

AGENDA MANAGEMENT SHEET

Name of Committee	Leader Decision Making Session
Date of Committee	9 September 2010
Report Title	Consultation on Local Referendums to Veto Excessive Council Tax Rises
Summary	This report will give Warwickshire County Council's response to the Government's consultation on local referendums to veto excessive council tax figures.
For further information please contact:	Rob Phillips Corporate Budget Accountant Tel: 01926 412860 robertphillips@warwickshrie.gov.uk
Would the recommended decision be contrary to the Budget and Policy Framework?	No.
Background papers	None

CONSULTATION ALREADY UNDERTAKEN:- Details to be specified

- Other Committees
- Local Member(s)
- Other Elected Members Cllr Saint, Cllr Roodhouse, Cllr Tandy – for information
- Cabinet Member Cllr Farnell, Cllr Heatley, Cllr Wright for comment
- Chief Executive
- Legal Sarah Duxbury for comment
- Finance David Clarke, Strategic Director, Resources
- Other Chief Officers
- District Councils
- Health Authority
- Police

Other Bodies/Individuals

Janet Purcell, Cabinet Manager

FINAL DECISION YES

Leader Decision Making Sessions - 9 September 2010

Consultation on Local Referendums to Veto Excessive Council Tax Rises

Report of the Strategic Director, Resources

Recommendation

The Leader approves the response to the consultation, on behalf of Warwickshire County Council, as set out in Appendix A

1 Background

In July 2010 central government announced that it would be scrapping council tax capping, replacing it with local referendums for stopping excessive council tax increases. The Department for Communities and Local Government has now published a consultation paper on the principles and operation of local referendums to veto excessive council tax increases. The consultation closes on 10 September 2010. This report outlines the Government's plans, the process for triggering a referendum and seeks approval to Warwickshire County Council's response to the consultation.

2 Consultation Proposals

2.1 The Government intends to introduce legislation for council tax referendums at the earliest opportunity. This is likely to be in the Localism Bill which will be presented to Parliament in autumn 2010. The following paragraphs are a brief outline of the proposals contained in the consultation, the criteria by which a referendum is triggered and the arrangements for holding a referendum.

2.2 Setting a Principle

Each year the Secretary of State for Communities and Local Government will 'determine a principle based on a comparison of an authority's level of council tax compared with the level in the previous year'. The Secretary of State will also be able to set differential principles for different categories of authorities. This is aimed at enabling the particular circumstances affecting categories of authorities to be taken into account, such as the impact of Formula Grant distribution or pressures on services provided by a specific category of authority, but the exact nature of the principles is at the discretion of the Secretary of State.

- 2.3 The principles will apply to **all** billing authorities and precepting authorities, including police authorities and parish and town councils. It will also apply to directly elected Police and Crime Commissioners.
- 2.4 The Government intend to publish its proposed principles at around the same time as the publication of the provisional Local Government Finance Settlement in late November/ early December. Both the settlement and the report containing the principles will be debated at the same time in the House of Commons.
- 2.5 Preparing Budgets
An authority planning a council tax increase in excess of that specified in the Secretary of State's principles will be required, at the same time, to prepare a 'shadow budget' based on the maximum council tax increase allowed by the principles. The authority will then be required to hold a referendum. The final date for referendums is the first Thursday in May (the usual date for local authority elections).
- 2.6 If an increase above the principle is proposed, the authority will be required to send council taxpayers information outlining the council tax increase and budget, the comparative increase within the limit and the shadow budget, and the estimated cost of the referendum. This information and polling cards will be sent at the same time as council tax bills. Councillors would be able to campaign for (or against) the proposed increases in the run-up to the referendum; the authority itself would be forbidden from campaigning.
- 2.8 Referendum Arrangements
Billing authorities (for the County Council this will be the district/borough councils) will be required to organise and administer referendums, although the authority requiring the referendum to be held will have to pay for it. If more than one authority sets a council tax above the principles there would only be one referendum but a separate vote for each authority. The referendum would be open to all registered electors in the local authority, not only those who pay council tax; consequently, those council taxpayers who do not have a right to vote in local elections would be excluded. There will be no minimum requirement for turnout and a simple majority will determine the outcome of the referendum. Provisions for the referendum will be based on the existing arrangements for mayoral referendums.
- 2.9 After the Referendum
If the referendum approves the higher increase wanted by the authority then the budget originally set will be implemented. However, if a majority vote against, the authority will be required to immediately adopt and deliver the shadow budget, with any payment of precept be reduced accordingly.
- 2.10 It would be a decision of the billing authority as to whether they issue new bills immediately, offer refunds at the end of the year or allow credits against the council tax liability for the next year. The requirement, in existing legislation, for billing authorities to refund and re-bill any council taxpayers who make this request, will remain.

