

Agenda Item No: 3 **Report No:** 206/12
Report Title: Local Council Tax Support Scheme
Report To: Scrutiny Panel **Date:** 18 December 2012
Cabinet Member: Councillor Andy Smith
Ward(s) Affected: All
Report By: Director of Finance
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Purpose of Report:

The final update prior to Council's consideration of adopting a Local Council Tax Support Scheme on 10 January 2013.

Officers Recommendation(s):

- 1 That the Scrutiny Panel considers the position on the core East Sussex Scheme and the additional work incentives to be considered by each Billing Authority.
- 2 That the Scrutiny Panel supports doubling the benefit run on period from 4 to 8 weeks in the local scheme, as a means to incentivise work.
- 3 That the Scrutiny Panel recommends adoption of the Armed Forces Community Covenant to Council, to form part of the Local Council Tax Support Scheme.
- 4 That the Scrutiny Panel notes and supports the positive action taken to help Town and Parish Councils with their 2013/2014 precept setting process.

Reasons for Recommendations

- 1 This is the Scrutiny Panel's final meeting to consider and provide comments prior to Council's consideration on 10 January 2013 of a Local Council Tax Support Scheme to be adopted from April 2013.

Information

2 The Core East Sussex scheme.

- 2.1** East Sussex councils, the East Sussex Fire Authority and the Sussex Police Authority have been committed to assessing and developing a common local council tax support scheme for East Sussex.
- 2.2** Council tax collecting authorities (known in legislation as Billing Authorities) are required to adopt local schemes, having consulted initially with major preceptors (County, Fire and Police).
- 2.3** All East Sussex councils also intend to utilise new freedoms from April 2013 to remove some existing council tax discounts (not to be confused with local scheme discounts) and exemptions. This provides an offset to the reduction in Government support for the cost of the new local scheme. Cabinet has agreed in principle to this approach.
- 2.4** An initial draft scheme started the consultation process and two further schemes were later considered following announcement of the Government's transitional grant offer to mitigate the cost of these schemes in the first year only. One of the further schemes adopted features of the initial scheme to qualify for the transitional grant and the final option was the national default scheme that would apply in the event a council did not adopt a local scheme.
- 2.5** A description of each of the three schemes follows.

Option1

This is the consulted scheme. The table shows the consultation scheme features and the estimated numbers of claimants affected compared with the current scheme which ends on 31 March 2013.

Consultation scheme	Nos. affected	Current scheme
Maximum weekly support limit of £20	1,683	No maximum limit
Minimum weekly entitlement £5	147	50 pence minimum entitlement
Doubling of non dependant deductions	712	Statutory rates
Remove second Adult Rebate	39	39
Maximum capital limit £6,000	60 known, but would need to write to 2,300 passported claimants re their position.	£16,000 limit applies.

Option 2

This scheme enables Councils in East Sussex to benefit from the Transitional Grant and retain some features of the consultation scheme without having to conduct a further consultation. The scheme complies with the Transitional Grant Criteria and ensures no detriment to claimants when compared with the option 1 scheme. The essence of this proposal is that the £20 maximum payment is dropped. The minimum £5 per week qualifying criteria remains as does the proposal to end the second adult rebate. The doubling of non dependant deductions is dropped and replaced with a reasonable increase.

Option 3

This is the default scheme that applies in the event that the Council does not adopt a local scheme by 31 January 2013.

- 2.6 The estimated financial impact of the schemes is shown in the table below.

Table showing the impact for all preceptors within Lewes District.

	Option 1	Option 2	Option 3
	Consultation Scheme	Transitional Grant Scheme	National Default Scheme
	£(000s)	£(000s)	£(000s)
Funding gap	1,122	1,122	1,122
New Discount and Exemption freedoms	(599)	(599)	(599)
Local Support Scheme	(499)	(53)	0
Transitional grant		(193)	(193)
Shortfall	24	277	330

Notes:

In each of the above options approximately 70% is met by East Sussex County Council, 12% Lewes District Council, 8% Sussex Police, 5% East Sussex Fire Service and 5% Towns and Parishes

The collection risk is greatly reduced for options 2 and 3.

