irrespective of location.
8. In parished areas, residents pay council tax to the Borough Council in respect of its General Expenses (currently £192.51) plus an additional charge to the relevant parish council. Parish council levies range from £25.00 (Hildenborough) to £123.68 (Wateringbury) in 2016/17.
9. In the unparished area, residents only pay council tax to the Borough Council in respect of its General Expenses (currently £192.51); and therefore pay the lowest amount in the entire borough.

### **Principles regarding Funding Arrangements**

10. The DCLG's "Quality Parish and Town Council Scheme" (2003) set out five principles concerning funding of local services with particular reference to funding arrangements between different 'tiers' of authority in respect of 'concurrent functions'. These principles are:
  - *fairness in the provision of services* (and access to them) by the principal authority between different parts of their area
  - *simplicity* - to keep administrative costs of operation to a minimum
  - *transparency* - to help understanding
  - *democratic control and accountability* - to let local councils support additional services with additional expenditure while ensuring accountability to all those responsible for funding. This means distinguishing between funding by principal authorities (for a service carried out by a local council) and funding raised by local councils themselves (e.g. using their precepting powers)
  - *finance following function* - where provision of a service is devolved or transferred from a principal authority to a local council, funding is also transferred, with the amount involved being agreed by the principal authority and the parish or town council.

### **Double Taxation**

11. Double Taxation is often cited as a potential "issue" in districts such as Tonbridge & Malling where there is a combination of parished and unparished areas.
12. The National Association of Local Councils (NALC) website defines double taxation as follows:

*"In this context double taxation is where residents in certain local council areas are paying twice over for particular public services. It can happen because many local services are 'concurrent functions' – that is, they can be managed and delivered either by local parish and town councils or by principal local authorities (district, borough, unitary or county councils). Typically double taxation comes about in relation to the most locally delivered services, such as maintaining children's play areas, closed churchyards, playing fields, open spaces, public conveniences and footpaths".*

13. How is the potential issue of double taxation addressed? There are effectively two ways:

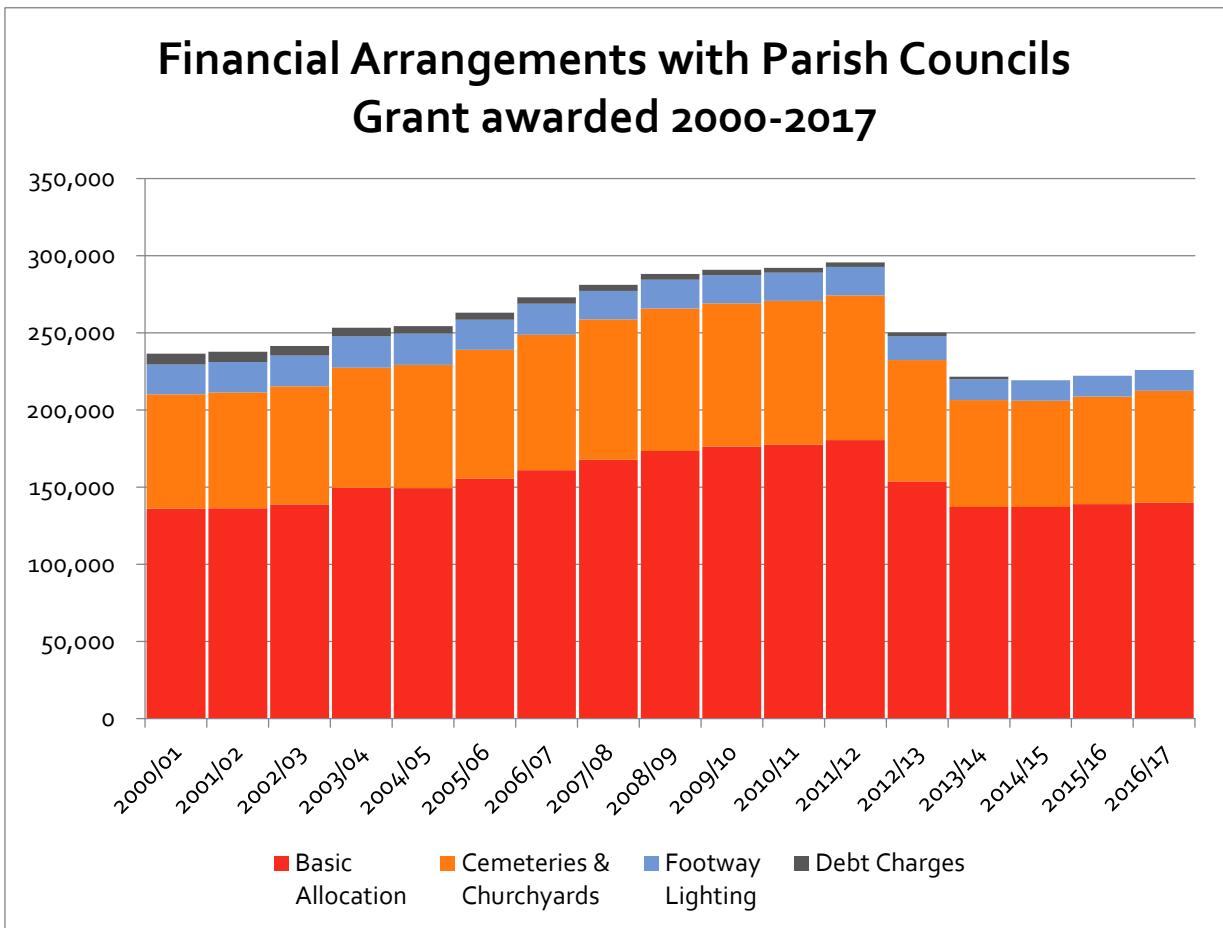
- Giving grants to parish councils to compensate for the costs of the concurrent functions they are providing (under s136 of the Local Government Act 1972); or
- Levying Special Expenses on those parts of the borough for the cost of the concurrent functions which are provided by the parish councils elsewhere (under s35 of the Local Government Finance Act 1992).

#### Current Position at TMBC

14. The Council has resolved, thus far, to award grants to parish councils in order to contribute towards the costs of the concurrent functions. The FAPC Scheme, set out in [\[appendix 1\]](#), has been in operation for many years providing funding for the following concurrent functions:

- Allotments
- Footpaths
- Parks
- Open Spaces
- Sports Grounds
- Village Halls
- Cemeteries and Churchyards
- Footway Lighting (where applicable)

15. The current value of the FAPC Scheme for 2016/17 is £225,927, as shown in [\[appendix 2\]](#). Grants to parish councils through this scheme have followed an agreed 'methodology'; and because of government cuts to the Borough Council's funding over the years through Settlement Funding Assessments, in 2012/13 in particular, the overall level of grants to parish councils fell dramatically from its 2011/12 level of some £295,000.



16. To mitigate the ongoing impact of falling Settlement Funding Assessments (SFA), in liaison with the Parish Partnership Panel (PPP), the Council agreed to adapt the methodology to include New Homes Bonus (NHB) in the calculation. As a result of this change, the overall FAPC funding level has effectively stabilised at circa £225,000. **However, it is important to recognise that, with the latest SFA and the uncertain future of NHB, this will not be the case going forward even if we were to retain the current methodology** (see paragraph 1).
17. It is worth noting that, in addition to the annual revenue grant paid to the parish councils, until 2010, parish councils could also apply for funding through the Council's 'special works projects' grants scheme, which was designed to assist parish councils with the costs of capital projects or the purchase of capital items (e.g. playground equipment). This scheme was ceased in 2010 (as reflected in appendix 1 section 3.3) due to the financial pressures faced by the Council, and the opportunities for supporting capital projects in the parished areas since then have been more limited.

## Special Expenses

18. Instead of operating a FAPC scheme, the Council could resolve to introduce a Special Expenses scheme. Special expenses allow a billing authority to make a specific charge for the provision of special items to some parts of the borough. This may be to either parished or unparished areas, or both.
19. Special expense funding makes use of provisions under the Local Government Finance Act 1992 which provide for different amounts of council tax to be calculated for different parts of a district, e.g. parished and unparished areas, depending on what, if any, special items relate to those parts. A special item is an item which relates to only part of the district council's area. Where functions are provided in part of a billing authority's area by a parish council, sections 34 and 35(1)(a) of that Act ensure that only council taxpayers in that parish pay towards the cost of the precept issued by that parish council. A local precept is one 'special item'.

## Legal Framework

20. **[Appendix 3]** sets out the legal framework in respect of both grants to parish councils and the levying of special expenses. It demonstrates that the Council is able to follow either option. However, the implementation of special expenses would require a decision of Full Council.