2.11 Ending Capping

When the legislation is enacted the Government will repeal its capping powers, however, until provisions for referendums are in place the Government will reserve the right to use existing capping powers.

3 **WCC Response**

- 3.1 A copy of the proposed response to the consultation from WCC is attached as **Appendix A**. The response comprises of overall comments on the principle of the consultation and answers to the specific questions.

DAVID CLARKE
STRATEGIC DIRECTOR
RESOURCES

Shire Hall
Warwick

19 August 2010

Response of Warwickshire County Council to Consultation on Local Referendums to Veto Excessive Council Tax Rises

This is Warwickshire County Council's response to the "Consultation on Local Referendums to Veto Excessive Council Tax Rises".

We accept that the *Coalition Programme for Government* included the statement that the Government would "give residents the power to veto high council tax increases". However, by simply asking technical questions the Government is not consulting those with the best knowledge or ideas as to how this could be achieved. Instead a system is being imposed on local government and the only voice we are being given, by the consultation, is how to make the proposals as practical as possible.

We therefore believe it is necessary to comment on the overall approach being taken before responding to the specific questions in the consultation.

Overall General Comments

Warwickshire County Council is not in favour of the introduction of local referendums to veto council tax rises. The process undermines the role and purpose of locally elected councillors and would place a significant extra burden on local authorities at a time when local authorities are seeking to make savings.

We believe that if the Government wish to give residents the power to veto high council tax rises they should embark on a wider consultation as to the most effective way to do this.

The significant administrative burden involved in holding referendums on excessive council tax increases will effectively deter locally elected councillors from setting a council tax level above the level set out by the Secretary of State's principles. If these principles are tightly drawn the effect would be to effectively reintroduce universal capping. There may also be a tendency all local authorities will gravitate towards the level of increase specified in the principles as being an "acceptable" increase, giving higher overall average increases than would otherwise be the case. Therefore, whilst the proposal discusses the abolition of the old capping regime it seems that the new proposal is 'capping' under a different name. The political impact would be that all local decisions about cutting services would be blamed on central government, abdicating the local politicians of responsibility.

We feel that the citizens of Warwickshire have elected their County Councillors to represent them in the decisions that the County Council have to make, including the setting of council tax for the authority. In many cases, councillors have been elected on the back of promises made regarding service provision or pledges made on the level of council tax. Any restriction on the level of council tax that authorities can set from central government undermines the local democratic process. If there is a belief in central government that the democratic process is failing to hold elected politicians

accountable then this should be tackled directly, and not as a bolt-on to the local government finance system.

On a separate issue, and one not covered by the specific consultation questions, whilst we appreciate that local authority councillors are free to campaign for the increase in council tax, local authorities themselves are not. Does this mean the local authority effectively enters a period of 'Purdah'? This would have a significant effect on the decisions that can be taken by the authority during the run up to the referendum. Also, members would be distracted from normal Council business whilst the referendum was taking place.

Specific Consultation Questions

1. **Do you agree that local precepting authorities, such as town and parish councils, should be included within the provisions for council tax referendums? If so,**
 - **are there details about the budget setting process for local precepting authorities which need to be taken into account?**
 - **will the 'double lock' mechanism work to protect the majority of town and parish councils?**

*If referendums are to be introduced, we are of the view that **all** authorities should be included within the provisions of the legislation. It would be inequitable for local precepting authorities not to be required to operate under the same constraints as other parts of local government.*

2. **Are the Local Authorities (Conduct of Referendums) (England) Regulations 2007 the right model for organising and administering council tax referendums?**

If referendums are to be introduced, the above regulations appear to be an acceptable model for organising and administering the council tax referendums. However, as the vast majority of local government has never used these regulations, it is not possible to say that they would be appropriate in all circumstances.

