

Chesham Town Council



Bill Richards
Town Clerk

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31st August 2010

Dear Councillor

I hereby give you notice that a **special meeting of the POLICY AND RESOURCES COMMITTEE** to be held in the Council Chamber, The Town Hall, Chesham, on

MONDAY 6th SEPTEMBER 2010 AT 7.30 PM

when the business set out below is proposed to be transacted:

AGENDA

1. Apologies for absence.
2. Declarations of interest.
3. To receive and confirm the Minutes of the meeting of 28th June 2010.
4. Consultation Response – Local Referendums to Veto Council Tax Increases.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'W. Richards'.

Bill Richards
Town Clerk

Circulation:

Councillor V.M. Abraham

Councillor A.K. Bacon

Councillor Ms J. E. Bramwell

Councillor M.E. Brand

Councillor N.L. Brown

Councillor M. Fayyaz

Councillor Mrs J.C. Fulford

Councillor F.G. Holly

Councillor Mrs C.M. Michael

Councillor Mr M.W. Shaw

Councillor P.W. Yerrell

Publication Date 31.8.2010



AGENDA ITEM NO 4: - CONSULTATION ON EXCESSIVE TAX REFERENDUM

Reporting Officer: Bill Richards (01494 583824)

Summary

1. To consider a response to the Department of Communities and Local Government (DCLG) in respect of consultation on possible proposals to allow for referenda on 'excessive tax increases'.

Background Information

2. DCLG's consultation period is running for 6 weeks (30 July – 10 September) rather than the minimum of 12 weeks. This has raised considerable concern among all sections of local government as this period is in the middle of the summer holidays when most Councils have few, if any, meetings scheduled in and many Members and officers are away.

Financial Implications

3. As outlined within the report.

Strategic Objectives

4. Accords with the Council's strategic aim 6 – *'To represent the views and wishes of the citizens of Chesham'*.

Detailed Consideration

5. The consultation paper is duly **attached**.
6. As can be seen, the paper specifically refers to town and parish councils and gives an example (point 8) as to a parish council setting a higher precept than a District Council. However it is not recorded that Breckland's Band D council tax of £68 only sources just 30% of its net funding. So if it was a town/parish council, and did not receive Revenue Support Grant and Business Rate income, its Council tax would be £224 - quite a bit more than most town/parish council's Band D tax. And on top of that, the County and Police Authority in Norfolk together have a net spend which is 23 times more than that of Breckland District.
7. The implication of the "£100 parish to £68 district" comparison being so prominent in the Consultation Paper is that it clearly meant to flag up some town/parish councils as "high-spending" and therefore needing to be cut back. This is the first time that town/parish councils have been scrutinised in this way and is surely significant.

8. This sudden spotlight on town and parish councils has caused much unease among first tier authorities as the implications have become clear. The Clerk of one of the bigger town councils has written on the Larger Councils' forum that *'The Government's ear is probably being bent by shire districts where much of its power-base lies. The Government has also said "no" to the creation of more unitaries, and so they are left with a 3-tier system. In that system the relationship between districts and large town councils is not always the co-operative partnership role it ought to be. I suspect that the Government is happy with the 'traditional' talking-shop type of smaller town/parish councils who will be de minimis and excluded. But they may not see a role for those town and parish councils who want to be more active, and who (without any funding from NNDR or Revenue support grant) can only do this by increasing their Council tax'* and it is hard to disagree with his analysis.
9. While, of course, it is not unreasonable for first tier authorities to have their finances scrutinised further (even though this Council, along with other large councils, has an expensive and lengthy external audit each year), the main concern is the proposal for town and parish councils to be included in a local referendum on excessive tax increases. Such a referendum would be very expensive and an estimate from Chiltern District Council's officers in the Electoral Services Division suggests that it could be in the region of £20,000. This approximates to 2.5% of this Council's precept. Town and Parish Councils are almost totally reliant on the Council Tax to be active within their community and, by this proposal, will certainly make it hard, if not impossible, to expand their services to the benefit of their residents both because of the cost of a referendum and because 'winning' such a referendum on a simple majority vote is, historically, rare.
10. A draft response from the Clerk of Swanley Town Council is also **attached** which highlights well the issues for larger councils such as ours.
11. Due to the timescales involved and the importance of this consultation, the Chairman of the Policy and Resources Committee has agreed to a special meeting of the Committee to deal with this matter.

