

Cabinet	<b>FP/835/05/12</b>
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## **PRINCIPLES OF THE PAN ESSEX LOCAL COUNCIL TAX SUPPORT SCHEMES**

Report by Cabinet Member for Finance and Transformation

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### **Purpose of report**

To present information to enable the Cabinet to consider the principles of the pan Essex Local Council Tax Support Schemes (LCTSS) being proposed by local billing authorities to replace the current national Council Tax Benefit (CTB) scheme, and seek approval for officers to proceed with further consultation on the design of their schemes on the basis of these proposals.

### **Decision Areas and Recommendations**

The Cabinet is asked to:

- Continue to support the close joint working of ECC and billing authority officers through the Essex Benefits Managers group;
- Consider and approve the proposed framework and associated components of the pan Essex LCTSS as set out in sections 5.1 and 5.3;
- Consider agreement to the principle of ECC exploring with billing authorities how they can jointly manage the risk of legal challenge on the principles of billing authorities' scheme designs, and the resourcing of any additional collection and fraud management commitments. This is subject to further discussion with billing authorities and no commitments will be entered into without further cabinet approval;
- Request further consultation by billing authorities on scheme designs in advance of the required public consultation period.

### **1. Background – National Context**

1.1 Since the introduction of council tax in 1993 local billing authorities, which for the Essex County Council area comprises the 12 districts and boroughs, have administered CTB schemes in accordance with national legislation under the

direction of the Department for Work and Pensions (DWP). CTB is a means tested benefit scheme that reduces the CTB liability of those on low incomes.

1.2 In November 2010 the Government announced a spending review, which in turn included a major overhaul of the current benefit system (the Welfare Reform Bill). Part of this reform included the abolition of CTB. This will be replaced by LCTSS administered by individual billing authorities. The LCTSS reforms require local authorities to design their own schemes to deliver council tax support. The schemes will be implemented from April 2013.

1.3 As part of the 2010 Spending Review the Government also announced that from April 2012 it will reduce expenditure on CTB by 10% and this will be imposed upon local authorities through a change in the methodology for funding council tax support. Under the current national CTB system there is no “cap” on CTB expenditure with the DWP fully reimbursing billing authorities for CTB expenditure. The Department for Communities and Local Government (DCLG) will instead provide local authorities with an unringfenced specific grant that authorities can then use as they see fit to meet the council tax support liabilities that their own schemes commit them to. However, in addition to any Government imposed cut, billing authorities will have to allow for any caseload growth and contingency provisions for schemes so the actual gap between the specific grant allocations announced in May 2012 and current CTB expenditure is likely to be nearer 15%.

1.4 Local authorities will take on the risk that liabilities under LCTSS exceed that which had been budgeted for at the start of the relevant financial year. Furthermore this risk will be shared between billing and major precepting authorities (county councils, fire and police authorities) on the basis of council tax shares. ECC will therefore have to manage the financial risks across 12 schemes and it will have to meet approximately 75% (the exact share will depend upon the share of council tax in each billing authority area) of any scheme deficit that arises.

1.5 Following further consultation the Government has announced that low income pension age claimants should be no worse off under the new localised schemes and has confirmed that there will be nationally determined regulations for claimants in this age group. The design of LCTSS will therefore need to achieve the required reduction in expenditure from working age claimants.

## **2. Precepting and Billing Authority Risk Sharing and Consultation**

2.1 In recognising that major precepting authorities will share in the financial risks associated with LCTSS, the Government have included in the new legislation the requirement that billing authorities must consult with major precepting authorities on the design of their schemes.

2.2 To this effect ECC officers have been working closely with the Essex benefits manager group that includes representatives from billing authority representatives from all billing authorities in Essex. This group has been working together to jointly develop a framework for LCTSS across Essex. The principles being proposed under the Essex framework are set out in section 5 for Cabinet’s approval.

