

TONBRIDGE & MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

07 October 2021

Report of the Management Team

Part 1- Public

Matters for Recommendation to Cabinet

1 SPECIAL EXPENSES CONSULTATION

The Council launched a consultation on 22 June for a four week period regarding potential adjustments to the Special Expenses Policy. This report provides details of the responses to the consultation and seeks Members' recommendations on whether (or not) the cost of the non-strategic Public Conveniences in Tonbridge should be included within the Special Expenses policy; and also whether (or not) the cost of Christmas lights should be included within the Special Expenses policy.

1.1 Introduction

1.1.1 As reported to the Finance, Innovation & Property (FIP) Advisory Board in May, Members noted that a consultation exercise was to be launched to hear the public's views about the potential inclusion of (non-strategic) public conveniences and Christmas lighting in the Council's Special Expenses policy.

1.1.2 The public consultation opened on 22 June 2021 on the Council's website. In simple terms the questions posed were either **Agree or Disagree** to the following statements:

- Public toilets should be paid for by the local communities where they are provided through council tax bills (**Statement 1**)
- Public toilets should be paid for by all council taxpayers in the borough (**Statement 2**)
- Christmas lights should be paid for by the local communities where they are provided through council tax bills (**Statement 3**)
- Christmas lights should be paid for by all council tax payers in the borough (**Statement 4**)

1.1.3 A limited response was received from the public. The results of the consultation were presented to FIP Advisory Board on 15 September. In accordance with the Budget & Policy Framework, the results also need to be reported to this Committee in order that

Members can make their own recommendations in respect of the way forward.

1.2 Finance Innovation & Property Advisory Board

- 1.2.1 A copy of the report submitted to the FIP Advisory Board on 19 May 2021 recommending the launch of the consultation is attached at **[APPENDIX 1]** for background reading.
- 1.2.2 Following analysis of the results following the consultation, a detailed report was submitted to the FIP Advisory Board on 15 September 2021. A complete copy of the report and Annexes submitted to the Advisory Board is attached at **[APPENDIX 2]** rather than repeat the detail again in a separate report. Members are asked to read and review the attached appendices.
- 1.2.3 Following deliberation, the FIP Advisory Board agreed to recommend to Cabinet that the Special Expenses policy should be updated to include the non-strategic public conveniences only.
- 1.2.4 Members of this Committee need to make their own recommendations to Cabinet.
- 1.2.5 To assist Members of the Overview & Scrutiny Committee in interpreting some of the data in the APPENDICES, the following paragraphs 1.3 and 1.4 set out some of the key points, but Members are advised to read the appendices thoroughly before arriving at any conclusions.

1.3 Public Conveniences

- 1.3.1 In terms of the background, at its meeting on 30 October 2019, the Street Scene and Environment Services Advisory Board recommended to Cabinet (minute SSE19/26) a pathway in respect regarding the provision of the Council's existing Public Conveniences.
- 1.3.2 The SSES Advisory Board recommended that the transfer of the public conveniences to the relevant Parish/Town Council be progressed; and in relation to the (non-strategic) public conveniences situated in the non-parished area of Tonbridge, a consultation be undertaken during 2021/22 with a view to **updating the Special Expenses Policy to reflect the new arrangements for the provision of public conveniences as a concurrent function**. Cabinet subsequently endorsed these recommendations and the consultation did go ahead as outlined above.
- 1.3.3 The detail of the responses received (170) is set out in APPENDIX 2 and is not repeated. However, overall the majority of respondents (68%) disagreed that public conveniences should be paid for by local communities; and 74% felt that they should be paid for by all taxpayers across the borough.
- 1.3.4 It should be remembered that in accordance with previous decisions, from 2022/23, the public conveniences that have been transferred to 3 parish councils

(East Malling & Larkfield, East Peckham and Borough Green) will be paid for through parish precepts. These costs will therefore fall firmly on those local communities. In other parished areas, decisions previously taken by Members mean that facilities have been closed.

1.3.5 The consultation allowed “free form” comments to be made, **and what is not clear is whether respondents believe that the responses made to the very specific questions on this consultation will enable Members to reverse existing decisions, or make different decisions about service provision.**

1.3.6 For information, in no particular order, below are some of the key themes that arose in the comments:

- Public conveniences should not be closed anywhere (31 occurrences)
- Public conveniences in Tonbridge should be improved (7 occurrences)
- The effect on the bill is trivial (4 occurrences)
- Public amenities benefit visitors as well as residents (50 occurrences)
- Public conveniences should be pay to use (9 occurrences)

1.4 Christmas Lighting

1.4.1 Some Members may recall that the Overview and Scrutiny Committee carried out a review into the future funding of Christmas lighting following the original Special Expenses consultation in 2016. This was a result of an inconclusive set of results at that time; but at the same time a real ‘sense’ that there was an inequity with regard to the funding of Christmas lighting across the borough.

