

## CABINET

28<sup>th</sup> November 2012

### REPORT OF THE PORTFOLIO HOLDER FOR CORE SERVICES AND ASSETS

#### LOCALISING SUPPORT FOR COUNCIL TAX - CONSULTATION RESPONSES FOR CONSIDERATION & DCLG TRANSITIONAL GRANT FUNDING (2013 / 14) PROPOSAL

#### EXEMPT INFORMATION

This proposal is not exempt information for the purposes of Part 1 of Schedule 12 (A) to the Local Government Act 1972

#### PURPOSE

For Cabinet to consider

1. DCLG Council Tax Transitional Grant payment proposals together with the risks and implications associated with the grant conditions and impact on the proposed local support for Council Tax Scheme proposals, and
2. The responses to the consultation made with the Public about the proposed Local Council Tax Support Scheme for Tamworth from 1<sup>st</sup> April 2013. Cabinet should then decide, taking into account funding reductions, which proposals to include, exclude or amend before the final scheme is considered and endorsed at full Council on 13<sup>th</sup> December 2012.

#### RECOMMENDATIONS

That Cabinet endorse

1. That the Authority does not apply for the Council Tax Transitional Grant payment, and
2. The proposed Local Council Tax Support scheme (as per Localisation of Council Tax Consultation Final Report – **Appendix 4** attached), having given consideration to the consultation responses.

#### EXECUTIVE SUMMARY

This report details the key issues arising from the Local Support for Council Tax Scheme together with the Department for Communities and Local Government's Council Tax Transitional Grant payment scheme.

## 1. Local Support for Council Tax Scheme

- 1.1 The Welfare Reform Act 2012 confirmed that Council Tax Benefit will be abolished from 1 April 2013, to be replaced by a new Localised Council Tax Support scheme. Grant funding will be reduced by 10% and distributed via the Department for Communities and Local Government rather than by the Department for Work and Pensions.

The Government have specified that Pensioners must be protected from any grant cuts. Accordingly, regulations that mirror the current *Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) 2006* will be devised for Pensioners, which must be adhered to. For Working Age customers, Councils are free to decide their schemes, which will be subject to an overall 10% reduction in grant funding currently received.

The Authority has worked closely with all other Staffordshire District Councils, Staffordshire County Council and the Fire Authority, to design an over arching scheme. Local considerations were then also separately made by each Authority to achieve the savings requirements, based on each area's demographic make up and budgetary restrictions.

### 1.2 Consultation

An eight week consultation period then commenced with the public, focus groups and all other stakeholders to gauge views about the proposals. A total of 10 drop in events were held, both with the public and various groups. The drop in sessions attracted almost 800 visitors.

- ❖ 828 responses were received, which is a statistically robust number. This represents 1.075% of Tamworth's population, which compares favourably to the response rate of all other Staffordshire Local Authorities of between 0.3% and 0.6% of their residents/groups.
- ❖ The degree of endorsement for the proposals was varied, with most support being received for Proposal 9, which provides continued protection for those entitled to a Severe Disability Premium. Least support was received to Proposal 4 under which the Second Adult Rebate would be removed and those of a working age would be responsible for paying 100% of their Council Tax bill. There was a high level of support for five out of the ten proposals as outlined below:

### 1.3 High level of support

- Level of support for pensioners, severely disabled and in receipt of a Severe Disability Premium, claimants with disabled children and claimants receiving a War Pension (Proposal 1);
- Continuing to disregard childcare costs (Proposal 5);
- Claimants and the level of savings allowed (Proposal 6);
- Continuing to exclude Child Benefit payments (Proposal 7);
- Continuing to protect those claiming a Severe Disability Premium (Proposal 9).

1.4 There was a moderate level of support for the remaining five of the ten proposals as outlined below;

Moderate level of support

- calculation of support based on 75% of Council Tax liability rather than 100%, meaning everyone who is not proposed to be protected from any reductions has to pay at least 25% of their Council Tax liability (Proposal 2);
- limit the calculation of support to no more than 75% of Band D liability (Proposal 3);
- removal of Second Adult Rebate for all working age customers (Proposal 4);
- inclusion of maintenance payments as income (Proposal 8);
- increased non dependant charges of £5 per week (currently £3.30 pw) and £10 per week (currently £6.55 - £9.90 pw, depending on gross pay received).