## OPTIONS - CONCURRENT FUNCTIONS

### What are the options for Tonbridge and Malling Borough Council?

21. There are potentially five different approaches identified for TMBC in reviewing funding arrangements in respect of the concurrent functions. These are:
- Continue with FAPC as it currently exists (i.e. no change).
  - Liaise with parish councils to remove grants.
  - Liaise with parish councils to reduce grants by a fixed percentage, e.g. 50%.
  - Commence a 'parish by parish' negotiation of grants having regard to the actual functions undertaken.
  - Resolve to introduce a special expenses scheme and thereby cease the FAPC scheme.
22. The objectives of the review set out in paragraph 4 of the Introduction are twofold. Firstly, seeking to make **savings** in the context of the STS; and secondly to ensure that there is **equity** in financing arrangements across the borough.
23. The 'pros' and 'cons' of the five options can be summarised in the table below:

Option	Pros	Cons	Meets Objective of Savings?	Meets objective of Equity?
Continue with FAPC as it currently exists (i.e. no change)	Status quo	No impact on savings targets	✗	✓
Liaise with parish councils to remove grants	Contributes towards savings target	Equity issues are significantly compounded	✓	✗
Liaise with parish councils to reduce grants by a fixed percentage, e.g. 50%	Contributes towards savings target	Equity issues are compounded.	✓	✗
Commence a parish by parish negotiation of grants having regard to the actual functions undertaken	Could contribute to savings target	Divisive. Potentially inequitable. Significant officer time required.	✓	✗
Introduce Special Expenses and remove parish council grants	Contributes towards savings target  Equity in payments between areas of the council for services provided.	Council Tax levels will shift between parished and unparished areas.  The benefits could be difficult to understand	✓	✓

24. One potential variant of option c) "*Liaise with Parish councils to reduce grants by a fixed percentage, e.g. 50%*" would be to reduce the borough council's expenditure on the concurrent functions in the unparished area to 'match' the proposed cut in funding to parish councils.
25. This would help to promote financial equity and the council could make *some* savings. However, in practice this would be very difficult to achieve given that the borough council is already tied into contracts e.g. grounds maintenance. In addition, doing this would create somewhat of an anomaly in equity of choice. Residents of the unparished areas would have no choice about reductions in the 'concurrent' services they receive (even if they were willing to pay for them), whereas those in parished areas could continue to receive the same level of service funded through a potential increase in the parish council precept. In practice, this variant would be extremely difficult to achieve.
26. At paragraph 10, reference was made to the DCLG document "Quality Parish and Town Council Scheme" and the principles concerning the funding of local services. Within that document, it was reported that the authorities involved in the research, who were all faced with the 'dilemma' of potential 'double taxation,' had found the special expenses provision to be helpful as it met three of the important principles for financial arrangements namely: *fairness; transparency; and democratic control and accountability*. Where applicable, the reason some authorities gave for not pursuing this option is that they considered it did not meet another of the principles – i.e. that of *simplicity*. However, whichever choice is made it is essential that the final principle of '*finance follows function*' is met.
27. ***Of the five options set out above, only one option meets both of the objectives of this review;*** this being the introduction of special expenses. This paper, therefore, continues to examine how special expenses could be introduced in practice, and the potential impact on council tax across the borough.

## SPECIAL EXPENSES - METHODOLOGY

28. This section explains the methodology that has been used to identify, and determine the division of, special expenses throughout the borough.
29. In order to be considered for special expenses as set out in paragraph 19, the service provision should be of a concurrent nature and provided by one or more parishes within the borough.
30. The areas of expense already identified as being concurrent functions in our FAPC scheme are:
- Allotments
  - Footpaths
  - Parks
  - Open Spaces
  - Sports Grounds
  - Village Halls
  - Cemeteries and Churchyards
  - Footway Lighting (where applicable)
31. In addition, the following areas of expenditure could be included under special expenses. This is because the Borough Council provides these services in the unparished area and similar provision is made within some parished areas by parish councils.
- Hanging Baskets for Tonbridge
  - Christmas Lighting
  - Local Sports and Arts Events
32. Other areas of expenditure were identified as potential special expenses, but subsequently discounted for the reasons given below.

Area	Reason for exclusion as Special Expenses
Haysden Country Park	Both Country Parks have Green Flag status and as such it was felt by officers that these awards singled out the strategic importance of these parks warranting their exclusion. In addition user surveys have indicated a significant 'out of area' usage of the facilities.
Leybourne Lakes Country Park	This service is only provided by the Borough Council and therefore no concurrent service exists and cannot be included in special expenses.
CCTV	This service is only provided by the Borough Council and therefore no concurrent service exists and cannot be included in special expenses.
Public Conveniences	This service is only provided by the Borough Council and therefore no concurrent service exists and cannot be included in special expenses.
Car Parks	Car parks are located throughout the borough and provide facilities to businesses and visitors rather than the local residents at large, therefore discounted as strategic importance.

33. Both expenditure and income relating to the provision of the services identified in paragraphs 30 and 31 can be obtained through the Council's financial ledger system. However, the ledger records actual expenditure and income, which by its nature will be a year out of date. For this reason budgeted net expenditure for these service areas will need to be used in order to determine the level of special expenses in line with the setting of the Budget and Council Tax in February each year.
34. For illustrative modelling purposes, the net budgeted expenditure has been taken from the 2016/17 estimates as set by the Council in February 2016.
35. In the case of the functions of *playing fields, play areas and open spaces* further financial information has been taken from the Bill of Quantities for the Grounds Maintenance Contract that commenced in January 2015, shown in **[appendix 4]**. This contract covers the grounds maintenance for the areas under the Borough Council's ownership and responsibility. As the schedule is split down to the major areas within the borough it has been used as the basis of allocation of the total expenditure covered under this heading.

#### Types of Expenditure incurred

36. Prior to allocating special expenses between the areas in the borough, the types of expenditure incurred and how these could be allocated should to be determined.
37. The budgeted expenditure and income within service cost centres generally falls into three broad categories.
38. *Direct* – these predominantly refer to supplies and services or contract payments
39. *Recharges* – these predominantly cover support service charges from both the service directorate and support services. These charges are reviewed in both proportion and financial terms by service management on an annual basis to reflect the officer time spent on that service.
40. *Capital* – these fall into one of two categories either depreciation or capital expenditure charged to revenue.
  - Depreciation represents charges for the costs of the use of an asset over its estimated life. As the majority of the Council's capital expenditure is, or will be, funded through a charge to Council Tax payers, the annual depreciation should be equated to the cost of replacing said asset over its estimated life.
  - Capital expenditure charged to revenue relates to assets purchased or built by the Council and predominantly transferred to organisations outside of the Council (disabled facility grants being an example).

## Apportionment Methods

41. The budgeted costs for the services identified in paragraphs 30 and 31 will need to apportioned between the unparished and parished areas within the borough.
42. Direct costs where they can be identified will be apportioned using the additional information from the grounds maintenance contract to appropriate locations around the borough.
43. Other direct costs and recharges will then be apportioned on the basis of the above total expenditure.
44. Depreciation will be allocated, where possible, to the individual assets located within the borough.

## Playing Fields / Sportsgrounds

45. Playing fields/ sportsgrounds are provided at various locations within the borough. However the costs of running these facilities are met by the organisation with the legal title.
46. The Borough Council's costs for this function have been identified from the sources given above. The grounds maintenance contract has identified the areas of
  - The Racecourse Sportsground (Bill 4)
  - Tonbridge Farm Sportsground (Bill 5)
  - Swanmead Sportsground (Bill 6)
  - Frog Bridge Sportsground (Bill 7).
47. All four of these facilities are located within the unparished area, with a total grounds maintenance cost of circa £221,000 (being the totals of Bills 4 to 7).
48. These grounds maintenance costs are wholly charged against the Sportsgrounds cost centre within the Council's Budget with a total budget of circa £448,000.

## Play Areas and Open Spaces.

49. Whilst the sportsgrounds included within the Borough Council's Budget are wholly located within the unparished area, some play areas and open spaces are maintained throughout the borough.
50. The costs associated with these facilities are managed through the grounds maintenance contract. (Bills 9 & 10 of the grounds maintenance contract shown in **[appendices 5 and 6]** respectively.)
51. In supporting Bill 9, annex 15b within the Contract documentation identifies the areas covered by the bill. This annex 15b can be broken down between unparished and parished areas where the open space remains the responsibility of the Borough Council rather than the parish council.

52. Annex 15b to the Contract has been summarised within [appendix 7] and gives the meterage or number for each of the facilities by parished or unparished area.
53. Appendix 7 has been used to apportion the expenditure incurred on bill 9, [appendix 5]. Differences between the amounts shown between appendices 5 and 7 were clarified by the Senior Parks Officer in Leisure Services.
54. Bill 10 [appendix 6] setting out the location of play areas have been confirmed by the Senior Parks Officer.
55. As with the playing fields, the costs of capital charges have been identified to individual play areas and open spaces within the borough and added to the costs calculated above.
56. A total of circa £289,000 is chargeable against special expenses.

### **Hanging Baskets for Tonbridge**

57. The Council has a budget for hanging baskets in Tonbridge amounting to £5,000. This has been fully allocated to special expenses.

### **Cemeteries and Churchyards**

58. As part of FAPC the Council currently provides a grant to parish councils covering cemeteries and churchyards in their respective areas.
59. The Borough Council's Budget includes costs of circa £94,000 in relation to the cemetery and two churchyards located within the unparished area and has, therefore, been charged to special expenses.

### **Allotments**

60. The provision of Allotments within the borough falls to either the parishes or outsourced to Tonbridge Allotments and Gardens Association for the unparished area. In respect of the latter a management fee is paid to the Association, and depreciation for infrastructure type assets make up the majority of the budgeted costs.
61. The current budget, including capital charges is £12,000 and has therefore been charged to special expenses.

### **Events**

62. The Council provides some support to events held in various locations within the borough, both within the unparished and parished areas with similar types of events being held or supported by some of the parish councils. The support could be purely financial, purely council officer time or a mixture of both.
63. Broad examinations of the costs involved have been included and **INDICATIVE** figures have been calculated. However, further more detailed work will be required to provide accurate figures for the final calculation if the proposals for special expenses are accepted.

## **Christmas Lighting**

64. The Council maintains two budgets for Christmas Lighting.
65. The first is in respect of the Christmas Lights in Tonbridge High Street amounting to £21,200 (full cost) which could form part of the Special Expenses to the unparished area.
66. The second relates to grants periodically awarded, amounting to £16,000, by application annually, to parish councils or trading bodies for a contribution for the maintenance and erection of Christmas lights in their individual areas.
67. With the inclusion of the amount in paragraph 65 within special expenses for the unparished area, it would no longer be equitable to provide the grants directly to either parish councils or trading bodies. These grants could, in theory, either be included within local special expenses or be withdrawn in full.