Recommendation

That the Committee responds to the consultation raising its objections to the idea of town and parish councils being included in referenda on excessive tax increases along with any other observations it may wish to make.

Bill Richards
Town Clerk



Local referendums to veto excessive council tax increases

Consultation



Local referendums to veto excessive council tax increases

Consultation

Department for Communities and Local Government
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About this consultation

Scope of consultation

Topic of consultation	A proposal to allow local referendums to veto excessive council tax increases as an alternative to capping by central government.
Scope of consultation	This consultation seeks views on the practicality and technical feasibility of the scheme, particularly from local authority practitioners.
Geographical scope	England. The relevant legislation covers both England and Wales but the administration of council tax in Wales is a matter for the Welsh Assembly Government.
Impact assessment	Relevant provisions will be included in the Localism Bill, which will be subject to a full impact assessment.

Basic information

To	Local authorities (including police authorities, fire and rescue authorities and local precepting authorities). Representative organisations (including the LGA, London Councils, IRRV, Cipfa, NALC) and others with an interest in local taxation issues.
Body responsible for the consultation	Department for Communities and Local Government
Duration	Six weeks (30 July to 10 September). This is in line with the arrangements agreed under the <i>Framework for Partnership</i> with the Local Government Association.
Enquiries	Jasna Begum Local Government Finance Directorate Department for Communities and Local Government Zone 5/D2 Eland House Bressenden Place London SW1E 5DU Telephone: 030 3444 1304 Email: counciltax.consultations@communities.gsi.gov.uk
How to respond	To either of the addresses above.
Additional ways to become involved	Not applicable.
After the consultation	The Government will take into account the responses to this consultation in its preparation of draft clauses for the forthcoming Localism Bill, to be laid before Parliament in the first Parliamentary session.
Compliance with the code of practice on consultation	This consultation complies with the Code.

Background

Getting to this stage	The Coalition <i>Programme for Government</i> , published on 20 May 2010, stated that the Government would “give residents the power to veto high council tax increases.”
Previous engagement	Not applicable

This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Department for Business, Innovation and Skills and is in line with the seven consultation criteria, which are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees’ buy-in to the process is to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent and, where relevant, who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

CLG Consultation Co-ordinator
Zone 6/H10
Eland House
London SW1E 5 DU

or by e-mail to: consultationcoordinator@communities.gsi.gov.uk

Consultation process

The Department for Communities and Local Government invites comments on the proposals set out in this document. This is a technical consultation seeking views from experts on the practicalities of implementing our proposals. Given this, the consultation will run for a shorter timeframe of six weeks – until **10 September 2010**.

When responding, please state whether you are responding as an individual or representing the views of an organisation. Responses to this consultation must be received by **10 September 2010**.

You can email your response to: counciltax.consultations@communities.gsi.gov.uk

Or you can respond in writing to:

Jasna Begum
Local Government Finance Directorate
Department for Communities and Local Government
Zone 5/D2 Eland House
Bressenden Place
London SW1E 5DU

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Introduction

1. Band D council tax has more than doubled since 1997-98 and high increases in the past have led to various measures designed to constrain local discretion, including council tax capping. Often these measures appeared to be based on the presumption that Government ministers and their civil servants knew better than local communities what was in their best interest. The Coalition Government is determined to reverse this presumption and to rebalance the role of the central state and local communities. This will see the Government playing a much smaller role, with powers and responsibilities being devolved to the most appropriate level, wherever possible empowering local people so that they have a direct say in important decisions that affect their lives. In relation to council tax, this means abolishing capping and giving local people a stronger role in determining annual increases. The Government intends to introduce legislation to achieve this at the earliest opportunity.