2.3 The design of each LCTSS must be finalised by 31 January 2013 at the latest. Failure to provide a scheme by this date will trigger the implementation of a default scheme, imposed by the Government, which would be highly unlikely to achieve the required reduction in expenditure. In practice billing authorities need to ensure schemes are ready by December 2012 to ensure that a default scheme is not imposed. Within this timeframe a period of public consultation will be required.

### **3. Funding for Localised Council Tax Support**

3.1 In May 2012 CLG issued a consultation paper setting out their proposals for funding arrangements for LCTSS from April 2013.

3.2 The total amount for distribution will be 90 per cent of the DWP forecasts for CTB expenditure in 2013-14. This funding will then be distributed:

- Between billing authority areas, according to shares of annual subsidised council tax benefit expenditure for 2011-12, and
- Between the billing and major precepting authorities within a billing authority area, according to shares of council tax for 2011-12 in each authority.

3.3 The government proposes that under the new council tax support system reductions in council tax liabilities granted by schemes will take the form of discounts which therefore reduce the taxbase for a particular billing authority area. The impact of granting a discount is to reduce the taxbase and therefore increase the Band D equivalent council tax. However, all things being equal any taxbase reduction as a result of local tax support schemes will be offset by a reduction in council's budget requirement as a result of the unringfenced grant that authorities will be provided with. The government has determined that the unringfenced grant will be provided to both billing and major precepting authorities. Therefore ECC will receive an unringfenced grant for local council tax support that will reduce the amount that it precepts Essex districts and boroughs for.

3.4 The indicative funding allocation for Essex billing authorities (excluding Southend and Thurrock) as set out in the consultation paper is £94m of which ECC's grant funding allocation will be £67.351m.

3.5 Final allocations will be based on revised forecasts of 2013-14 subsidised council tax benefit expenditure, to be issued by DCLG in the autumn, which will determine the total amount available to distribute, and 2011-12 outturn data on subsidised expenditure, due to be made available in the summer, which will determine the distribution between billing authority areas.

### **4. Consultation and Timetable for Implementation**

4.1 The CLG consultation paper on LCTSS and the accompanying draft Local Government Finance Bill set out the consultation stages required before schemes

are formally approved by the longstop date of 31 January 2013. Billing authorities must first consult with major precepting authorities and then with the public.

4.2 The Essex Benefits managers group including ECC officers has already started working together to develop scheme designs. The joint working amongst billing and major precepting authorities in Essex is closer and more developed than ECC understands is the case in many other two tier areas.

4.3 As well as the close working and consultation between ECC officers and through the Essex Benefits Managers group, ECC and billing authority members have jointly considered progress to date on scheme designs through the Essex Leaders and Essex Strategic Leaders group

4.4 It is proposed that there will be two key formal stages in terms of the consultation with ECC. The first proposed stage is approval of the recommendations in this paper, which will then be communicated to all billing authorities. It is proposed that the second stage is review of the draft scheme designs commencing in advance of the first stages of public consultation, and continuing thereafter. Public consultation by the billing authorities will be completed in sufficient time to allow for formal adoption of scheme designs by billing authorities' full council meetings before 31 January 2013.

4.5 To ensure that ECC members are aware of the technical aspects of the reforms and particularly scheme designs ECC finance officers will be briefing all members.

## **5. Pan Essex LCTSS Proposed Principles**

5.1 Essex authorities are proposing developing a common framework for LCTSS in Essex. It is important to distinguish between a common framework and a common scheme. Under a common framework there will be:

- Common approaches to consultation between billing and major precepting authorities;
- Joint working on consultation on scheme designs between Essex authorities and the public;
- Standardised approaches to processes such as claims, fraud, appeals etc;
- Common components to scheme designs as set out in section 5.3 below.

5.2 There will not be one single or common scheme across Essex billing authorities because of the very different demographic structures of the communities served by Essex authorities. For example an Essex wide restriction to only providing council tax support up to the level of council tax payable by Band C properties would be an irrelevance in some parts of Essex where most properties are in Band B or C but in more affluent parts of Essex where many properties are in band D or above the effects of this approach would be very significant. A common component would however involve all authorities including restriction to a locally determined council tax banding in their scheme designs.