Please refer to **Appendix 4** – Localisation of Council Tax Consultation Final Report for full details of the consultation responses

## **2. DCLG's Council Tax Transitional Grant Payment Scheme**

2.1 On 18<sup>th</sup> October, DCLG made an unexpected announcement about an additional £100m “transitional funding” being made available to Local Authorities (LAs) “to help support them in developing well-designed Council Tax Support Schemes and maintain positive incentives to work”. This grant will be available to those LAs “who do the right thing” in the design of their local scheme.

DCLG would award a grant for 2013/14 only, provided certain conditions are met. The grant applicable to this Authority and Staffordshire County Council is £134.2k. The grant is a means of reducing the potential impact for 2013/14 of the 10% cut in Council Tax Benefits Subsidy.

2.2 Notification of the scheme was received towards the end of the Authority's consultation process in respect of its proposed Local Scheme, approved by Cabinet 15th August 2012. Consultation took place from 3rd September – 28<sup>th</sup> October 2012. The conditions imposed by the DCLG grant would result in material changes to the proposed Local Support to Council Tax Scheme and would not provide sufficient savings to match the estimated Council Tax Benefit Subsidy reductions;

2.3 To comply with the Transitional Grant conditions would require significant changes to the Authority's proposed scheme which would require further consultation, affecting the ability of the Authority to deliver a scheme in line with Government deadlines (31<sup>st</sup> January 2013). The new grant cannot be applied for until after 31<sup>st</sup> January 2013.

2.4 The proposed Local Support Scheme is based on a reduction in benefit for unprotected groups of 25%. To qualify for the grant the maximum reduction

would have to be restricted to 8.5%. In 2013/14 the Authority would be required to undertake further consultation (if transitional grant applied) to increase the maximum reduction to 25% (in line with proposed scheme), to be adopted 2014/15. The deferral of the hardship would then impact in a year of local elections.

- 2.5 This funding is intended to be a 'voluntary grant' where the Local Authority has agreed a Local Council Tax Support scheme which meets the 'best practice criteria' set out by the Government. This best practice contains 3 conditions / rules which must be complied with to qualify for the grant (see detailed background data);

Rule :

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

- 2.6 Implications of above scheme conditions on proposed local scheme

The Authority's proposed scheme is not the existing default scheme and we would have to re-visit our proposals in line with the 3 grant eligibility criteria.

The Authority's proposed scheme does not meet the eligibility criteria set by DCLG.

Under qualifying condition 1 - The 8.5% maximum contribution relates mainly (but not exclusively) to the level of eligible liability under a local scheme. The Authority's proposed scheme is to base support on 75% of Council Tax liability for most working age people. Analysis shows that to reduce this from 75% to no more than 8.5% for passported claims would give benefit reductions/ savings of £436.8k rather than the £718k that the proposed scheme would bring.

The DCLG grant incentive is contradictory, as the criteria stipulates that those who do not work should be protected from more than an 8.5% reduction. It is not conducive to the 'make work pay' agenda.

For standard claims, the effect of the taper, tariff income from capital, Non dependant deductions etc would result in a greater than 8.5% contribution - however these claims would not have had 100% Council Tax Benefit, again due to the effects of tapers, Non dependant deductions, tariff income etc, and therefore would not fall under rule 1.

Any current passported claim where a Non Dependant deduction is applied would not be getting 100% support currently and would not fall under rule 1.

The Authority's proposed scheme includes limiting the eligible liability to the level of Band D. This would exclude the Authority from meeting the criteria in rule one.

Protecting passported claims from higher Non dependant deductions and capital limits but applying them to standard claims would not comply with rule 3 as it could create a sharp reduction for those entering work.

The main aim of rule 3 is to prevent LAs from having a 91.5% or higher eligible liability for passport benefit claims but to have a lower rate of maximum eligible liability for other claims. Such a situation would create a 'cliff edge' for those starting work as, under such a local scheme, a person out of work would have their Local Council Tax Support assessed based on 91.5% of liability, but as soon as they started work the starting point for assessment would be reduced to 75%.

Rule 3 therefore suggests that the eligible liability for support under local schemes would have to be set at 91.5% or higher for all claims and that this forms the starting point for the taper reductions for those starting work.

By applying the maximum 8.5% contribution as required for the transitional grant will impact on collection costs so that the additional costs of collecting the even smaller amount of Council Tax may outweigh any savings achieved.

The overall effect therefore may be additional costs to LAs despite receipt of the transitional grant.