## **Total Charges to Special Expenses Account**

68. From the examination of budgeted expenditure above the total amounts chargeable under special expenses are as follows.

Area	Amount £
Playing Fields	447,600
Opens Spaces	235,480
Play Areas	53,230
Hanging Baskets for Tonbridge	5,000
Cemetery and Churchyards	93,550
Allotments	12,000
Events	43,200
Christmas Lighting (Tonbridge)	21,200
<b>Total</b>	<b>911,260</b>

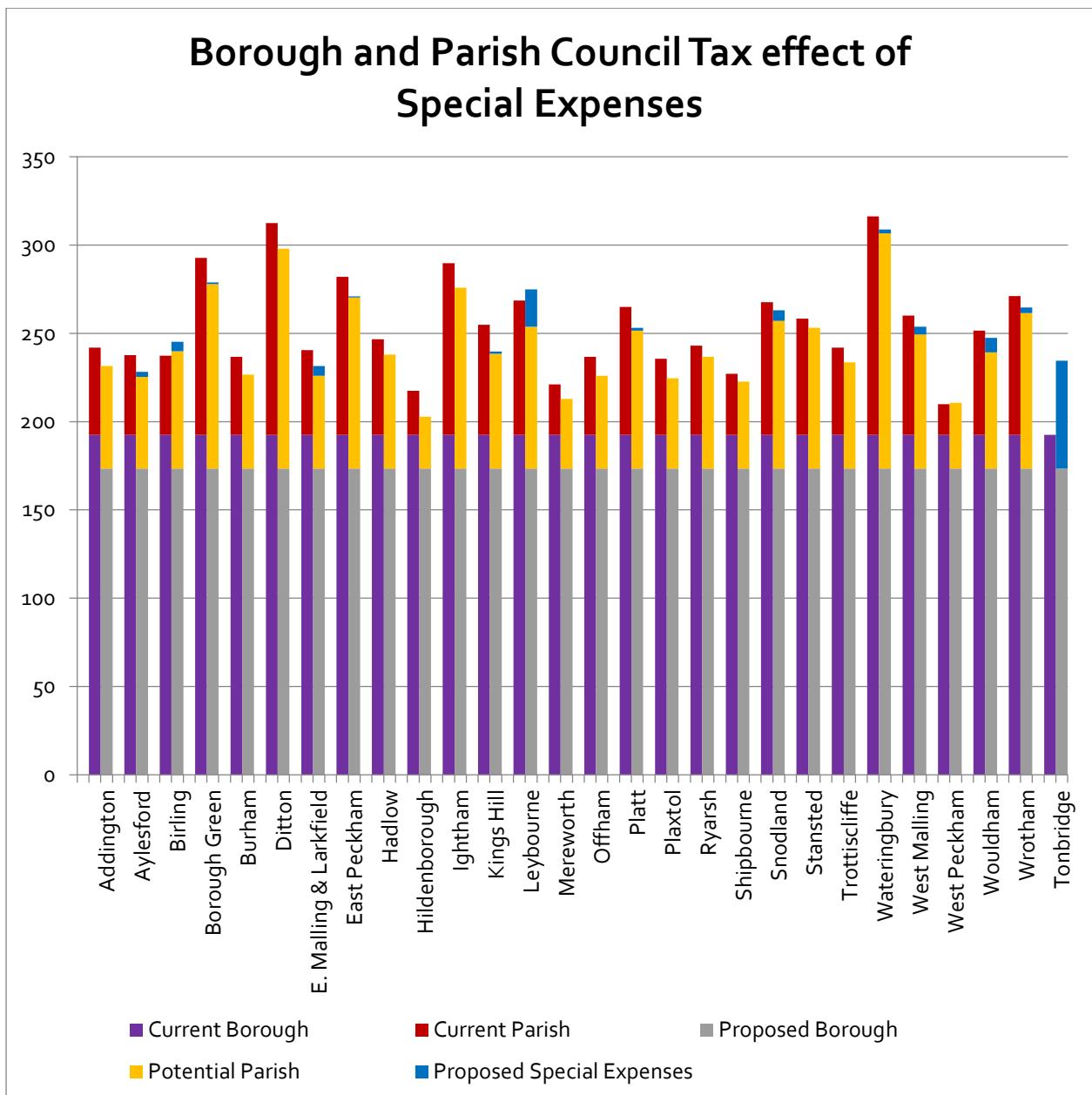
## SPECIAL EXPENSES - IMPACTS

69. Implementing a Scheme of Special Expenses means that the Borough Council would split its budget into what is termed GENERAL EXPENSES and what is termed SPECIAL EXPENSES.
70. The Borough Council would set up a “Special Expenses Account” diverting those costs which are specifically ‘local to certain areas’ into that Account. It would then levy the costs on those parts of the borough where it is providing local services. In the main this would be the unparished area but, there are some costs that relate to parished areas.
71. Because the ‘special expenses’ have been diverted into a ‘Special Expenses Account’, this means that the revenue costs to be shared by all households across the entire borough will reduce. In other words, TMBC’s basic level of council tax for the GENERAL EXPENSES which is paid by all households regardless of where they live in the borough will go down.
72. The modelling set out in this paper should only be viewed as INDICATIVE, but based on the figures already presented, removing the £911,260 identified in paragraph 68 will reduce this GENERAL EXPENSES requirement from £9,169,057 to £8,257,797.
73. This results in a reduction in the Borough Council’s Band D council tax for GENERAL EXPENSES by £19.13 as demonstrated below:

	Total £	Band D £
Council Tax Requirement	9,169,057	192.51
Less Deductions for Special Expenses	- 911,260	- 19.13
Borough Council General Expenses Council Tax Requirement	8,257,797	173.38

74. The effect on individual taxpayers within the borough will vary depending on the level of special expenses incurred in the area that they reside. The areas of the borough where special expenses would apply (based on the above modelling ) would be:
- Aylesford
  - Birling
  - Borough Green
  - East Malling & Larkfield
  - East Peckham
  - Kings Hill
  - Leybourne
  - Platt
  - Snodland
  - Wateringbury
  - West Malling
  - Wrotham
  - Tonbridge
75. On the withdrawal of the grants under the FAPC scheme, the parish councils would have the ability to pass this reduction in income wholly or partly onto their taxpayers. (Presently, the referendum principles in respect of council tax increases do not apply to parish councils). As sovereign bodies, this is entirely a decision for individual parish councils. For illustrative purposes it has been assumed that the resultant increase in parish council costs will be passed on in full to local taxpayers. This may, or may not, be the outcome at a local level but is not for the Borough Council to determine.
76. **[Appendix 8]** provides a breakdown of the full charges that could be made under special expenses. These are **INDICATIVE** only. Further illustrative examples are given, area by area, in paragraphs 78 and 81 below.
77. Whilst it is clearly recognised that the potential increase in the parish precept (and level of council tax) could be relatively high in % terms, when looking at the overall council tax bill for services provided **by borough and parish together**, the impact is significantly reduced or totally negated.

78. The chart below shows the effect of the current and proposed changes explained above. To explain the graphic, there are two “bars” for each area of the borough.
79. The left hand bar shows the total council tax paid to the borough council (purple) and the parish council (red).
80. The right hand bar shows how the council tax might shift with the cessation of FAPC and introduction of a scheme of Special Expenses. The council tax would be made up of borough's general expenses (grey), parish council (orange), and borough council special expenses (blue).



81. The table below shows the chart above in monetary terms. Please note that these figures are **ILLUSTRATIVE** based on the modelling above.

	Current Council Tax			Effect of Special Expenses £	Effect of Financial Arrangements £	Indicative Council Tax £	Net Change	
	Borough £	Parish £	Total £				£	%
Addington	192.51	49.45	241.96	-	19.13	8.60	231.43	-10.53 -4.35%
Aylesford	192.51	45.08	237.59	-	16.32	6.82	228.09	-9.50 -4.00%
Birling	192.51	44.78	237.29	-	13.62	21.60	245.27	7.98 3.36%
Borough Green	192.51	100.18	292.69	-	18.26	4.37	278.80	-13.89 -4.74%
Burham	192.51	44.10	236.61	-	19.13	9.08	226.56	-10.05 -4.25%
Ditton	192.51	119.85	312.36	-	19.13	4.68	297.91	-14.45 -4.63%
E. Malling & Larkfield	192.51	47.90	240.41	-	13.66	4.71	231.46	-8.95 -3.72%
East Peckham	192.51	89.42	281.93	-	18.61	7.53	270.85	-11.08 -3.93%
Hadlow	192.51	54.07	246.58	-	19.13	10.53	237.98	-8.60 -3.49%
Hildenborough	192.51	25.00	217.51	-	19.13	4.43	202.81	-14.70 -6.76%
Ightham	192.51	97.13	289.64	-	19.13	5.24	275.75	-13.89 -4.80%
Kings Hill	192.51	62.37	254.88	-	17.85	2.68	239.71	-15.17 -5.95%
Leybourne	192.51	75.99	268.50	-	2.04	4.33	274.87	6.37 2.37%
Mereworth	192.51	28.60	221.11	-	19.13	10.84	212.82	-8.29 -3.75%
Offham	192.51	44.23	236.74	-	19.13	8.40	226.01	-10.73 -4.53%
Platt	192.51	72.44	264.95	-	17.58	5.77	253.14	-11.81 -4.46%
Plaxtol	192.51	43.03	235.54	-	19.13	8.18	224.59	-10.95 -4.65%
Ryarsh	192.51	50.48	242.99	-	19.13	12.81	236.67	6.32 -2.60%
Shipbourne	192.51	34.47	226.98	-	19.13	14.79	222.64	-4.34 -1.91%
Snodland	192.51	75.07	267.58	-	13.17	8.66	263.07	4.51 -1.68%
Stansted	192.51	65.72	258.23	-	19.13	13.99	253.09	5.14 -1.99%
Trottiscliffe	192.51	49.42	241.93	-	19.13	10.71	233.51	-8.42 -3.48%
Wateringbury	192.51	123.68	316.19	-	16.78	9.45	308.86	-7.33 -2.32%
West Malling	192.51	67.50	260.01	-	14.69	8.45	253.77	-6.24 -2.40%
West Peckham	192.51	17.30	209.81	-	19.13	20.00	210.68	0.87 0.41%
Wouldham	192.51	59.08	251.59	-	10.96	6.77	247.40	-4.19 -1.66%
Wrotham	192.51	78.64	271.15	-	16.12	9.50	264.53	-6.62 -2.44%
Tonbridge	192.51	-	192.51	42.03	-	234.54	42.03	21.83%