3. **Are there any practical difficulties in requiring council tax referendums to take place no later than the first Thursday of May?**

Practically holding a referendum would be a significant administration burden for billing authorities, who may not even be party to the decisions causing a referendum to be required. Such an additional burden would divert attention from their primary responsibility – that of running their own council.

There would be a very brief time for collating information and the necessary co-operation between precepting/ billing authorities to ascertain that the billing authority had all the information required to run the referendum effectively.

As an upper tier precepting authority we would not be involved in the organising and running of the council tax referendum itself. We would have no say in either how this was done or the level of costs to be incurred. We could not plan for these costs in our budget, or for the costs of rebilling in our shadow budget as both would be dependent on how many other precepting authorities were also seeking a referendum in the same year – and all other local precepting bodies have statutory deadlines for setting their budgets later than our own.

In addition, the administration required to create the shadow budgets, the holding of the referendums, the rebilling or reimbursement of council tax payers would all increase the level of bureaucracy at a time when local authorities are seeking to streamline services and become more efficient. The costs of all this administration would inevitably fall on tax payers further increasing the pressure on local authorities' budgets.

Given the level of cost involved, no authority is likely to set an “excessive” increase lightly. But, holding the referendum on the first Thursday of May would effectively put on hold the delivery of the budget until the outcome of the referendum is known. This would have a detrimental effect on the services provided to our customers and increase uncertainty. From 1 April, to implement their approved budget, a local authority will have already begun providing the level of services this budget requires. If this increase is rescinded, it may be difficult for the local authority to extricate itself from contracts, staffing commitments etc. to allow a switch to the shadow budget. The effect would be for the authority to be in limbo until the result of the referendum is known.

If the referendum went against the wishes of the elected politicians then the shadow budget, with a lower level of spend would have to be implemented part way through the year. In the current financial circumstances, this is likely to require even more significant cuts in services that would themselves be subject to further statutory consultation. A double whammy as it would be the autumn before any service closures could be implemented and only a part year effect delivered in the first year. The practical effect of these proposals is to re-introduce universal capping by the back door, undermining the principle of local democratic control.

As an aside, further clarification is needed on the status of the statutory publications and returns we are legally obliged to publish/ provide and how they would be affected. By the time of the referendum we will have produced:

- *A council tax leaflet – It is unclear whether we would have to provide a new leaflet showing the shadow budget. If so, this would increase costs. It would also potentially remove the efficiency saving of producing joint leaflets across several authorities, as already happens in many areas. If the council tax leaflet had to be reissued due to one local authority having an ‘excessive’ council tax increase there would be a knock on effect on the reputation to those authorities who did not set an excessive increase but may be perceived in a similar light because they share the leaflet.*
- *As a precepting authority we are legally obliged to send the billing authorities details of our precepts. These would now be incorrect; it is*

unclear the process we would have to go through to legally reissue the precepts with the correct amounts.

- *RA returns – which are provided for Government planning purposes. The original return would now be inaccurate and would need resubmitting. However, the statistics would have already been compiled by the time the referendum would be held. This would increase the administration for the local authority in resubmission and for central Government and CIPFA in recalculating the statistics. These returns also form much of the benchmarking information used across local government. These changes run the risk of such information being out-of-date and/or wrong, making any comparative information increasingly worthless.*
- *BR2 return – again this is due in before the referendum would be held and would require resubmission. However, will this be abolished in light of the requirement to calculate a budget requirement figure being abolished?*

4. What are the advantages and disadvantages of holding a council tax referendum on the same day as another local referendum, or jointly with a local and/or general election? Current regulations allow for higher expenses per elector in a referendum than in a local election – would this raise any concerns if both votes are held on the same day?

Whilst the holding of a referendum on the same day as another local referendum or local /general election seems logical and more effective, there would also be a significant impact on the administration of the referendum.