The conditions of the grant payment scheme are open to interpretation and for this reason financial modelling has been undertaken on Passport Cases Only – delivering estimated benefit reductions of £436.8k – **Appendix 3** and Aligning All Working Age Claimants delivering estimated reductions of £296.7k (only) – **Appendix 2**.

## RESOURCE IMPLICATIONS

The proposed scheme has been modelled on delivering an estimated benefit reduction in the region of £700k.

Based on recent caseload, the proposed scheme would deliver estimated benefit reductions of £718k (**Appendix 1**). If the conditions attached to the transitional relief are applied to the model this would result in revised estimated benefits reductions of £436.8k (Applying changes to passport cases only – **Appendix 3**) and £296.7k (Aligning all working age claimants – **Appendix 2**). The above shortfall would be reduced (2013/14 only) by the Transitional Grant of £134.2k resulting in gross deficits of £129k & £269.1k respectively.

As the grant is only applicable for one year, the current scheme would need to be adopted for future years if Council Tax Support reductions are not to have adverse financial impact in future years (2014/15 onwards). The shortfalls are the gross impact affecting the Collection Fund of which this Authority's current share is 10.5%.

Financial resources are in place to support changes to the Capita System in line with proposed scheme changes – release of resource to support IT changes to the Capita System is subject to a separate Cabinet report.

## CONCLUSIONS

### Proposed Local Council Tax Support Scheme

The scheme as endorsed for consultation (Cabinet 15<sup>th</sup> August 2012) delivers the estimated grant reduction (Appendix 1) required under the new Local Council Tax Support Scheme (10 % reduction on previous grant payments).

The results of the consultation are detailed in the Localisation of Council Tax Consultation Final Report – **Appendix 4** (attached). There are no material implications raised following the consultation – as detailed above (Executive Summary), if the proposed scheme is endorsed without further amendment.

### DCLG – Transitional Grant Scheme

In light of the risks identified above and subject to any further changes being identified, the risks and uncertainties affecting both finances and operations outweigh the short term benefits of a one year transitional grant. I would not be advocating that we expose the Authority to the risks by taking up the transitional grant offer. The proposed scheme, which has been consulted on will, on our estimates, deliver the required savings without adversely affecting the Medium Term Financial Strategy (2013/14 onwards). The change in scheme required to comply with the scheme conditions would expose the Authority to additional and unnecessary risk.

The three rules leave little discretion to achieve these savings from elsewhere in our local scheme. We would be unable to limit the eligible liability by a percentage over 8.5% or by banding and we are being discouraged from increasing Non dependant deductions.

The only options available therefore would be to

- Remove or reduce unearned income disregards, e.g. Child Benefit, war pensions etc (our proposal already specifies the inclusion of maintenance)
- Reduce earnings disregards
- Cap maximum support for those not currently on 100% Council Tax Benefit
- Increase the taper amount to 25%, the maximum under rule 2

These options impact most on those in work and remove some of the incentives to work as per the Universal Credit ethos. This is despite DCLG's statement that the £100m is intended "to support local authorities in developing well-designed Council Tax Support schemes and maintain positive incentives to work."

This means that any additional savings requirements may therefore have to be found from elsewhere than the LCTS scheme, through additional efficiency savings, savings from other services or additional contributions from the General Fund.

Furthermore, the currently proposed local scheme seeks to protect those who have a Severe Disability Premium, those with disabled children and those with a War Widows/War Disablement Pension.

## LEGAL/RISK IMPLICATIONS

Full Equality Impact Assessments were considered and taken into account when the scheme proposals were drafted.

If the Authority's Local Support to Council Tax Scheme is not endorsed or in place by the 31<sup>st</sup> January 2013 then the default scheme will have to be applied. The implementation of a default scheme would result in the Authority having to implement the existing scheme, financing the 10% reduction and suffering additional benefit cost in 2013 /14 (onwards) as the existing benefit limits would be up-lifted by inflation.