Current system

Council tax

2. Council tax is a tax on the capital value of domestic properties. It is the main source of locally-raised income for many local authorities and is therefore an important source of funding. The Local Government Finance Act 1992 ('the 1992 Act') provides for certain local authorities to levy and collect council tax:

- billing authorities (the Common Council of the City of London, London boroughs, metropolitan districts, non-metropolitan districts, and unitary authorities) are required to send out a bill each year to council taxpayers and to enforce collection
- major precepting authorities (the Greater London Authority, non-unitary county councils, police authorities, and fire and rescue authorities) and local precepting authorities (the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, town, parish or community councils, the chairman of a parish meeting, and charter trustees) issue precepts to billing authorities for the collection of council tax on their behalf

3. Properties are allocated into one of eight valuation bands, from Band A to Band H, and this information is used to calculate the council tax base for an area by converting the number of actual properties into an equivalent number of Band D properties¹. Billing authorities and major precepting authorities calculate their own 'basic amount of council tax'² and use this to determine the liability of individual properties. Local precepting authorities, by contrast, simply inform the billing authority of their total budget requirement for the year and leave it to the billing authority to calculate the relevant council tax. The bill which is sent to the council taxpayer shows the amounts required by each billing and precepting authority in the area and the percentage increase in each since the previous year.

¹ Band A properties are liable to pay two thirds of the 'standard' Band D amount. Band H properties are liable to pay double the Band D amount. The remaining bands lie in between these two points. The council tax base is a weighted average based on these proportions.

² An authority's basic amount of council tax is the amount set by the authority under section 33(1) of the 1992 Act if the authority is a billing authority, or section 44(1) of that Act if the authority is a major precepting authority. It is the amount that would be payable in respect of a Band D dwelling if all local precepts and special expenses were payable in respect of all chargeable dwellings in the authority's area.

Capping

4. Successive governments have reserved the right to limit increases in domestic taxation where these have been judged to be excessive. Under current capping legislation (see Chapter 4A of Part 1 of the 1992 Act, which was inserted by the Local Government Act 1999), 36 authorities have had capping action taken against them since the 1999 powers were first used in 2004-05.

5. In order to take capping action, the Secretary of State for Communities and Local Government must first determine whether the amount calculated by an authority as its budget requirement is excessive, in accordance with a set of principles. If the Secretary of State sets principles, the legislation requires him to set a principle based on authorities' budget requirements. The Secretary of State may set any other principle. In practice there has always been at least one other principle based on council tax increases.

6. If a local authority sets an excessive budget requirement, the Secretary of State may either:

- designate it in relation to the year in question, which would require the authority to re-bill council taxpayers or
- nominate the authority and either:
 - (a) designate it in advance in respect of the following financial year, which effectively means that Government sets the following year's budget requirement for the authority or
 - (b) set a notional budget requirement for the year in question, against which increases in subsequent years can be measured in deciding whether or not these are excessive

7. A criticism made about capping has been the policy of central government to set capping principles after local authorities have set their budget requirements. This has meant that authorities could not be certain whether or not the council tax increases they were setting would be capped.

Parish precepts

8. There has been a growing awareness in recent years of the council tax increases set by local precepting authorities, and of the very high precept increases set by some town and parish councils in particular. Increases in council tax revenue from town and parish councils have outstripped those for England in each of the last five years. The average town and parish precept set in some billing authorities (around £100) is larger than that of the smallest shire district of Breckland (£68). It is right that local precepting authorities should have the resources they need to support neighbourhoods and local communities. However it is also right that council taxpayers are protected from excessive increases.