The estimated council tax benefit bill next year is estimated at £8.1m. The current caseload numbers are static which means there is some leeway in the original funding gap assumption.

- 2.7 The composition of the £53,000 Local Support Scheme line in the table above (option 2) is £13,000 removal of second adult rebate, £24,000 minimum £5 per week entitlement and £16,000 reasonable increase in non dependent deductions.
- 2.8 The East Sussex officer project team has met since the last Scrutiny Panel. The general consensus appears to be a preference for the option 2 scheme.
- 2.9 The advantages of participating in option 2 (the transitional scheme) are:
- The County Council, Fire and Police authorities are primary consultees in the development of local schemes. They have made it clear that their preference is for a scheme that mitigates the shortfall, in order to maintain resources for front line services. They also acknowledge that the Government Transitional Grant offer has to be considered.
 - The County Council is already consulting on a savings package of £60m without any impact of this new scheme being considered.

- All Councils face higher savings targets next year arising from a Government announcement in October that a further £1bn would be withdrawn from the public sector's grants. In the light of this and the prospect of significant further reductions from 2014/2015 announced in the December 2012 HM Treasury Budget Statement it is essential to mitigate losses as far as possible.
- This option (and option 3) substantially addresses the concerns of many respondents to the consultation survey.
- Should any Town and Parish Councils be contemplating an inflation increase on last year's precept, the gearing effect of this scheme on the new taxbase arrangements will produce a magnified percentage tax rise higher than the inflation rate. They will need all the help possible to maintain their taxbase particularly with the threat of capping in the offing and all the costs that a referendum will entail. Option 1 provides the most help and option 3 the least help in this respect.
- From the outset East Sussex Councils sought to find a common solution and in the spirit of joint working, a common outcome would be the preferred result because:
 - Councils will need to work together to review and implement an enhanced scheme for year 2.
 - Costs can be shared to produce a common set of detailed regulations. This activity is a high risk and the need to get it right should not be underestimated.
 - More opportunity will exist to share or join up the administrative back office processes and produce savings for the public purse.
 - 67% (296 in number) of respondents agreed with the principle of having a common scheme.

2.10 The disadvantages of not having a common scheme are:

- Need for more in-house resources to project manage and handle the detail of the scheme.
- Higher financial cost of implementing a scheme for one council.
- Lose some of the ability to share ideas and evaluate challenges with colleagues in other councils.
- Harder to deliver future back office solutions that could save money for the public purse / contribute towards savings targets.
- Losing sight of the bigger picture as it affects all partners in the public sector, all of whom remain challenged to provide front line public services in the current financial climate.

- 2.11** Work Incentives are intended to be a key feature of local schemes. They complement freedoms passed down from central to local government in the Localism Act and the Local Government Finance Act.

The earlier consideration of adjusting earnings disregards has been superseded with the preferred option of extending the current four week run on period to either eight or twelve weeks.

The “cost” of extending to 8 weeks is £20,000 and to 12 weeks is £40,000. If this incentive works for existing claimants there may well be an offset in terms of local scheme discounts granted. We would need to closely monitor the position throughout the year to establish if there was a net cost or saving.

The general consensus for councils considering this “bolt-on” to the core scheme is to adopt an eight week run on period for the first year of operation.

- 2.12** Although there has been a general project team consensus on the core scheme and work incentive, it remains to each council to consider and make its own decision on a local scheme.

3 Armed Forces Covenant

- 3.1** The Department for Communities and Local Government (DCLG) has given guidance to local authorities regarding the Armed Forces Community Covenant.