### Risks Associated with adopting the proposed Government Transitional Grant Scheme

The following risks have been identified :-

Ref	Associated Risk	Risk Factor
1	Budgets will have to be set before grant notification received	High / Medium
2	The local scheme would need to be approved before confirmation of grant payment was received <i>Although DCLG say that the funding amounts listed for each LA in the Annex to the DCLG document are almost guaranteed, there is no guarantee that that amount will be payable.</i>	High / Medium
3	Adoption of Grant would result in further financial strain on the Medium Term Financial Strategy based on estimated shortfall in achievement of estimated grant reductions / (10.5% Scheme Shortfall / 89.5% Preceptors)	Medium
4	Possibility of equalities challenges / judicial review – dependant on groups affected – resulting in deferral of scheme implementation / additional legal costs / failure to deliver planned savings	High
5	Failure to adopt a local scheme by 31 <sup>st</sup> January 2013 would result in the default scheme being imposed which we cannot afford. System needs to be in place re January 31 <sup>st</sup> deadline	High / Medium
6	Impact / costs associated with system changes 2014/15 onwards ( including potential further consultation)	Medium
7	Political risk – the proposal appears only to relate to 2013/14 ( County Elections) full impact of the 25% would hit in 2014/15 (Local Elections)	High
8	The late notification of the payment and required changes to the proposed scheme (Local Support) would require a further round of consultation – there is insufficient time to undertake further consultation and obtain appropriate	High

approvals in time to comply with the DCLG timeframe deadlines (31 <sup>st</sup> January 2013).	
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A straw-poll (local area) of Authorities has indicated that the vast majority are not considering taking up the grant.

## **SUSTAINABILITY IMPLICATIONS**

Funding for the replacement of the current Council Tax Benefit scheme will be changed from AMEY (unrestricted reimbursement of Council Tax Benefit subsidy) to DEL (restricted, pre allocated grant figure). The Council must be aware that there will be little room for contingency if, for instance, a major local employer goes into administration.

## **REPORT AUTHORS**

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## **LIST OF BACKGROUND PAPERS**

Cabinet Report / Slides – Cabinet 15<sup>th</sup> August 2012  
DCLG Transitional Grant Payment Scheme – Briefing Report

## **APPENDICES**

Proposed Local Council Tax Scheme – Estimated Benefit Reduction – **Appendix 1**  
Implications of DCLG Transitional Grant Payment Scheme (Passport Cases Only – **Appendix 2** & Aligning all Working Age Claimants – **Appendix 3**)  
Localisation of Council Tax Consultation Final Report (**Appendix 4**)

## **BACKGROUND INFORMATION**

### a) Council Tax Local Support Scheme Proposals 2013/14 (onwards)

1. The Government is committed to retaining Council Tax Support for the most vulnerable in society and taking forward plans for Councils to develop local Council Tax reduction schemes. The Welfare Reform Act 2012 contains provisions for the abolition of Council Tax Benefit, paving the way for new localised schemes. On 17<sup>th</sup> May 2012, *Localising Support for Council Tax – A Statement of Intent* was published.

2. The Statement of Intent sets out policy statements of intent for the regulations to be provided under the Local Government Finance Bill for England and explains the policy intent of the regulations and how they will enable the delivery of local Council Tax support. The document is specific in the rules for pensioners but has given Local Authorities little direction regarding policy for Working Age customers.



3. Consideration of the Department for Communities and Local Government policy intention document - *Localising Support for Council Tax Vulnerable people – key Local Authority Duties* was also made when devising the proposed Local Council Tax Support scheme.

4. *Localising Support for Council Tax – Funding Arrangements Consultation* gave details of how funding for a Council Tax reduction scheme will be reduced from 2013 onwards. Accordingly, regard for these budgetary cuts must also influence the design of a Local Council Tax Support scheme.

5. *Localising Support for Council Tax - Taking Work Incentives into Account* was also considered when drafting the policy.

6. If Councils do not have a local scheme in place by 31<sup>st</sup> January 2013, the Government will impose a 'default scheme' which is the current Council Tax Benefit scheme. This option is not sustainable as the current scheme is fully subsidised by the Department for Work and Pensions, regardless of caseload and any new scheme will have a fixed annual grant *only* which will be at least 10% less than it is now.

b) DCLG Transitional Grant Payment Scheme (2013/ 14 only)

1. On 16<sup>th</sup> October, DCLG made an unexpected announcement about an additional £100m "transitional funding" being made available to Local Authorities (LAs) "to help support them in developing well-designed Council Tax Support Schemes and maintain positive incentives to work". This grant will be available to those LAs "who do the right thing" in the design of their local scheme.

2. DCLG would award a grant for 2013/14 only, provided certain conditions are met. The grant applicable to this Authority and Staffordshire County Council is £134.2k. The grant is a means of reducing the potential impact for 2013/14 of the 10% cut in Council Tax Benefits Subsidy.

3. Applications can only be made after the deadline for adopting a local scheme. The deadline for making an application is 15<sup>th</sup> February 2013 and the grant payment will be made in March 2013. However, there is a risk that any amendments might not satisfy DCLG interpretation of conditions and expose the Authority to further financial risk.