Introduction of local referendums

Legislation

9. The Government will introduce legislation at the earliest opportunity requiring any billing or precepting authority which sets an excessive council tax increase to hold a referendum. The key elements of the scheme will be as follows:

- (a) The Secretary of State will have the power each year to determine a principle based on a comparison of an authority's level of council tax with the level in the previous year. The legislation will enable the Secretary of State to set additional principles; it will also allow him to determine different sets of principles for different categories of local authorities.
- (b) These principles will be published in a report for approval by the House of Commons. If the principles are approved, any authority planning an excessive council tax increase will be required to prepare a 'shadow budget' based on the maximum non-excessive council tax increase allowed by the principles.³ They will also be required to inform the Secretary of State by notice.
- (c) Any billing authority, local precepting authority or major precepting authority which exceeds the principles will be required to hold a referendum of all registered local electors. Local authorities will be free to hold referendums at any point after the House of Commons has approved any principles set. Referendums must take place no later than the first Thursday in May, to ensure that the process is not subject to delay and that local authorities have certainty over their budgets as quickly as possible in the new financial year.⁴
- (d) The organisation and administration of referendums will fall to billing authorities and will be modelled on the existing provisions for mayoral referendums⁵ where relevant and appropriate. The legislation will allow billing authorities to recoup costs where referendums are held on behalf of a precepting authority. It will also require that only one referendum is held in circumstances where an excessive increase is set by more than one authority in the same geographical area.
- (e) The legislation will require the authority proposing the excessive increase ('the relevant authority') to prepare supporting factual material setting out the proposed council tax increase and budget, the comparative non-excessive council tax rise and shadow budget, and the estimated cost of holding the referendum. At the same time that bills are sent to council taxpayers, the billing authority will send this information, together with polling cards, to every registered local elector. Local councillors would of course be free to make the case for any excessive increase, but the relevant authority would be prohibited from campaigning on the issue.

³ Consistent with Section 25 of the Local Government Act 2003, the chief financial officer (for billing authorities and major precepting authorities) would be required to report on the robustness of the estimates in the shadow budget requirement and the adequacy of the reserves provided for in the calculations.

⁴ In every year the ordinary day of election of councillors is the same day for all local government areas in England and Wales. It is the first Thursday in May or such other day as may be fixed by the Secretary of State by order (see section 37(1) of the Representation of the People Act 1983).

⁵ The Local Authorities (Conduct of Referendums) (England) Regulations 2007.

- (f) If the proposed rise in council tax were rejected, the relevant authority would immediately adopt the shadow budget and transfers from the Collection Fund would be reduced accordingly. It would also be required to inform the Secretary of State by notice. The billing authority would be able to issue new bills immediately, offer refunds at the end of the year or allow credits against liability in the following year. However, consistent with existing legislation⁶, billing authorities will be required to refund (and re-bill) any local resident who requests this.

10. This scheme will be applicable to each billing authority, local precepting authority and major precepting authority (including police authorities, fire and rescue authorities and the Greater London Authority). It would also apply to directly elected Police and Crime Commissioners when they come into being. Whilst there would only be one referendum in each geographical area, there would be a separate vote for each element of the overall council tax bill where an authority had set an excessive increase. Voters in these areas would be given a number of voting forms (or a number of separate questions on the same form).

Policy

11. It is not envisaged that the legislation will require the Secretary of State to publish principles at a specific point each year. However, as a matter of policy, the Government intends to propose principles at around the same time as publication of the provisional Local Government Finance Report and to have both the Local Government Finance Report and the report containing the principles debated by the House of Commons at the same time. This will allow local authorities to complete their budget setting and billing processes in the normal way, and to prepare shadow budgets in good time.

12. There are occasions when authorities may set council tax increases that are very large when expressed in percentage terms, even though the absolute cash increase is very small. To prevent such authorities from being required to hold a referendum – and to protect the large majority of smaller parish councils and other local precepting authorities – the Government intends, again as a matter of policy, to include a standard *de minimis* principle which would provide a ‘double lock’ mechanism. This would exclude authorities where **either** (a) the increase in the basic amount of council tax is below a defined amount **or** (b) the total income generated (ie. the council tax requirement) is below a fixed level.

13. The Government sees advantages in giving the Secretary of State discretion to determine different sets of principles for different categories of authorities (such as police authorities and fire and rescue authorities) – and to determine how those categories are defined. This would allow him to take into account circumstances affecting only particular categories of authorities – for example, the potential impact of Formula Grant distribution on different categories of authorities, or pressures on a service or services provided by a particular category of authority.