- 3.2** The Covenant sets out the relationship between the Nation, the State and the Armed Forces and recognises that the whole nation has a moral obligation to members of the Armed Forces and their families, and it establishes how they should expect to be treated. This is the web address for more information:

http://www.veterans-uk.info/interim_covenant/20110516-Armed_Forces_Covenant.pdf

- 3.3** It exists to redress the disadvantages that the Armed Forces community face in comparison to other citizens, and to recognise sacrifices made. In some cases this will require special consideration, especially for those who have given the most such as the injured and the bereaved.
- 3.4** Under the existing Council Tax Benefit Regulations 2006, local authorities have been required to disregard the first £10 per week of War Pension Scheme and Armed Forces Compensation Scheme payments when assessing entitlement to Council Tax Benefit.
- 3.5** In addition, local authorities currently have discretion to top-up the disregard to the full amount and they have been encouraged by DCLG to do so in line with Armed Forces Covenant Principles and this option is still open to local authorities in designing a new system.

- 3.6** The Royal British Legion has written to the Council to propose that protection is given to claimants where they or their dependants are in receipt of a war widow's pension, war widower's pension, war disablement pension or a guaranteed income payment or survivor's guaranteed income payable under the Armed Forces Compensation Scheme. The letter is reproduced at Appendix A.
- 3.7** The scheme recommended to each Council in East Sussex will propose that in addition to war widow's, war widower's and war disablement pensions, guaranteed income payments (including survivor's guaranteed income payments under the Armed Forces Compensation Scheme) be disregarded in full for working age claimants thus ensuring that receipt of these incomes do not impact upon their Council Tax Support entitlement.
- 3.8** The Government regulations that cover pensionable age claimants only provide for £10 per week to be disregarded from the receipt of the above pensions. Up to the 31 March 2013 councils have been permitted to operate a local scheme whereby these pensions are disregarded in full.
- 3.9** Whilst the local scheme operation will cease under the new prescribed statutory provisions for pensionable age claimants, the Council can achieve the same end by exercising the provisions in section 13A of the Local Government Finance Act 1992.
- 3.10** The Section 13A provisions permit a Billing Authority to grant a discount where a person is liable to pay Council Tax in respect of a dwelling and to reduce the amount they have to pay to such extent as it thinks fit. This power includes a provision to reduce the amount payable to nil and can be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.
- 3.11** This provision has not been widely used by Councils in the past. Discounts granted under this provision need to be met wholly from the General Fund, which is the same arrangement that Local Schemes operate under.
- 3.12** The Council could consider the application of this section to existing Council Tax Benefit claims for persons of pensionable age where a war widow's pension, war widower's pension or war disablement pension are received and which cannot be disregarded (i.e. ignored) as income under the new national rules for persons of pensionable age.
- 3.13** There are only currently 38 customers affected by this change and of these, 31 are in receipt of 100% Council Tax Benefit. This change will be of importance to all of them.
- 3.14** The estimated cost that will fall to the General Fund from this proposal is £20,000, which remains unchanged from the current position.

The Council Taxbase

- 3.15** The Council is required by law to set the Council Tax Base before 31 January each year. This deadline enables East Sussex County Council, Sussex Police Authority and East Sussex Fire and Rescue to complete their budget and council tax setting processes on a timely basis, and apportion their precepts between the billing authorities in the county.
- 3.16** Town and Parish Councils also need the taxbase to assist in setting their precepts.
- 3.17** In recent years, Cabinet, at its January meeting, has approved the total Tax Base and the constituent elements which will apply in each Town and Parish area of the District. At the same time, Cabinet has confirmed the level of discounts which will apply to second homes and long-term empty properties.
- 3.18** It is not possible for Cabinet to approve the 2013/2014 Tax Base at its 7 January meeting because:
- the new Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012 require the Tax Base to take into account (in total and at Town/Parish area) the impact of the Local Council Tax Support Scheme . The Council will agree the Support Scheme at its meeting on 10 January 2013.
 - the Local Government Finance Act 2012 requires full Council to approve the percentage factor for a higher rate of Council Tax payable on long-term empty properties.
 - Council will be asked to approve the 2013/2014 Tax Base at its meeting on 10 January 2013. A taxbase will be available for all Local Scheme options presented to Council for consideration. As a longstop, Cabinet on 7 January 2013 has been asked to recommend that the Director of Finance, in consultation with the Leader of the Council, determine the final amounts for the Council Tax Base for 2013/14.
- 3.19** The delay in setting the taxbase is of concern to all preceptors and in particular Town and Parish councils who traditionally have budget meetings in December and early January.
- 3.20** However, in order to assist Town and Parish Councils set their precepts and understand the implications of their decisions the Leader of the Council in consultation with the Director of Finance has formulated the solution set out at Appendix 1, which Cabinet is being asked to approve on 7 January 2013. In essence the proposal will ensure a zero percent tax increase for any town or parish that sets the same or lower precept amount in 2013/2014 as in 2012/2013. This will give certainty to the Town and Parish Councils for the coming year.