It is not yet clear what data or verification of schemes DCLG will require from LAs as part of the grant application process in order to assess whether the scheme meets the qualifying rules.

4. Notification of the scheme was received towards the end of the Authority's consultation process in respect of its proposed Local Scheme, approved by Cabinet 15th August 2012. Consultation took place from 3rd September – 28<sup>th</sup> October 2012. The conditions imposed by the DCLG grant would result in material changes to the proposed Local Support to Council Tax Scheme and would not provide sufficient savings to match the estimated Council Tax Benefit Subsidy reductions.

5. To comply with the Transitional Grant conditions would require significant changes to the Authority's proposed scheme which would require further consultation which could affect the ability of the Authority to deliver a scheme in line with Government

deadlines (31<sup>st</sup> January 2013). The new grant cannot be applied for until after 31<sup>st</sup> January 2013.

6. The proposed Local Support Scheme is based on a reduction in benefit for unprotected groups of 25%. To qualify for the grant, the maximum reduction would have to be restricted to 8.5%. In 2013/14 the Authority would be required to undertake further consultation (if transitional grant applied) to increase the maximum reduction to 25% (in line with proposed scheme), to be adopted 2014/15. The deferral of the hardship would then impact in a year of local elections.

7. This funding is intended to be a 'voluntary grant' where the Local Authority has agreed a Local Council Tax Support scheme which meets the 'best practice criteria' set out by the Government. This best practice contains 3 conditions / rules which must be complied with to qualify for the grant;

Rule :

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

8. Implications of above scheme conditions on proposed local scheme

Because the Authority's proposed scheme is not the existing default scheme we would have to re-visit our proposals in line with the 3 grant eligibility criteria.

The Authority's proposed scheme does not meet the eligibility criteria set by DCLG.

9. Qualifying Conditions

Under qualifying condition 1 - The 8.5% maximum contribution relates mainly (but not exclusively) to the level of eligible liability under a local scheme. The Authority's proposed scheme is to base support on 75% of Council Tax liability for most working age people. Analysis shows that to reduce this from 75% to no more than 8.5% for passported claims would give savings of £436k rather than the £700k that the proposed scheme would bring.

The DCLG grant incentive is contradictory, as the criteria stipulates that those who do not work should be protected from more than an 8.5% reduction. It is not conducive to the 'make work pay' agenda.

For standard claims, the effect of the taper, tariff income from capital, Non dependant deductions etc, would result in a greater than 8.5% contribution - however these claims would not have had 100% Council Tax Benefit, again due to the effects of tapers, Non dependant deductions, tariff income etc and therefore would not fall under rule 1.

Any current passported claim where a Non Dependant deduction is applied would not be getting 100% support currently and would not fall under rule 1.

This suggests higher Non dependant deductions may be applied under a local scheme where a Non dependant deduction currently applies, but not where a zero rate applies.

The Authority's proposed scheme includes limiting the eligible liability to the level of Band D. This will exclude us from meeting the criteria in rule one.

This is because the reduction in liability of any households living in properties in higher bands will be greater than the 8.5% and it will not comply with the grant criteria. In such situations we would have to remove the proposal to cap support based on a maximum of Band D.

Protecting passported claims from higher Non dependant deductions and capital limits but applying them to standard claims would not comply with rule 3 as it could create a sharp reduction for those entering work.

However, rule 3 only stipulates the way that the taper must apply to the maximum eligible liability. It further seems to state that the maximum eligible liability must remain at least 91.5% for standard claims. This is unclear, but the assumption must be made that this interpretation is correct. Tamworth's proposed scheme would therefore not comply with rule 3 on this basis.

The main aim of rule 3 is to prevent Local Authorities from having a 91.5% or higher eligible liability for passport benefit claims but to have a lower rate of maximum eligible liability for other claims. Such a situation would create a 'cliff edge' for those starting work as, under such a local scheme, a person out of work would have their Local Council Tax Support assessed based on 91.5% of liability but as soon as they started work the starting point for assessment would be reduced to 75%.

Rule 3 therefore suggests that the eligible liability for support under local schemes would have to be set at 91.5% or higher for all claims and that this forms the starting point for the taper reductions for those starting work.

By applying the maximum 8.5% contribution as required for the transitional grant will impact on collection costs so that the additional costs of collecting the even smaller amount of Council Tax may outweigh any savings achieved.

The overall effect therefore may be additional costs to LA's despite receipt of the transitional grant.

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