82. As illustrated in both the chart and table, 24 of the 27 parished areas would see a reduction in Council Tax charged when comparing the combined Borough Council Tax, Parish Council Tax and Borough Council Special Expenses against the current combined Borough and Parish Council Tax.
83. The unparished area clearly receives the majority of the costs under special expenses and residents would see their council tax increase as the cost burden shifts. The fact that households in the unparished area pay significantly less than households in parished areas has led to question in the past about 'double taxation' and potential inequity (rightly or wrongly).
84. On the basis of the indicative modelling, the households in the unparished area would see an increase over their current charge, however even with the shift of cost burden this is still below the average council tax for the borough as a whole.

85. If council tax were to be levied in accordance with the above methodology, the council tax bill (for borough and parish only) for three 'example' areas of the borough would be **INDICATIVELY** restated as follows:

Band D Council Tax	Ditton		Leybourne		Tonbridge	
	Current	Potential	Current	Potential	Current	Potential
Borough General Expenses	192.51	173.38	192.51	173.38	192.51	173.38
Parish Precept	119.85	124.53	75.99	80.32	-	-
Borough Special Expenses	-	-	-	21.17	-	61.16
<b>Total</b>	<b>312.36</b>	<b>297.91</b>	<b>268.50</b>	<b>274.87</b>	<b>192.51</b>	<b>234.54</b>

86. If a scheme of special expenses were to be adopted, the Borough Council would need to separately show General Expenses and Special Expenses on the council tax bill and adjust the current Council Tax Resolution presented to Council in order to meet statutory requirements.

### Referendum for Council Tax increases

87. The Government has set an increase threshold above which district councils are required to hold a referendum to obtain approval for the increase. Under the referendum principles, and the Government's CTR1 return (which verifies the referendum principle), the Council's average Band D Council Tax used will be the aggregate of the Borough Council's General Expenses and Special Expenses.

88. In order to calculate whether the council is subject to a referendum or not, the total council tax requirement is divided by the Taxbase and compared to the previous year's Band D Council Tax. The calculation is £9,169,057 divided by 47,629.13 being £192.51 for publication purposes.

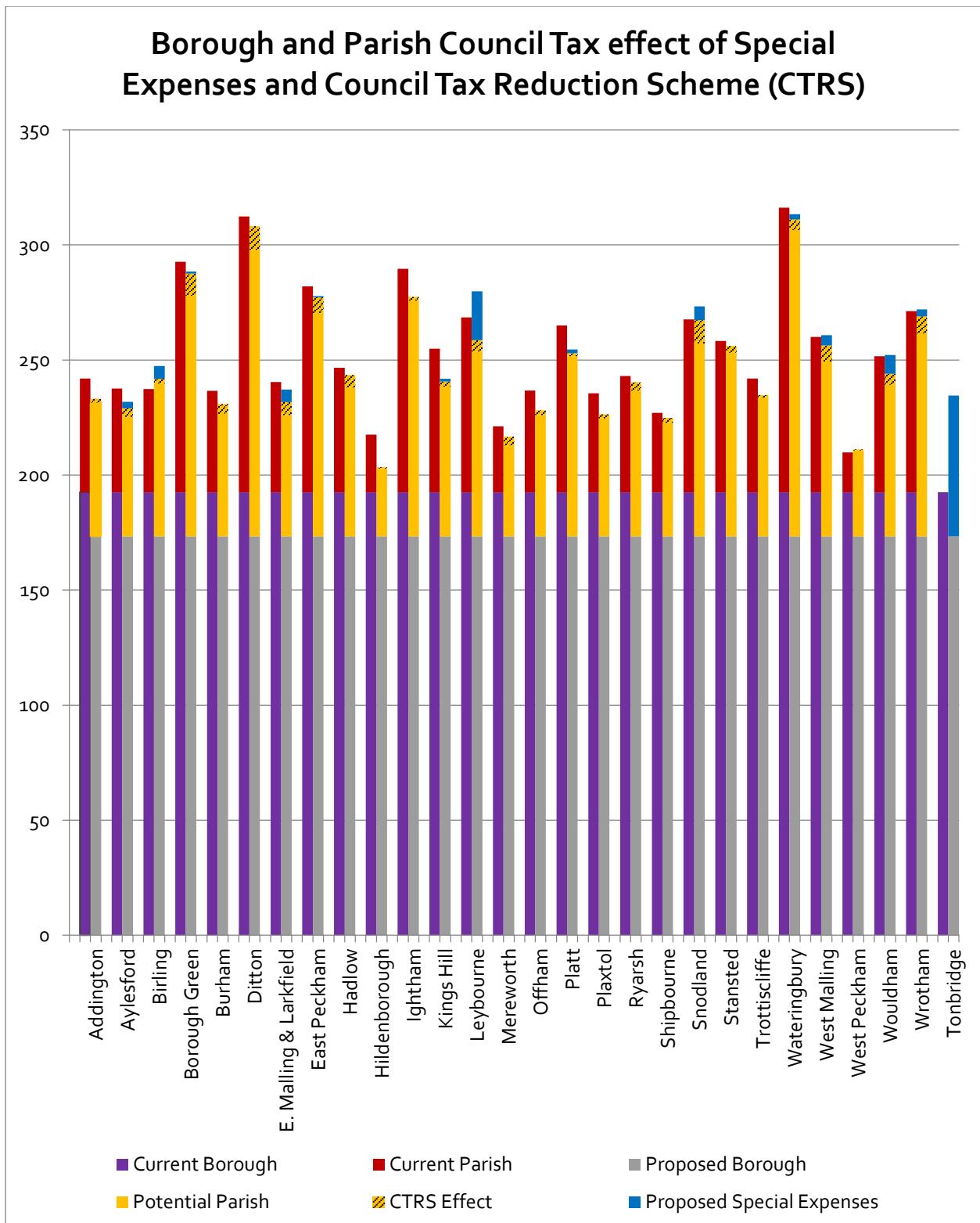
89. It should be recognised that this is for publication purposes and it is unlikely that any taxpayer will pay that exact amount in respect of the Borough Council's Band D.

## COUNCIL TAX REDUCTION SCHEME GRANTS

90. In April 2013, the national Council Tax Benefit Scheme was replaced by local Council Tax Reduction Schemes (CTRS), the difference being that within the latter any award is considered a discount affecting the Taxbase rather than a transfer of funds.
91. As the discount affected the Taxbase, the Government recompensed Local Government with an additional grant through the Local Government Finance Settlement equating to 90% of its previous benefit grant. When announcing the settlement for the 2013/14 financial year, the Government published separate indicative amounts on how much grant was in respect of borough services and parish services. In doing so, the then Local Government Minister, Kris Hopkins, encouraged billing authorities to pass on the grant to the parish councils. For the 2013/14 financial year this was £173,111.
92. In subsequent years, no indicative amounts were given by Government although the Minister continued to encourage billing authorities to pass on the sums to their parish councils. Whilst some billing authorities have openly decided not to do so, at TMBC Members agreed that the increase/decrease in the CTRS grant award should follow the increase /decrease in FAPC. Therefore, as set out in paragraph 15, the overall grant award has remained fairly stable - the figure due to be paid for 2016/17 is £174,650.
93. The Council has no statutory obligation to pass these funds onto parish councils, and many billing authorities have ceased or are now planning to significantly reduce the payments in response to the significant cuts in government grant funding to local government.
94. Guidance issued by DCLG in November 2012 gives the following paragraph in respect of passing on an element of the grant for CTRS to parishes:
 

*"Local precept payers are local tax payers within the billing authority area and should not be treated differently to those outside of parish areas"* (page 16)
95. Logically, therefore, if special expenses were introduced providing an "equalisation methodology" across the borough, to continue to provide this funding would arguably unbalance the equalisation.
96. The effect of withdrawing the CTRS grant would again have the potential to increase the net costs to parish councils. As with FAPC, it would be down to the parish councils to decide whether to pass this increase onto their residents.
97. CTRS grant is not spread evenly across parish councils as it is allocated according to caseload. **[Appendix 9]** sets out the allocations paid to parish councils since inception. The largest recipients of CTRS grant are Snodland, East Malling & Larkfield, followed by Ditton, Borough Green and Aylesford.

98. The bar chart below adds a further element for the potential impact of withdrawing CTRS grant. The hatched orange block for the parish council level of tax would be increased to account for the loss of grant.