⁶ See, for example, section 31(4) of the Local Government Finance Act 1992.

Process

14. The Government believes it is right to require billing authorities to organise referendums given their existing responsibility for administering local government elections. The Government also believes that the referendum franchise should extend to all local electors, not just those liable for council tax, since all benefit in some way from the provision of local services. It is aware that this proposal would exclude council taxpayers who, for whatever reason, do not have a right to vote in local elections.

15. The Government intends to model the provisions for council tax referendums on the existing provisions for mayoral referendums where relevant and appropriate. In particular, this would:

- place certain restrictions on the steps that may be taken, and the expenditure that may be incurred, by a local authority in connection with a referendum
- require the referendum to take place within a specified time period
- set out the structure of the question to be asked

16. There will be no minimum requirement for voter turnout and a simple majority of those voting will be sufficient to determine the outcome of the referendum. If a majority vote in favour of an excessive increase, the relevant authority would continue to receive transfers from the Collection Fund based on its original budget. If a majority vote against an excessive increase, the relevant authority would immediately adopt the shadow budget and transfers from the Collection Fund would be reduced accordingly. In either case, the authority would be required to inform the Secretary of State of the outcome of the referendum and explain to council taxpayers the process for repayment of money where appropriate.

17. A proposed timetable for announcing the council tax principle, local authorities budgeting and billing process, and holding referendums, is attached at Annex A.

Abolition of capping

18. The introduction of council tax referendums will provide a direct link between local residents and the spending decisions of the local authorities to whom they pay their council tax. The Government therefore intends to repeal Chapter 4A of the 1992 Act in its entirety. However, until provisions for council tax referendums are in place, the Government reserves the option to use existing capping powers to protect council taxpayers from excessive increases where necessary.

Alternative notional amount reports

19. To ensure capping decisions are taken as fairly as possible, alternative notional amounts (ANA) reports are produced for authorities where there have been significant changes in function, finance or structure. These are technical adjustments to ensure that year-on-year comparisons of local authorities' budget requirements are made on a like-for-like basis.

20. With the abolition of capping, the Government sees no further need for these reports. Under the proposals set out above, local authorities would be able to explain the impact of any functional, finance or structural changes in the material they produce to accompany the referendum – and local people would then be able to vote on the basis of that information.

21. Where the structural change involves the creation of an entirely new authority – for example if two or more existing authorities are merged, or where a new parish is established – it would be more difficult to judge how the council tax principle might be applied without an ANA report in the year in which the change occurred. In such circumstances, for local precepting authorities, the Government expects that the wider process which led to these sorts of structural changes would ensure they had democratic legitimacy and local support. For billing and major precepting authorities, the Government envisages putting in place bespoke arrangements where necessary to protect council taxpayers from sudden changes in their liability.

Calculation of budget requirements

22. The requirement for authorities to calculate a budget requirement, as set out in the Local Government Finance Act 1992 (and amended by the Local Government Act 1999), was introduced specifically for the purposes of limiting council tax increases through capping. The question therefore arises as to whether, with the abolition of capping, there is any need to retain those sections of the 1992 Act which require authorities to calculate a budget requirement – and whether the repeal of the budget requirement aspects of the legislation would lift a reporting burden on authorities (bearing in mind that local authorities will still be required to calculate a council tax requirement). The Government therefore invites authorities' views on whether or not the requirement in current legislation to calculate a budget requirement should remain in place, or whether this should be repealed alongside capping.

Questions for consultation

23. We welcome your views on the mechanics of the process outlined above – including whether there are any practical difficulties with the system proposed or any unforeseen implications. In particular we would welcome responses to the following questions:

- Question 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?
- Question 2.** Are the Local Authorities (Conduct of Referendums) (England) Regulations 2007 the right model for organising and administering council tax referendums?
- Question 3.** Are there any practical difficulties in requiring council tax referendums to take place no later than the first Thursday of May?
- Question 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?
- Question 5.** What provision, if any, should be made for properties where the council tax payer is not a local elector?
- Question 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?
- Question 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?
- Question 8.** How should billing authorities treat bank interest earned on excessive increases that have been rejected in a referendum?
- Question 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?
- Question 10.** Are there any technical difficulties with the removal of alternative notional amount reports?
- Question 11.** With the abolition of capping, is there any reason why authorities should be required to calculate a budget requirement each year?