4 Financial Appraisal

- 4.1** The cost of disregarding war pensions is already within the Council's base budget.

- 4.2** Should the total of taxbase adjustment grants allocated to Town and Parish councils exceed the amount provided by Government (in the provisional funding settlement and the share of the local scheme transitional grant), Cabinet could either recoup the difference in the following year, or consider funding the difference from its own resources. The difference is not expected to be material either way.

5 Legal Implications

- 5.1** The Local Government Finance Act 2012 contains the legislation for the new Council Tax Reduction schemes.
- 5.2** There are two sets of draft Prescribed Default Scheme regulations – Localising council tax support: regulations prescribing: (i) requirements for all council tax reduction schemes (including provisions relating to persons who have attained the qualifying age for state pension credit – (Schedules 1-6) and limited administrative provisions for all applicants – (Schedules 7-8); and (ii) the default council tax reduction scheme.
- 5.3** These two sets of draft regulations were prepared by the Department for Communities and Local Government, and published on 16 July 2012, under the new Schedule 1A to the Local Government Finance Act 1992 (“the 1992 Act”) (to be inserted by Schedule 4 to the Local Government Finance Bill, subject to the will of Parliament).
- 5.4** Proposed regulations for local use across East Sussex have been provided by Eastbourne Borough Council and they will be based upon the draft regulations referred to in paragraph 6.3. Having a common core East Sussex scheme assists in the production of the regulations that each council will need to adopt. This task should not be underestimated.
- 5.5** This is a new service area for the Council and adopting a local scheme requires a robust equality impact analysis, based upon the consultation survey and stakeholder event responses. Failure to produce and consider an equality impact analysis could result in a legal challenge.

Sustainability Implications

- 6** I have completed the Sustainability Implications Questionnaire and there are no significant effects as a result of these recommendations.

Risk Management Implications

- 7** I have completed a risk assessment and identified the following risks and mitigations.

7.1 Risk

There is a cash flow risk and additional public administration cost should next year’s tax bills be delayed because Towns and Parishes are not informed of their taxbase at the usual time in early January. This is a new risk that accompanies the need to determine a Local Council Tax Support Scheme. Taxbase setting follows approval of this new scheme and if a sequential order is followed many Towns and Parishes will need to arrange additional budget setting meetings. Delayed notifications could mean later despatch of council tax bills and collection of monies. The mitigation is to provide Towns and Parishes with some certainty on

the process for setting their precepts within the normal timetable arrangements. This report proposes a solution.

Mitigation

The report to Cabinet on 7 January 2013 proposes a solution.

7.2 Risk

The Royal British Legion has highlighted how a section of the community could be disadvantaged when benefit regulations move from being set nationally to being set locally and the implications of legislative changes are not fully grasped.

Mitigation

This report explains how the legislative framework can be used to deliver the Royal British Legion's outcome.