5.3 The key components of the LCTSS framework proposed by the Essex Benefits Managers group and that ECC's cabinet are asked to recommend are set out below and are categorised according to whether they are to be determined locally or by legislation:

**Components Imposed upon Scheme Designs by Government**

- As defined by central Government, all low income pensioners will be protected under the national framework as defined by CLG;
- Consideration for protection for vulnerable working age groups will be allowed for;
- Each authority's scheme will maintain work incentives wherever possible. Central government have stressed the importance of this principle given the current economic climate and the Government's welfare reform agenda;

**Locally Determined Components**

- Billing authorities will adopt a support scheme based largely on the existing Council Tax Benefit Regulations 2006. Means testing will therefore continue. Given the very short timetable through to implementation this is the only realistic option;
- The schemes will be cost neutral, that is to say the costs of council tax support will be in line with the level of grant proposed by CLG.
- The schemes will as far as possible also allow for expected growth in demand; and
- Where possible each authority will look to reduce the complex nature of the current benefit system and make support easy to claim and administer.

5.4 In order to provide the level of savings required, each authority will consider options to reduce the current expenditure in such a way as to minimise the overall impact on claimants where possible and to ensure that all requirements under the equalities legislation are met in full. The choice of scheme design components over and above the elements identified in section 5.3 will be for each billing authority to decide, although certain common approaches have been identified and may include that:

- There is a requirement to reduce the eligible level of Council Tax used in the calculation of support either by means of reference to the Council Tax Band or by a percentage cap on council tax liability that will be funded;
- The level of capital that will exclude claimants for support will be reduced;
- A fund will be created to assist in the protection of vulnerable households where exceptional hardship is proven;
- The current Second Adult Rebate principles will be removed; and
- The current principles of calculating 'underlying entitlement' where an overpayment has occurred will be removed.

## **6. Further Considerations**

6.1 The discussions between ECC and Essex billing authority officers have identified a number of issues relating to the implementation of LCTSS that also need to be considered.

6.2 There is a risk that the scheme designs and the funding cut leads to a reduction in council tax collection rates and an increase in fraudulent council tax support claims across Essex authorities. ECC would bear its share of any costs through its share of any related deficit on the collection fund. It is therefore proposed that ECC and billing authorities explore how this risk could be mitigated for example through increased use of enforcement officers. The potential costs of any such mitigating action will need to be jointly considered by major precepting and billing authorities and it is proposed that an update on any proposals are reviewed by ECC's cabinet as individual schemes are finalised. It is also proposed that the potential financial risks arising from legal challenges to the scheme are considered using the same approach.

6.3 Given the scale of the public consultation exercise and because all billing authorities will be consulting with the public simultaneously there are potential benefits from a joint consultation approach by billing and major precepting authorities. It is proposed that ECC offers billing authorities the opportunity to use its communications and consultation expertise to support the public consultation exercises.

## **7. Conclusions and Recommendations**

7.1 ECC officers will continue to work closely with billing authority officers through the Essex benefits managers group to continue develop designs for LCTSS.

7.2 Cabinet is asked to consider the principles outlined in sections 5.1 and 5.3 above and recommend to billing authorities that they proceed with further consultation on the design of their LCTSS on this basis.

7.3 Final LCTSS scheme designs will be notified to the major precepting authorities once public consultation has been completed and any responses made accordingly. It is recommended that cabinet request further consultation by billing authorities on schemes in advance of the required public consultation period.

7.4 An update on the development of scheme designs will be provided to ECC's members in advance of public consultation commencing.

7.5 ECC and the Essex Benefits managers group will explore the potential financial implications of scheme designs upon council tax collection rates and the level of fraudulent council tax support claims, and will also examine possible approaches to the sharing of financial risks associated with legal challenges to scheme designs.