Annex A – Local referendums: illustrative timetable

Late November/ early December	<ul style="list-style-type: none"> • Provisional Local Government Finance Report published for consultation. • Provisional council tax referendum principles announced.
December to March	<ul style="list-style-type: none"> • Precepting and billing authorities draw up budgets and proposed council tax levels in the usual way. • Authorities planning to set excessive council tax increases also draw up shadow budgets and prepare material informing residents about the forthcoming referendum (including how they will be able to vote), and billing authority calculates cost of referendum.
January	<ul style="list-style-type: none"> • Provisional Local Government Finance settlement consultation ends. Ministerial decisions on Formula Grant and council tax referendum principles announced.
February	<ul style="list-style-type: none"> • Parliament approves final Local Government Finance Settlement allocations and the report containing the council tax referendums principles. • 14 February – deadline for bodies that levy on local authorities to set their levy.
March	<ul style="list-style-type: none"> • 1 March – major precepting authorities set budgets, and shadow budgets where necessary. • 11 March - billing authorities set budgets and shadow budgets where necessary. • Billing authorities send out council tax bills and details of referendum and supporting material.
May	<ul style="list-style-type: none"> • Referendums to be held by the first Thursday in May at the latest. • Billing authority to: <ul style="list-style-type: none"> - inform relevant precepting authorities, council taxpayers and electors of result of referendums - send out details of new budget/refunds where necessary - charge relevant precepting authorities for cost of holding the referendum • If the rise in council tax is rejected, the relevant authority immediately adopts the shadow budget.
February/March of the following year	<ul style="list-style-type: none"> • Refunds paid to residents where necessary.

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DRAFT RESPONSE FROM CLERK AT SWANLEY TOWN COUNCIL.

This document is written in response to the consultation document written by your department on this subject.

I shall deal with each item in turn based in part on the questions on page 12 of the document.

But firstly I would like to complain in forthright terms about this whole process. Clearly the new Coalition Government is right and duty bound to consider the various options in managing its business but the consultation exercise in this case has been rushed through and is ill thought out. It is unreasonable to set the period of consultation in the summer holidays when staff and Councillors will no doubt be expected to take a well earned break from their work. I must therefore conclude that this was done as a matter of policy and that this consultation is nothing of the sort but merely a process where the final decision is already fettered. I will suggest to NALC to consider taking the DCLG to judicial review on the basis of Wednesbury Irrationality and fettered decision making.

Taking each matter in turn:

1. No I do not agree that Parish and Town Councils should be included in the provisions for Council Tax referendums. They are a very costly and unnecessary form of counter weight to so called excessive expenditure. They fail to curb ineffective expenditure and punish the forward thinking interventionist Council and reward the type of Council which prefers resolutions to actual action on the ground. The current capping scheme works perfectly well, why alter something that is effective.
2. It is particularly unreasonable for 1st Tier Councils to be included in the system as their expenditure can vary widely, as individual projects are approved, with very high initial precepts in percentage terms initially, dropping away as either the project is paid for or funded by borrowings or grants from other bodies. It could be envisaged that a case will happen where a much needed local project is put in jeopardy by the very high cost of the referendum and the concomitant high cost of failure to get the project past the referendum process.
3. Councils are representative democratic bodies which are governed by statute and case law, what is the point of setting up such bodies when their management of affairs can be either referred to a referendum or subject to central control by Ministers or officials. I had assumed the new political thinking, was to devolve power downwards and not to pull strings from Westminster.
4. The cost of a referendum will be excessive; for example this Council was invoiced in the sum of £34000 for the last Council election. A referendum would be at least twice that sum, which equates to nearly a third of our precept. I find that excessive and unreasonable. If the government wants to insist on these referendums it should pay for them. Small Parishes will find the cost uneconomic and will therefore shelve worthwhile projects or important repairs and renewals, to the detriment of their Communities.