Equality Screening

- 8** The equality implications are being addressed as part of the scheme design and consultation process. We recognise that failure to address equality implications has led to a number of recent legal challenges across the country where councils have failed to give proper consideration when making policy decisions. We will ensure a thorough assessment is undertaken and we will include an assessment when the scheme proposed for approval is considered by Council on 10 January 2013.
- 9** There is one proposal in this report from the Royal British Legion regarding the Government's Armed Forces Community Covenant. The Council has a local scheme that fully disregards War Pension Scheme and Armed Forces Compensation Scheme payments. The scheme recommended to each Council in East Sussex will propose that in addition to war widow's, war widower's and war disablement pensions, guaranteed income payments (including survivor's guaranteed income payments under the Armed Forces Compensation Scheme) be disregarded in full for working age claimants thus ensuring that receipt of these incomes do not impact upon their Council Tax Support entitlement.

Background Papers

- 10** Localising Support For Council Tax Council tax base and funding for local precepting authorities: Government response to the outcome of consultation <https://www.gov.uk/government/consultations/localising-support-for-council-tax-council-tax-base>
- 11** The Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012 (SI 2012:2914) is available at <http://www.legislation.gov.uk/ukxi>.
- 12** Indicative funding allocations: <http://www.communities.gov.uk/documents/localgovernment/pdf/2146648.pdf>
- 13** The Armed Forces Community Covenant: http://www.veterans-uk.info/interim_covenant/20110516-Armed_Forces_Covenant.pdf

Appendices

- 14** Appendix 1 Local Council Tax Support Scheme Council Tax Base Grant for Parishes Page 9 of 12
- 15** Appendix 2 Letter from the Royal British Legion

**Local Council Tax Support Scheme
Council Tax Base Grant for Parishes**

Background

- 1 Councils have been given freedoms to remove/alter existing exemptions and discounts from council tax. This will have the effect of increasing parish tax bases. This is the first of two significant changes next year.
- 2 The second significant change is that the Government has decided that Parish tax bases will be lowered to reflect the new local council tax support scheme discounts (scheme discounts). This was against all expectations.
- 3 The council tax support will take the form of reductions within the council tax system, replacing national council tax benefit.
- 4 90% of the former benefit grant paid to Billing Authorities will form part of next year's new core funding to Billing and Major Precepting Authorities. This leaves a 10% shortfall.
- 5 This new core funding will reduce the Billing and Major Precepting Authority's Council Tax Requirement and, depending on the design of the local council tax scheme, could help offset the "lost 10%" which is reflected in a lower band D taxbase.
- 6 The funding share provided to Billing Authorities includes a specified amount attributable to parish areas.
- 7 The Government is clear that the funding attributable to the parish areas has been provided to the Billing Authority and expects them to work with local parishes to provide certainty over their funding.
- 8 The indicative funding that Lewes District Council will receive, for passing on to parishes is £320,000. The actual amount will be confirmed in the Provisional Local Government Finance Settlement, expected on 19 December 2012.

A proposal to distribute the funding

- 9 Parishes are waiting to set their precepts and would like a clear statement on how to set their precepts and band D tax levels.
- 10 Lewes District Council's Local Council Tax Support Scheme may well be different in year 1 to subsequent years, so this proposal is for 2013/2014 only.
- 11 The following principles are proposed for determining parish tax bases next year.
 - Step 1: Any net additions/reductions to properties will be added into the parish tax base, as normal.
 - Step 2: The net additions from changes to existing discounts and freedoms will be added into the parish taxbase, as normal.
 - Step 3: The reduction from the local council tax support scheme will be deducted from the parish taxbase, as determined by new regulations. [Page 10 of 12](#)
 - Step 4: The total taxbase will be determined after applying an appropriate collection rate.

- Step 5: A grant will be made to a parish when the taxbase calculation results in less band D properties than in 2012/13.
- Step 6: The grant will be equal to the difference in band D properties multiplied by the band D tax rate for 2012/13.