99. As before the monetary values are shown in the table below. Please note that these figures are ILLUSTRATIVE.

	Current Council Tax (Borough and Parish) £	Indicative Council Tax (incl effect of introduction of Spec Exp) £	Effect of Council Tax Reduction Grant £	Indicative Council Tax £	Net Change £	Net Change %
Addington	241.96	231.43	1.69	233.12	- 8.84	-3.65%
Aylesford	237.59	228.09	3.67	231.76	- 5.83	-2.46%
Birling	237.29	245.27	2.09	247.36	10.07	4.25%
Borough Green	292.69	278.80	9.55	288.35	- 4.34	-1.48%
Burham	236.61	226.56	4.22	230.78	- 5.83	-2.46%
Ditton	312.36	297.91	10.17	308.08	- 4.28	-1.37%
E. Malling & Larkfield	240.41	231.46	5.69	237.15	- 3.26	-1.36%
East Peckham	281.93	270.85	6.86	277.71	- 4.22	-1.50%
Hadlow	246.58	237.98	5.44	243.42	- 3.16	-1.28%
Hildenborough	217.51	202.81	0.60	203.41	- 14.10	-6.48%
Ightham	289.64	275.75	1.60	277.35	- 12.29	-4.24%
Kings Hill	254.88	239.71	2.13	241.84	- 13.04	-5.11%
Leybourne	268.50	274.87	4.89	279.76	11.26	4.19%
Mereworth	221.11	212.82	3.79	216.61	- 4.50	-2.04%
Offham	236.74	226.01	2.05	228.06	- 8.68	-3.67%
Platt	264.95	253.14	1.36	254.50	- 10.45	-3.94%
Plaxtol	235.54	224.59	1.73	226.32	- 9.22	-3.91%
Ryarsh	242.99	236.67	3.57	240.24	- 2.75	-1.13%
Shipbourne	226.98	222.64	2.19	224.83	- 2.15	-0.95%
Snodland	267.58	263.07	10.20	273.27	5.69	2.13%
Stansted	258.23	253.09	2.99	256.08	- 2.15	-0.83%
Trottiscliffe	241.93	233.51	1.26	234.77	- 7.16	-2.96%
Wateringbury	316.19	308.86	4.47	313.33	- 2.86	-0.90%
West Malling	260.01	253.77	7.00	260.77	0.76	0.29%
West Peckham	209.81	210.68	0.39	211.07	1.26	0.60%
Wouldham	251.59	247.40	4.77	252.17	0.58	0.23%
Wrotham	271.15	264.53	7.43	271.96	0.81	0.30%
Tonbridge	192.51	234.54	-	234.54	42.03	21.83%

100. As illustrated by the chart and table, 20 of the 27 parished areas would continue to see a reduction in Council Tax charged when comparing combined Borough Council Tax, Parish Council Tax, Borough Council Special Expenses and effect of the removal of the CTRS grant against the current combined Borough and Parish Council Tax.
101. Households in the unparished area would continue to see an increase over their current charge; however, this is still remains below the average council tax for the borough as a whole.

## PROJECT TIMETABLE

102. The Cabinet at its meeting on 11 February 2016 set an indicative timetable in order to progress this research and review. Cabinet felt that it was important to be as open and transparent as possible, and engage with relevant stakeholders at the appropriate times.
103. Consideration of the requirements of consultation are set out in **[Appendix 10]**.
104. Cabinet has expressed the wish to involve the Parish Partnership Panel, the local branch of KALC and members of the public in this review. In terms of the potential cessation of the CTRS grant, the process can be confined to discussion/consultation with parish councils only.
105. Nevertheless, the consultation process would need to commence as soon as possible in order to achieve final resolution before tax bases are set in December 2016.
106. An updated timetable is set out below:

9 <sup>th</sup> May – 17 <sup>th</sup> June 2016	6-week consultation with stakeholders; including meetings of the PPP/KALC and Tonbridge Forum
July 2016 (date to be agreed)	Special Cabinet considers responses, formulates preferred way forward and commissions new policy to be drafted
July/August 2016	Draw up draft policy
8 <sup>th</sup> September 2016 and 12 <sup>th</sup> September 2016	PPP and Tonbridge Forum updated verbally as to progress
13 <sup>th</sup> September 2016	Overview and Scrutiny Committee (O&S) review draft policy and make recommendations to Cabinet
12 <sup>th</sup> October 2016	Cabinet considers policy, including any recommendations from O&S, and makes recommendation to Full Council
1 <sup>st</sup> November 2016	Full Council adopts policy for 2017/18
Early December 2016	Write to parish councils with information for budget setting
January 2017	Finance, Innovation and Property Advisory Board considers implications of adopted policy on budget setting process.

## CONCLUSIONS

107. The purpose of this research paper has been to examine the potential changes to funding provided by the Borough Council to parish councils through the two primary routes (FAPC and the CTRS grant).
108. The FAPC grants are made in respect of the concurrent services provided by parish councils within parished areas as they are provided directly by TMBC in the unparished area.
109. The CTRS grants are made, as originally required by DCLG, to compensate for the discounts now awarded and affecting the Taxbase following the introduction of the new local CTRS schemes.
110. The objectives set out at the start were to:
  - 1) Make savings in the Borough Council's revenue budget; *and at the same time*
  - 2) Promote 'equity' across the borough in terms of how much residents in different parts of the borough have to pay towards the cost of services
111. The review has concluded that **only one option out of the five examined meets both of these objectives** – namely the introduction of a Special Expenses scheme.
112. The establishment of special expenses would allow the Borough Council to withdraw both grants in that;
  - They eliminate the double taxation argument for services provided through the FAPCs; and
  - The awarding of grants to parish councils for CTRS would provide residents in parished areas with additional funding not provided to the residents of the unparished area, unbalancing the equity issue that special expenses seeks to address.
113. The withdrawal of the two grants schemes would reduce the Council's revenue expenditure by circa £400,000, directly contributing to the Council's STS.
114. Further savings could be achieved through the withdrawal of Christmas lighting grants from the Council's general expenses if Christmas lights in Tonbridge were to be included in Special Expenses. Alternatively, grants to trading bodies or parish councils towards the costs of Christmas lights could be included as special expenses to the relevant parished area.

**This is a research paper and it is important to stress that no recommendations, nor any decisions, have been made by Council Members prior to the consideration of this paper.**

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## APPENDICES

1. Financial Arrangements with Parish Councils - Scheme
2. Financial Arrangements to Parish Councils - Grant Awarded 2016/17
3. Legal Framework
4. Bill of Quantities for Grounds Maintenance Contract 2015 - 2019
5. Extract of Bill 9 - Open Spaces Grounds Maintenance
6. Extract of Bill 10 - Play Area Grounds Maintenance
7. Extract of Annex 15 Grounds Maintenance Contract - Areas covered by Parish
8. Summary of Breakdown of Special Expenses
9. Council Tax Reduction Scheme - Grant Payments to Parishes 2013 - 2017
10. Consultation

**This is a research paper and it is important to stress that no recommendations, nor any decisions, have been made by Council Members prior to the consideration of this paper.**

## **FINANCIAL ARRANGEMENTS WITH PARISH COUNCILS - SCHEME (as amended from 2 January 2008)**

**1. Introduction**

1.1 The basis of this Scheme was agreed by Members with effect from 1 April 1992. All amendments to the Scheme since that date have been incorporated in these notes.

**2. Objectives of Scheme**

2.1 Under the provisions of the Local Government Act 1972, two or more local authorities may make arrangements for defraying any expenditure incurred by one of them in exercising any functions exercisable by both or all of them. The Borough Council accepts that part of the expenses of Parish Councils absolves the Borough Council from incurring direct expenditure in the provision of certain recreational services and in contributing to the expenses of Parish Councils, the Borough Council wishes to pursue the following objectives:

**Group (i) Recreation & Amenity Services and Additional Priorities**

(a) *Allotments, Footpaths, Parks, Open Spaces, Sports Grounds and Village Halls*  
Parish Councils are significant providers and managers of sports facilities, open spaces and village halls. The Borough Council accepts the responsibility for the provision of sports and community facilities which are either of borough-wide significance or are significant to a group of parishes and which could not be provided by any individual Parish Council within those groups. In arriving at financial arrangements by which Parish Councils are encouraged to provide and improve facilities, the Borough Council's view is that it is important to guarantee, as far as possible, that scarce financial resources are applied to those areas and projects which will meet the demands of local people. Against that background, a cohesive approach is required towards the planning of recreation provision. In addition, before resources are expended upon the provision of new facilities, it is important to establish that existing facilities are utilised to their maximum advantage and more co-ordination is achieved.  
The Borough Council wishes to achieve its objectives through a close working relationship with Parish Councils on a borough-wide basis, as set out in the Borough Leisure Strategy.

(b) *The Council's Key Priorities*

Following a scrutiny review of the Scheme of Financial Arrangements with Parish Councils in 2004, this group was extended to include projects covering street Scene, crime and disorder reduction, drug and alcohol abuse reduction and anti-social behaviour reduction.

This was changed to "The Council's Key Priorities" by the Finance and Property Advisory Board in January 2008 so that any changes to the Council's Key priorities are automatically reflected in the scheme.

**Group (ii) Cemeteries and Churchyards**

In regard to the Group (ii) function of Cemeteries and Churchyards, Parish

Councils are the sole local authority providers within the parishes and it is reasonable to reflect this concurrent function within the overall arrangements which the Borough Council has with Parish Councils. The Borough Council wishes to ensure that burial facilities throughout the Borough remain open as long as possible. With the co-operation of Parish Councils, arrangements can be established for the maintenance of both open and closed churchyards, having due regard to any special conservation needs of older churchyards. Opportunities can also be identified to retain open churchyards in continued use.

Group (iii) Footway Lighting

The Borough Council wishes to contribute towards Parish Councils' costs of this concurrent function although costs are not incurred, except to a very minor extent, in the southern part of the Borough. Footway lighting, properly upgraded, can, in many instances, provide both highway and footway lighting. The adoption, by Kent County Council as Highway Authority, of upgraded lighting will mean that future maintenance is at the Highway Authority's expense. The Borough Council wishes to encourage Parish Councils to upgrade footway lighting for adoption. In due course, this will reduce the level of financial commitment at local level to maintaining footpath lighting or footway lighting which serves those footways which cannot be lit in conjunction with highways, but are nevertheless needed for the general safety of the public.