5. The pitfalls of this proposal are obvious, what happens if there is a tie in a referendum or the turnout is so low as to make the whole process appear unrepresentative, will the winning side have a mandate? What will be the requirement for calling for a referendum, 10 electors? More? If so how many? Will the Minister take it upon him/herself to set the process in motion and if so how? And with what mandate? What about challenges to the process and any concomitant judicial reviews, who pays for any reruns or recounts etc? None of this is in the document and I have my doubts that this has been adequately thought through.
6. What happens if there are multiple referendums within the various tiers of Government in any area? How will the billing authority cope with the various alterations following this process and in the final analysis, how much actual benefit will there be to the taxpayer in pursuing such a course?
7. If a first tier Council loses a referendum, it may feel that its mandate to govern has been lost and therefore it may feel that a fresh set of elections will be necessary. This will add to expenditure without any public benefit and may divide rather than bring communities together. This whole idea is very divisive and heavy handed in the extreme at this level of government.
8. Your question 5 mentions non resident taxpayers such as 2nd home owners. In part this is resolved as some will be assessed as businesses and will be paying business rates rather than a precept, but in some communities such persons form a significant minority and if they were given a right to participate in such a referendum their objective may be to reduce the precept in conflict with the needs of the resident community. Furthermore were these people given rights to call such a referendum this could cause significant conflict between the two groups of tax payers. This would probably of little concern to the larger authorities but in certain areas of the South and South west it could only add to the feeling of alienation felt in some parishes on the subject of absentee or second home owners.
9. What happens if the referendum is in direct conflict with another statutory duty such as the provision of Allotments, which is also required by another set of electors? Who has precedence?
10. I am not a returning officer so I am not able to judge or comment with authority on the fitness of existing legislation on referendums for the purpose, but what I can surmise looking at the legislation is that it complicates a problem caused by central government's failure to reform local government by removing the central tier of government and the abject failure to reform the use and scope of Council Tax. As many of the most expensive services such as Education, Fire services, Police services and Roads maintenance and construction are subject to central government overview and policy, they should be funded on a national basis from the exchequer. Take these items from the equation and possibly Social services, then much of the burden on those on fixed income or pensions would be much reduced.

As for the so called 'double lock' safety arrangements they are nothing of the sort and rely yet again on the whim or situation of the minister (or rather his officials) at the time, which again I put to you is hardly in the spirit of devolved power down to Communities.

Conclusion

This whole idea should be carefully considered before any thought of implementation. At the 1st Tier level of government this is an imposition of the worst kind. The arguments put forward by the DCLG are unconvincing at best and disingenuous for the most part. For instance what evidence is there that large numbers of electors feel disenfranchised enough to require a Referendum every time a Parish wishes to buy some land for recreation or allotments?

The unexpected consequence of this will be that some Councils will raise the necessary finance by increasing charges for services or charging for services previously provided at cost or free at the point of use. This will harm the least well off and voluntary bodies, who will complain that this goes against the greater role for volunteers promoted by the Coalition government. Other alternatives will be to increase the Council Tax irrespective of the needs of the budget so that any future projects can be funded by raiding the reserves.

There is very little evidence to suggest that Parish Councils abuse the situation and to quote Breckland a rural Council set in the middle of Norfolk, with some of the larger urban Parish Councils is unreasonable and meaningless. Very few Parishes raise a precept as high as £100 per annum/household and most Districts charge considerably more than £68 as their part of the Council Tax. Breckland like some London Boroughs may be specially favoured in the RSG payment system from central Government.

Most Parishes precept much less than the £100 quoted and have little other means of raising revenue, so unless the DCLG intends to promote the transfer of assets from Districts to Parishes, with their concomitant income streams, this is an entirely bogus argument.