1.4.2 Members are referred to the detail in APPENDIX 2 regarding how Christmas lighting is presently paid for.

1.4.3 **Overall**, the recent responses received from residents are split almost ‘50:50’ as to how Christmas lighting should be paid for. This is not dissimilar to the original consultation back in 2016.

1.4.4 **In terms of the free-form comments**, residents generally feel that (in no particular order):

- Christmas lights should not be paid for by Council Tax (17 occurrences)
- The effect on the bill is trivial (4 occurrences)

1.5 Way Forward and Timetable

1.5.1 Full details of the public consultation responses are set out in APPENDIX 2 which Members needs to review carefully.

- 1.5.2 The logic and reasoning for considering whether either or both of these functions should be included in Special Expenses was set out by Members of the SSES Advisory Board in respect of public conveniences, and this Committee in terms of the history of Christmas lighting.
- 1.5.3 The Committee will appreciate that the number (170) of web respondents relative to the population of the borough is very small (amounting to only a fraction of a percentage). Therefore, Members may wish to bear this in mind when weighing up the way forward.
- 1.5.4 Members of this Advisory Board are **asked** to reflect on the results of the consultation from the limited number of respondents from across the borough, and recommend to Cabinet whether or not the cost of the non-strategic Public Conveniences in Tonbridge, and Christmas lighting should be included within the Special Expenses policy under the 'fairer charging' principle.
- 1.5.5 **If** the special Expenses policy is to be updated to include one or other of these functions, this will require a Full Council decision.
- 1.5.6 The timetable is:

7 October 2021	Consideration by O&S Committee, with the committee making its own recommendations to Cabinet
13 October 2021	Consideration by Cabinet and recommendations to Full Council as appropriate
26 October 2021	If appropriate, decision to update Special Expenses policy w.e.f. 1 April 2022

- 1.5.7 Members should note that if any update to the Special Expenses Policy were to be approved, it would not take effect until 1 April 2022.

1.6 Legal Implications

- 1.6.1 Provisions relating to special expenses are contained in the Local Government Finance Act 1992 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.

1.7 Financial and Value for Money Considerations

- 1.7.1 This consultation is about how the **incidence of cost** is borne by residents in different parts of the borough. It does not in itself generate savings.
- 1.7.2 As Members will recall from the original Fairer Charging consultation, the incidence of cost was shifted creating greater equity for residents across the borough. The greatest shift at that time was towards residents in Tonbridge.

- 1.7.3 If in due course it were to be agreed that public conveniences should be deemed a concurrent function for the purposes of Special Expenses, the incidence of cost would move to residents in Tonbridge given that conveniences in other parts of the borough have either been closed or taken over by a relevant parish council. Therefore the special expense levy in Tonbridge would increase.
- 1.7.4 If it were decided that public conveniences were not to be included in the Special Expenses policy, the cost of those facilities in Tonbridge would be shared across the entire borough. Members should note therefore that those residents living in the three parished areas where public conveniences have been transferred to the parish councils would effectively pay for their local facilities through parish precept, and also pay a share of the provision in Tonbridge through the Borough Council levy.
- 1.7.5 Similarly, if Christmas lighting was to be included in the Special Expenses policy, the local costs would fall on the local residents increasing any special expense levy.

1.8 Risk Assessment

- 1.8.1 The current Special Expenses policy established 'equity' across the borough in terms of council tax paid towards the cost of local services. This further consultation was designed to test the public's views about the inclusion or otherwise of additional concurrent functions.
- 1.8.2 If decisions are not made within the timescales set out, the Council may not be able to implement the changes (if any) in readiness for 2022/23.
- 1.8.3 The number of responses (170) is very small in the context of the population of the borough. Members need to bear this in mind when weighing up the options given that the vast majority of our residents have not offered an opinion either way.

1.9 Equality Impact Assessment

- 1.9.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.10 Policy Considerations

1.10.1 Community

1.10.2 Communications

1.11 Recommendations

- 1.11.1 Members are asked to **RECOMMEND** to Cabinet whether or not the Special Expenses Policy should be updated to include

- 1) non-strategic public conveniences which are located in Tonbridge; and
- 2) Christmas lighting

Background papers:

Nil

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