- 12 This proposal will ensure a zero percent tax increase for any parish that sets the same or lower precept amount in 2013/14 as in 2012/2013.
- 13 If step 4 above results in more band D properties in the taxbase the parish will gain the benefit, (but no grant will be payable). It will have the option to set a lower band D tax or to increase its precept to produce a zero percent increase.
- 14 The grant given to Lewes District Council for distribution is estimated at £320,000. The actual amount will be confirmed in the Local Government Finance Settlement on 19 December 2012.
- 15 The grant is cash limited for all time. The reallocation to parishes for year 1 will be an interim solution. The intention is to identify an ongoing solution from year 2 (2014/2015).
- 16 If the amount distributed to parishes in 2013/2014 is more than the actual Government grant given for that year, it will be recouped during 2014/2015.
- 17 The taxbase position for parishes is likely to increase in 2014/2015 when Lewes District Council considers implementing a robust local council tax support scheme designed to recoups the 10% shortfall.

Accounting for discount growth in the taxbase

Growth in discounts can arise from new applicants or from a change in circumstances of existing applicants.

We need to estimate growth across the tax bases of 28 parishes.

In order to help plan future discount entitlement we will seek to establish the demographics of each parish in terms of:

- 1 The numbers of pensioners and the numbers of working age households.
- 2 The numbers of pensioners and the numbers of working age households receiving help with council tax.
- 3 The projection of pensioner and working age households from census data.

We will if necessary make a provision for growth within each parish in the following ratio:

$$A/B * C$$

Where A = the overall band D taxbase for the parish before any growth allowance.

Where B = the overall band D taxbase for the district before any growth allowance.

Where C = an estimate of equivalent additional band D discount growth across the district in the coming year.

We will then apportion the growth in each parish according to the ratio of band D equivalent properties in each of bands A to H



Patron Her Majesty The Queen
**CHIEF EXECUTIVE
 LEWES DISTRICT COUNCIL**

05 NOV 2012

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Reference: 12/077

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Dear Ms Rowlands

Localised support for council tax – consultation submission

As you will no doubt be aware, as part of the Government's localisation agenda local authorities are now required to design and operate their own council tax support schemes. As part of this process local authorities must consult stakeholders on the proposed design of their schemes. Please accept this letter as The Royal British Legion's submission to your authority's consultation process.

I strongly urge you to ensure that your local authority provides a 100% disregard of military compensation payments when calculating entitlement to council tax support. This includes all War Disablement Pensions, War Widow's Pensions and Armed Forces Compensation Scheme payments. These payments are not an income support payment but are paid as compensation for injury, illness or loss as a result of Service in HM Armed Forces. It is therefore not appropriate, nor a recognition of commitment to the nation, to include such compensation payments in calculations for means tested benefits.

Until the recent changes local authorities were statutorily required to disregard the first £10.00 of these compensation payments. However, following our campaigning work, almost every local authority in the country has used its discretionary power to fully disregard these payments, and this is an approach that we strongly support.

The Government, in its guidance to local authorities, provides a reminder that the discretion to provide a full disregard to them is still available under the new regulations. Indeed it encourages them to do so, in line with the principles of the Armed Forces Covenant¹.

An increasing number of authorities are signing up to the Armed Forces Community Covenant and we are very grateful to those who have done so, or are looking to do so. I believe that the provision of a full disregard of military compensation payments when it comes to calculating council tax support is an essential step in delivering on the principles of the Covenant at a local level.

¹ Localising Support for Council Tax: Vulnerable people – key local authority duties, Communities and Local Government, May 2012.

Shoulder to shoulder with all who Serve

Registered Charity: The Royal British Legion, Haig House, 199 Borough High Street, London SE1 1AA.
 Registered Charity Number: 210779

I would be very grateful if you could confirm to me that your local authority intends to provide a full disregard of War Disablement Pensions, War Widow's Pensions and Armed Forces Compensation Scheme payments in the design of your council tax support scheme.

Yours sincerely

Chris Simpkins DMA, Hon.DUniv, DL Page 12 of 12

Director General