There could be a considerable number of referendums/ elections taking place at the same time. In some areas, taxpayers/ voters could face votes on parish, district and county council and police authority referendums as well as any other local referendums plus parish, district, county council elections. On top of that there could be national referendums, national elections and European elections. There is also the potential for mayoral and police authority elections in the future. This could lead to voter confusion at the ballot box over what they are voting for and also the likely increase in voter fatigue as voters are bombarded with copious amount of information from all parties concerned in all elections.

From an administrative point of view not only would the administration of ensuring that the correct voting papers are available and can be counted in a timely manner there would be confusion over who is eligible to vote on what. There is also the potential that not all boundaries are coterminous with voting areas for all of the authorities and polling stations and not all elections are held at the same time meaning that some people will only vote once but others may vote several times heightening voter confusion and increasing administration.

5. What provision, if any, should be made for properties where the council tax payer is not a local elector?

With reference to the response to question 4 above although it would be more democratic we feel that it would be administratively too complex to make provision for every council tax payer where they are not a local elector.

6. Does the timetable at Annex A provide sufficient stability and certainty for local authorities when planning their budgets? Does it provide sufficient time to organise and administer referendums?

The draft timetable provided in the consultation does not provide sufficient stability and certainty when planning our budgets. The release of the provisional council tax referendum principles in late November/ early December is far too late. We set a draft budget by November to allow consultation with the other political groups and the public. This enables time for us to consult with users on those service areas that are facing reductions in funding and give the authority time to plan for the inevitable redundancies and cessation of services that will occur. If the principles for council tax referendums are not released until November/ December then our consultation process will be clouded with uncertainty over the level of funding we will receive.

If the Government is intent on going ahead with issuing principles in November/December then, at the very least, the principles must be fixed at this point. It is completely impractical to expect authorities to manage the risk that principles may change right up until the beginning of February and still operate efficient and effective budget and service planning processes. Any late changes to principles could invalidate the budget plans already made and lead to short term (potentially sub-optimal) decisions being made.

7. Is it right to give local authorities the discretion to issue new bills immediately, offer refunds at the end of the year or allow credits against liability in the following year?

We feel that is right to give local authorities the discretion to issue new bills immediately, offer refunds at the end of the year or allow credits against the liability in the following year. This would ensure that local authorities can determine the least costly method of refunding council tax payers and give them the flexibility to meet our customers' requirements.

8. How should billing authorities treat bank interest earned on excessive increases that have been rejected in a referendum?

Billing authorities should treat bank interest earned on excessive increases that have been rejected in a referendum as money in trust for the relevant precepting authority. This should be refunded to the appropriate precepting authority as part of their precept payments to the authority. It would need to be clearly stated what element of the precept payment was due to bank interest on the excessive council tax increase. Unfortunately this would increase the administrative burden on billing authorities in the collection and transferring of precept money.

9. What practical difficulties, if any, would there be for a billing authority seeking to recoup the cost of a referendum held on behalf of one or more precepting authorities?

As a precepting authority the process of payment to a billing authority would be relatively straightforward. The complications arise due to the calculation of the cost of the referendum, the share of the costs amongst the participating authorities. If one or more authorities were involved this would involve considerable time and administration for the billing authority.

10. Are there any technical difficulties with the removal of alternative notional amount reports?

There are no technical difficulties with the removal of alternative notional amount reports. However, it should be pointed out that most authorities when going through a change in finance, structure or function would have to recalculate their budget requirement for comparative purposes. The removal of this requirement will make the process much less prescriptive.

11. With the abolition of capping, is there any reason why authorities should be required to calculate a budget requirement each year?

It is likely that even with the removal of the requirement for authorities to calculate a budget requirement that local authorities will still effectively calculate one. This calculation would be required to identify the level of council tax that needed to be levied. Although it is hoped that the removal of this requirement would lead to a lowering of the burden of reporting on local authorities, central government would need to ensure that local authorities were aware of their reporting requirements (if any) to ensure we could provide the appropriate information.

The removal of the need to calculate a budget requirement would suggest that this would not be part of the Governments principles on excessive council tax criteria. It is imperative that local authorities receive ample warning and information about these principles as soon as possible.