3. Operation of the Scheme

3.1 The scheme of Financial Arrangements will be administered by Cabinet. Projects will be subject to technical scrutiny by the appropriate chief officer(s). Applications for grants towards special works projects will be determined by Cabinet, following advice from the Finance and Property Advisory Board, to whom the applications will first be reported.

3.2 In considering the annual budget, the Cabinet may determine a cash limit which will be made available to Parish Councils.

3.3 Financial assistance will be provided to Parish Councils in two ways:-

(a) Annual Allocations

These are intended to assist with the running costs of Groups (i) to (iii).

(b) Special Works Projects (***THIS ASPECT IS SUSPENDED UNTIL FURTHER NOTICE***)

In addition to the annual payments, sums will be allocated towards Special Works. Again, these will be available in respect of Groups (i) to (iii). Projects will be considered for grant aid if the proposed expenditure is not regular annual expenditure and the total exceeds £6,000 or expenditure of £1 per head of parish population, whichever is the less. Grant aid is normally calculated on a percentage scale, to a maximum of £25,000. ***(THIS ASPECT IS SUSPENDED UNTIL FURTHER NOTICE)***

3.4 Group (i) Functions

These functions will attract financial assistance towards:-

- (a) Running expenses (basic allocation)
- (b) Debt charges.

(a) Running Expenses (Basic Allocation)

It will be for individual Parishes to decide how the Basic Allocation is spent, as long as it is expended on Group (i) functions. Expenditure not approved by the Borough Council under the heading of special works or debt charges can still be met from the Basic Allocation if Parish Councils so wish.

Distribution of the Basic Allocation to Parish Councils will be based on a rate per head of the electorate of each parish per the Register of Electors as at 1 December preceding the relevant financial year. A notional adult population of 1,250 will be used as a minimum for those parishes with a smaller population.

(b) Debt Charges

Debt charges which are being met under the 1984/85 Scheme will continue to be reimbursed.

3.5 Group (ii) – Cemeteries and Churchyards

Contributions to Parish Councils in respect of the maintenance of Cemeteries and Churchyards were reviewed in 1994. This review introduced a new approach to the calculation of contributions. The transition from the old system to the new has been phased in over a period of five years, commencing in April 1995.

3.6 As for Group (i) functions, Parishes will be able to use this Basic Allocation for financing any work on Cemeteries and Churchyards, including any special works or debt charges which are not specifically approved by the Borough Council.

3.7 Parish Councils are requested to assist the Borough Council in identifying opportunities to extend the life and use of open churchyards for burials.

3.8 Group (iii) – Footway Lighting

The sum allocated towards footway lighting will continue to be distributed as an amount per lighting column to contribute towards the general running expenses of Parishes.

3.9 In order to assist Parish Councils to progress proposals for the installation or upgrading of parish lighting, such schemes will be eligible for special works grants. The Borough Council will meet 50% of the cost of approved schemes, but would not normally wish to see more than one third of the capital element of the Special Works allocation being committed to such schemes. Approved schemes will fall under three categories:-

- (i) The upgrading of existing footway lighting to adoptable standards. The Borough Council continues to encourage Parish Councils to bring forward such proposals, as adoption will mean that future maintenance is at the Highway Authority's expense;
- (ii) The upgrading of existing footway lighting to standards which do not meet the adoption criteria. However, where such lighting systems do not meet the criteria for adoption, the Borough Council will cease to provide revenue support for the relevant lighting columns;

- (iii) The installation or upgrading of footpath lighting. Responsibility for the maintenance of such lighting would remain with the Parish Council.
- 4.

**Administrative Arrangements**

- 4.1 The administrative arrangements will require Parish Councils to certify at the year end that expenditure has been incurred to the value of the allocations made towards the approved functions. If an allocation has not been fully utilised, the underspending will be reimbursable by the Parish Council in the following year. Further, it will be necessary for Parish Councils to supply details of number of footway lighting columns and, if required, estimates of debt charges from the 1984/85 scheme which are subject to reimbursement. It will be necessary for Parish Councils to apply separately for allocations for Special Works Grants.

Financial Services

January 2008

And subsequently updated for Special Works issue

## Financial Arrangements with Parish Councils - Grants Awarded 2016/17

Parish council	Basic allocation £	Cemeteries & churchyards £	Footway lighting £	Total £
Addington	2,365	925	-	3,290
Aylesford	15,800	8,351	2,681	26,832
Birling	2,365	1,727	140	4,232
Borough Green	5,345	-	1,349	6,694
Burham	2,365	1,443	193	4,001
Ditton	7,065	1,069	-	8,134
East Malling & Larkfield	19,664	2,575	613	22,852
East Peckham	4,917	3,439	1,157	9,513
Hadlow	5,833	9,756	35	15,624
Hildenborough	7,273	2,207	105	9,585
Ightham	3,012	2,725	-	5,737
Kings Hill	10,344	-	-	10,344
Leybourne	5,445	769	333	6,547
Mereworth	2,365	2,164	-	4,529
Offham	2,365	774	-	3,139
Platt	2,461	2,111	368	4,940
Plaxtol	2,365	2,076	245	4,686
Ryarsh	2,365	841	421	3,627
Shipbourne	2,365	1,343	-	3,708
Snodland	15,053	12,081	2,436	29,570
Stansted	2,365	1,040	-	3,405
Trottiscliffe	2,365	452	-	2,817
Wateringbury	2,967	4,703	701	8,371
West Malling	3,932	3,682	1,647	9,261
West Peckham	2,365	1,101	-	3,466
Wouldham	2,365	668	140	3,173
Wrotham	2,605	4,299	946	7,850
<b>Total</b>	<b>140,096</b>	<b>72,321</b>	<b>13,510</b>	<b>225,927</b>

# LEGAL FRAMEWORK

## FUNDING FOR CONCURRENT SERVICES

1. Section 136 of the Local Government Act 1972 allows principal local authorities to pay grants to local councils in respect of concurrent functions. Under these provisions, two or more local authorities have discretion to make arrangements for defraying expenses incurred by one of them in exercising any functions exercisable by both of them. The rationale behind this is that a district authority (which is a principal local authority for the purposes of this legislation) may compensate a parish council (referred to under this legislation as a local council) in respect of expenses which that parish council has incurred which absolves the district authority (in part) from incurring direct expenditure in the provision of the same functions. The Principal authority has discretion as to the amount it may decide to pay under these arrangements.

## SPECIAL EXPENSES

2. The Provisions relating to "special expenses" are contained in the Local Government Act 1992 ("the Act") at sections 34 and 35. These sections allow different amounts of council tax to be calculated for different parts of the district, depending on what if any "special items" relate to those parts.
3. The precept raised by the parish councils falls within these arrangements. Where functions are provided in part of a billing authority's area by the parish council sections 34 and 35(1)(a) of the Act ensure that only the council tax payers in that parish pay towards the cost of the precept issued by that parish council. This is known as a "special item".
4. Where there is no Parish Council/Town Council for a particular area, it is not possible to raise a special item to cover the costs of the function related services for that area and therefore the costs associated with such services fall to be paid for by all of the council tax payers across the whole borough even though the areas which have a parish/town council may already be paying for similar services which are local to their own area through their special items. This concept is referred to as double taxation.
5. 'Special expenses' are another 'special item'. The five different types of special expense are listed in section 35(2). The one relevant in this case is:

*any expenses incurred by a billing authority in performing in a part of its area a function performed elsewhere in its area by the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, a parish or community council or the chairman of a parish meeting are the authority's special expenses unless a resolution of the authority to the contrary effect is in force.*

6. In order for expenses incurred in performing any function of a district council to be special expenses the function must be carried out by the district in only part of its area, and the same function must be carried out in another part of the district by one

or more parish councils. The detailed identification of concurrent functions is therefore essential for using this special expenses provision.

7. One of the reasons behind the special expenses regime is to allow a more equitable division of council expenses for council taxpayer funded services so that those receiving the benefit of certain services in a particular area are those who pay for them through their precept and do not pay twice for similar services carried out in any areas where there is not a parish or town council so as to avoid “double taxation” for the relevant services.
8. The power to charge special expenses is discretionary and in order for it to apply there must be a resolution of the billing authority in force. As the resolution has to refer to the matters which will be special expenses for these purposes the resolution will need to identify which function related activities will be included within the calculation.
9. In the past this authority, in common with many others, has not applied the special expenses regime when calculating council tax liability. If it should decide to apply the special expenses regime in the future this would amount to a change in policy for the authority which must to be authorised in accordance with the Council’s Constitution.

## **CALCULATION OF SPECIAL EXPENSES**

10. The district council first calculates an average council tax across the whole of its area under section 33 of the Act. Included in that will be the amounts the district council has to pay to parish councils under their precepts, plus the amounts the district will spend on performing functions which are performed in parts of its area by parish councils.
11. Under section 34, the district council must then deduct the total of any special items. For each part of its area, the district council must then add back amounts for any relevant special items for that part of its area. The amount added back is calculated by dividing the special item (i.e. the authority's estimated cost of performing the function in that part of its area) by the tax base for the part of the area in which the authority performs the function. Treating expenses as special expenses does not affect the overall amount that the district council needs to raise through council tax, and does not, therefore, affect the average amount of council tax across the whole of the district. It simply means that, compared with what would happen if the expenses were not treated by the district council as special expenses, the council tax is:
  - relatively lower for areas where the parish council performs the concurrent function, as it includes the parish's costs but not the district council's costs of performing the function elsewhere; and
  - relatively higher, for areas where the district council performs the concurrent function, as all the district council's costs of performing the concurrent function must be met by taxpayers in the area where the district council performs it.

## **CONSTITUTIONAL REQUIREMENTS FOR CHANGES IN POLICY**

12. The rules on changing policy and setting the budget are contained in Part 4 of the Constitution in the “Budget and Policy Framework Procedure Rules”. The process for developing the framework is set out in rule 2 and provides for the following stages and procedures to be followed:
- The executive publishing their proposals for the budget and policy framework at least 2 months before it needs to be adopted, having first canvassed the views of local stakeholders as appropriate in a manner consistent with the matter under consideration.
  - Their report should reflect the representations made as a result of that consultation and if the Overview and Scrutiny Committee have reviewed the matter already the report should also make reference to the outcome of that review.
  - The executive’s initial proposals should be referred to Overview and Scrutiny Committee for further advice and consideration. This referral should state the timescale within which their advice is required if the matter is urgent.
  - The Overview and Scrutiny Committee should carry out consultation with local stakeholders as appropriate having regard to the consultation already carried out. The Constitution specifically refers to the need to have particular regard to avoiding duplication in consultation.
  - The Overview and Scrutiny Committee have 6 weeks to respond to the initial proposals unless the executive believe there are special circumstances which make this time scale inappropriate which have been previously notified to the Overview and Scrutiny Committee.
  - The executive should consider the report of the Overview and Scrutiny Committee and may amend its policy if it considers it appropriate before reporting the matter to Council. The report should identify how it has taken account of any recommendations from the Overview and Scrutiny Committee.
  - The Council consider the proposals and can adopt them, amend them, refer them back to the executive for further consideration, or substitute its own proposals in their place.
  - The Council’s decision should be published in accordance with article 4 and dated and shall be effective immediately. (Article 4 does not refer to publishing at all and so this decision should be published in the normal way as a Council decision.)

## **COUNCIL TAX REDUCTION SCHEME (CTRS)**

### **BACKGROUND**

13. In April 2013 the Council tax reduction scheme was introduced which replaced the Council Tax Benefit Scheme.
14. The main difference with CTRS in accounting terms is that any support given to claimants under the new scheme is given by way of a discount rather than a benefit. This means that the tax base for district and parish council's is reduced.
15. To alleviate some of the effects of this, the government gave a grant to Major Precepting authorities. The grant to billing authorities also included an indicative amount for them to pass onto Town and Parish Councils in 2013/14.
16. In subsequent years no specific parish funding was identified within the settlement figures. This led a number of authorities to either cease or significantly reduce the funding passed on to parish councils in recognition of the severe and ongoing cuts in government grant funding.
17. When ministers were pressed on this issue by parish councils they indicated in correspondence that any funding had been included as part of the "overall Settlement Grant". As no specific allocation had been made the money which was provided within the overall settlement can be used for any legal purpose. The district authority therefore has a wide discretion whether to make any payments to parish/Town Councils at all and should they decide to make payments what to pay as there is no formula prescribed for calculating this.
18. Correspondence from government ministers upholds this position and has not identified any specific statutory power which requires a parish/Town Council grant to be paid.
19. In summary there is no statutory provision which requires this Council to pass on grant by virtue of CTRS to Parish or Town Councils.

## Bill of Quantities for Grounds Maintenance Contract 2015 - 2019

### BILL OF QUANTITIES SUMMARY Option A Ground Maintenance Services 2015 - 2019

BILL	PRICE PER ANNUM
	£ - p.
TOTAL - BILL NO. 1	TONBRIDGE CASTLE GROUNDS AND ASSOCIATED AREAS
TOTAL - BILL NO. 2	TONBRIDGE CEMETERY
TOTAL - BILL NO. 3	CHURCH YARDS
TOTAL - BILL NO. 4	THE RACECOURSE SPORTSGROUND
TOTAL - BILL NO. 5	TONBRIDGE FARM SPORTSGROUND
TOTAL - BILL NO. 6	SWANMEAD SPORTSGROUND
TOTAL - BILL NO. 7	FROG BRIDGE SPORTSGROUND
TOTAL - BILL NO. 8	HAYSDEN COUNTRY PARK
TOTAL - BILL NO. 9	MAINTENANCE OF PUBLIC OPEN SPACES AND AMENITY AREAS
TOTAL - BILL NO. 10	MAINTENANCE OF CHILDRENS PLAY AREAS
TOTAL - BILL NO. 11	MAINTENANCE OF PUBLIC CAR PARKS
TOTAL - BILL NO. 12	ADDITIONAL WORKS
PERFORMANCE BOND	1,000.00
ANNUAL SUM (TOTAL OF BILL NOS. 1 TO 12 INCLUSIVE, PLUS PERFORMANCE BOND)	534,844.13

## Extract of Bill 9 – Open Spaces Grounds Maintenance

### Option A Ground Maintenance Services 2015 - 2019

	a. ITEM	b. UNIT	c. QUANTITY	e. OCCASIONS PER YEAR
1.	<b>GRASS AREA MAINTENANCE</b>			
A.	<b>Public Open Spaces, Amenity Areas, and Children's Play Areas.</b>			
(i)	Mow grass with pedestrian, ride on, or tractor drawn cylinder type mower. Clippings to be allowed to lie where they fall. Commence cutting third week in March and cease cutting first week in November. Grass height to be maintained between 25mm and 75mm.	m <sup>2</sup>	373,984	15
(ii)	Strim along path, wall, fence and hedge lines on every mowing occasion. Paths and roads to be swept clean	Lin.m	54,359	15
(iii)	Strim around immobile obstacles on every mowing occasion.	Lin.m	3,622	15
(iv)	Clip with shears grass edges to shrub borders and flower beds on every mowing occasion.	Lin.m	1,850	15
(v)	Reform edges between grass areas and shrub borders and flower beds on one occasion per year.	Lin.m	1,850	1
(vi)	Reform edges adjoining hard areas on one occasion per year.	Lin.m	32,613	1
(vii)	Allow for leaf sweeping on 4 occasions per year.	m <sup>2</sup>	3,107	4
B	<b>Conservation Areas.</b>			
a	Mow Grass with ride on or pedestrian rotary type mower. Clippings to be allowed to lie where they fall. Commence cutting third week in March and cease cutting first week in November. Grass height to be maintained between 25mm and	m <sup>2</sup>	1,880	15
b	Mow grass with tractor mounted ride on or pedestrian flail or rotary type mower on eight occasions per year. Clippings to be allowed to lie where they fall. Commence cutting third week in March and cease cutting by first week in	m <sup>2</sup>	14,857	8
c	Mow grass with tractor mounted ride on, or pedestrian flail or rotary type mower on two occasions per year. Grass clippings to be raked off and removed from site and legally disposed of at the contractors expense. Height of cut to be 100mm.	m <sup>2</sup>	31,022	2
d	Strim along path edges on every mowing occasion. Paths and roads to be swept clean.	Lin.m	6,290	15
<b>TOTAL PAGE 1</b>				
<b>Carried Forward to SUMMARY Page 3</b>				

e	Strim around immobile obstacles on every mowing occasion.	No	303	
f	Edge grass areas adjoining paths and roadways on one occasion per year.	Lin.m	1,275	
<b>2. HEDGE CUTTING</b>				
a	Cut hedges once per year (Hand shears or motorised cutting equipment)	m <sup>2</sup>	Nil.	-
b	Cut hedges twice per year (Hand shears or motorised cutting equipment)	m <sup>2</sup>	9,999	2
c	Cut hedges once per year (Secateurs)	m <sup>2</sup>	Nil.	-
<b>3. MAINTENANCE OF TREES</b>				
<b>1. Public Open Spaces Amenity Areas and Children's Play Areas</b>				
<b>A. Immature Trees</b>				
(i)	Inspect trees twice yearly, recording details. Refix or replace any defective or missing stakes and ties.	No	2,042	2
(ii)	Re-firm any trees loosened after strong winds or frost heave.	Item	-	-
(iii)	Prune trees once per year, during October to March.	No	2,058	1
<b>B. Mature Trees</b>				
(i)	Inspect mature trees once per year, recording details of condition and safety.	No	1,177	1
<b>4 SHRUB AND SHRUB BED MAINTENANCE</b>				
<b>1 Public Open Spaces Amenity Areas and Children's Play Areas</b>				
<b>(a) Established and newly planted shrub beds.</b>				
(i)	Weed shrub beds and lightly fork over to a depth of 75mm. During November to February. Arisings to be removed from site and lawfully disposed of.	m <sup>2</sup>	6,123	1
(ii)	Supply, apply and maintain a 75mm. Deep mulch of bark.	m <sup>2</sup>	6,123	1
(iii)	Allow for maintaining shrub beds in a litter and weed free condition throughout the year, including the supply and application of residual herbicide (established shrub beds only) Arisings	m <sup>2</sup>	6,123	9
<b>(b) Pruning</b>				
(i)	Allow for pruning of shrubs as detailed in the pruning schedule.	No	6,596	1
<b>TOTAL PAGE 2</b>				
<b>Carried Forward to SUMMARY Page 3</b>				

(c)	<b>Fertilising</b>			
(i)	Supply and apply approved compound fertiliser during March prior to the mulch application.	m <sup>2</sup>	6,596	1
5.	<b>MISCELLANEOUS.</b>			
<b>A</b>	<b>Maintenance of Watercourses</b>			
(i)	Inspect watercourses once per week and remove litter, rubbish, fallen twigs, branches, loose vegetation and other extraneous material. Ensure that culverts are clear of obstruction. Arisings to be removed from site and lawfully disposed of.	m <sup>2</sup>	823	52
(ii)	Cut vegetation on the banks of watercourses once per year, rake up cut vegetation. Arisings to be removed from site and lawfully disposed of.	Lin.m	4,970	1
<b>B</b>	<b>Maintenace of Street and Park furniture.</b>			
(a)	Litter Bins.			
(i)	Empty litter bins once per week. Arisings to be removed from site and lawfully disposed of.	No	15	52
(ii)	Wash litter bins once per month.	No	15	12
(b)	Seats, Benches and Picnic Tables			
(i)	Wash, clean and wipe over seats, benches and tables once per month. Remove grease deposits by spot treatment.	No	16	12
(ii)	Wash clean, rub down with sandpaper, and paint or treat with preservative.	No	16	1
<b>C</b>	Chemical Spraying			
a	Supply and apply a total, residual, liquid herbicide to hard surfaced areas during March, April or May.	m <sup>2</sup>	440	1
<b>D</b>	Path Maintenance (Public Open Spaces and Amenity Areas).			
(a)	Woodchip surfaced paths. Twice per year, cut back side vegetation overhanging or growing across path.	m <sup>2</sup>	1,154	2
<b>TOTAL PAGE 3</b>				
<b>Carried Forward to SUMMARY Page 3</b>				

## Extract of Bill 10 - Play Area Grounds Maintenance

Option A Ground Maintenance Services 2015 - 2019

	a. ITEM	b. UNIT	c. QUANTITY	e. OCCASIONS PER YEAR
<b>1.</b>	<b>Inspections</b>			
a	Allow for weekly inspection of play equipment and furniture at the Play Areas identified below and in the schedules to the specification, and for the completion and for the return to the supervising officer of the appropriate inspection forms.  Sites to be priced separately  Play Area - Site Name			
Ref No.				
13.	Masefield Road Play Area	Item	1	52
14.	Blake Drive Play Area	Item	1	52
	Royal West Kent Avenue, Tonbridge	Item	1	52
	Staleys Acre, Tilton Road Play Area	Item	1	52
6.	Scothers Field Play Area	Item	1	52
7.	Quincewood Gardens BMX Area	Item	1	52
10.	Brindles Field Play Area	Item	1	52
12.	Arundel Close Play Area	Item	1	52
<b>2.</b>	<b>Maintenance Work</b>			
a	Sweep or rake whole surface of Play Area, to remove litter, glass animal fouling or other debris once per week	m <sup>2</sup>	4,621	52
b	Empty litter bins once per week	No	19	52
c	Wash litter bins once per week	No	19	52
d	Lubricate equipment once per month	No	48	12
e	Release any twisted or tied swing chains on each weekly visit	No	39	52
f	Allow for cleaning Play Area equipment and seats to remove bird and other fouling	No	127	52
g	Allow for maintaining permanent stock of regularly occurring replacement parts	Item	-	-
<b>TOTAL PAGE 1</b>				
Carried Forward to MAIN SUMMARY Page				

**APPENDIX B(15)**

**Ground Maintenance Services 2015 - 2019**  
**Public Open Spaces & Amenity Areas**

**Schedule of Sites**

<b>Parish</b>	<b>Area of Grass m2</b>	<b>Edge 1 lin. m.</b>	<b>Edge 2 lin.m.</b>	<b>Edge 3 lin. m.</b>	<b>Obs No.</b>	<b>Shrub Bed Area m2</b>	<b>Shrubs No.</b>	<b>Rose Bed Area m2</b>	<b>Hedge Area m2</b>	<b>Hedge Lgth lin.m</b>	<b>Trees Imm. No.</b>	<b>Trees Mat. No.</b>
Aylesford	6,072	1,679	56	1,222	150	469	656	-	-	-	21	31
East Peckham	1,685	275	-	231	29	-	-	-	-	-	10	12
EM & LPC	42,652	6,135	231	3,784	401	558	310	-	145	22	320	82
Kings Hill	3,332	1,031	1	735	33	340	480	-	96	-	10	16
Leybourne	73,417	8,018	447	4,242	888	218	283	7	931	713	548	103
Platt	5,632	280	-	-	6	-	-	-	-	-	-	-
Snodland	49,757	5,702	233	2,365	359	563	501	-	-	-	305	39
Tonbridge	170,631	24,952	681	15,933	1,593	3,794	3,738	-	7,364	2,652	701	879
Water'gbury	1,639	1,037	121	968	14	61	458	-	61	-	7	-
West Malling	9,231	946	80	773	42	120	170	-	-	-	29	15
Wouldham	9,936	4,313	-	2,360	107	-	-	-	-	-	93	-
<b>Total</b>	<b>373,984</b>	<b>54,368</b>	<b>1,850</b>	<b>32,613</b>	<b>3,622</b>	<b>6,123</b>	<b>6,596</b>	<b>7</b>	<b>8,597</b>	<b>3,387</b>	<b>2,044</b>	<b>1,177</b>

### Special Expenses Calculations based upon 2016/17 Budget

## Special Expenses Calculation

## Council Tax Reduction Scheme - Grant Payments to Parishes 2013 - 2017

Parish / Town Council	2013/14	2014/15	2015/16	2016/17
Addington	611	613	596	645
Aylesford	15,835	14,454	14,642	14,445
Birling	400	368	399	409
Borough Green	12,196	14,120	14,060	14,635
Burham	1,972	2,002	1,880	1,860
Ditton	19,430	18,245	18,012	17,681
East Malling & Larkfield	28,229	25,925	26,002	27,599
East Peckham	8,322	8,539	8,675	8,669
Hadlow	9,103	8,266	8,343	8,072
Hildenborough	1,469	1,320	1,263	1,288
Ightham	1,903	2,245	1,999	1,755
Kings Hill	6,319	6,601	7,569	8,211
Leybourne	6,633	6,218	7,401	7,386
Mereworth	2,002	1,725	1,639	1,585
Offham	930	837	796	767
Platt	1,595	1,462	1,146	1,160
Plaxtol	943	972	1,089	993
Ryarsh	1,344	1,292	1,003	1,010
Shipbourne	507	608	521	549
Snodland	36,846	34,319	35,506	34,807
Stansted	619	677	639	727
Trottiscliffe	330	315	320	332
Wateringbury	2,905	3,025	3,330	3,962
West Malling	7,746	7,550	7,631	7,669
West Peckham	129	113	98	67
Wouldham	2,248	2,269	2,211	2,235
Wrotham	7,203	7,646	7,186	6,139
Total	177,769	171,726	173,956	174,657

# CONSULTATION

## The need for consultation

1. The requirement to undertake consultation can either be express or implied. Where it is express, this can either be because of a statutory provision requiring it to be carried out or because of the Council's rules of procedure or because the Council has publicly stated that it will carry it out. If there is an express duty to consult then there is no need to consider whether there is an implied duty to consult based on fairness, the express duty should be followed.
2. There is not a specific statutory provision within the legislation governing the subject of this review which requires consultation to be carried out in this context.
3. Our constitutional arrangements do however refer to "relevant stakeholders" being consulted and having their representations taken into consideration. This will be applied whenever there is a change in policy affecting the budget and policy framework which is likely to have a wide ranging or significant impact on the community. This is set out in the Budget and Policy Framework Rules in part 4 of the Constitution and also in Article 13.
4. The rules allow the Council some scope to consider what the effect of the decision will be in assessing the degree to which consultation is required and to formulate the appropriate scale and method of consultation.
5. The relevant stakeholders in the context of special expenses will be those affected by the decision to apply special expenses, that is, the parish and town councils and all council taxpayers who will pay the relevant sums if the policy is put into practise. They are clearly directly affected as if special expenses are introduced some will pay more and others less for the same services in the future.
6. The relevant stakeholders in the context of the CTRS will be the Parish Councils and the Town Council who currently receive grant payments.
7. In applying our own rules the extent of the consultation must be reasonable in all of the circumstances. The legal requirements for consultation have evolved in case law which has established that the factors in deciding how to consult should include:
  - The nature and impact of the decision;
  - The purpose of the decision;
  - The practicalities of the situation (to some extent including the cost of consultation although fairness may require that consultation is still required even though this may be onerous in a particular case);
  - Whether the decision is urgent;
  - Whether the Council has through representations or past practise promised to consult in a certain way

8. There is no legal duty to carry out a particular form of consultation provided that the above principles have been applied in coming to the decision as to the appropriate form of consultation.

### **Legal principles in connection with Consultation**

9. If the Council decides to consult (whether or not required to do so) the consultation must be adequate and fair. From our own constitutional arrangements we are given a wide discretion to decide how to carry out a fair consultation exercise. The guiding principles which have been established through case-law for fair consultation are as follows:

- The consultation must be carried out at a stage when proposals are still at a formative stage.
- Sufficient information on the reasons for the decision must be provided to permit the consultees to carry out intelligent consideration of the issues and to respond.
- Adequate time must be given for consideration and responses to be made.
- The results of the consultation must be properly taken into account in finalising any decision.

10. These principles have been endorsed and applied by the courts in consultation challenges and should be followed whenever consultation is undertaken to ensure legal and fair consultation.

11. Looking at some of these points in more detail:

(a) When to consult:

The reason behind consulting at an early stage is that it allows the views of the consultees to be taken into account before the decision maker is entrenched in their position. However consultation must still be meaningful and therefore sufficient information about the proposal must be provided to enable proper consultation at this early stage.

(b) Information to allow intelligent responses:

The consultation must at least, make clear the proposal and the reasons for it. It is important that it is explained in a way which makes it intelligible to those who are being consulted so that they understand the rationale for the decision being proposed and the likely effect on them of the proposed decision.

(c) Adequate time to respond

The period allowed should be reasonable in all of the circumstances of the case and should take into account the following considerations:

- The size of the group to be consulted.
- The capabilities and resources of the consultees.
- If the matter is urgent.
- The means of consultation and the complexity of the issues