

Item No: 3.1	Classification: Open	Date: 22 February 2011	Meeting Name: Council Assembly
Report title:		Establishing a Council Tax Setting Committee	
Wards or Groups affected:		All	
From:		Finance Director	

RECOMMENDATIONS

1. That council assembly notes the Greater London Authority (GLA) proposal to set a precept level on 23 February 2011.
2. That council assembly establishes a council tax setting committee in accordance with section 67 of the Local Government Finance Act 1992, to set the council tax for the year 2011/12. with the role and functions, matters reserved and political composition as set out in Appendix A.
3. That council assembly appoints councillors from each political group to serve on the council tax setting committee (see paragraph 11).
4. That council assembly appoints a chair and vice-chair of the council tax setting committee.
5. That the existing local war widows schemes for housing benefits and council tax benefits be continued in 2011/12.

BACKGROUND INFORMATION

6. Under the Local Government Finance Act 1992, the council is required to determine the level of council taxes in the borough for 2011/12. This must be completed before the 11 March 2011.
7. The Greater London Authority proposes to set a precept of £309.82 at Band D on 23 February 2011, an increase of 0.0%.
8. Due to the timing of the Greater London Authority's consideration of its precept this report recommends the establishment of a committee to formally approve the council tax and formal resolution for council taxes in 2011/12.

KEY ISSUES FOR CONSIDERATION

The budget requirement for Southwark services

9. The recommendations on the budget requirement for Southwark services in 2011/12 is addressed in the policy and resources report (general revenue fund), which will be considered by the reconvened cabinet meeting on 15 February 2011. Council assembly will consider the recommendation from the cabinet on the net budget requirement and the council tax required for Southwark services only.

10. The council's total council tax, however has to include the amount required by the preceptor - the council has no control over the level of this precept.

Setting the council tax for Southwark in 2011/12

11. It is recommended that due to the timing of the GLA meeting that council assembly delegates the setting of the council tax to a special committee established specifically for this purpose under section 67 of the Local Government and Finance Act 1992. The proposed role and functions, matters reserved and political composition of the committee are set out in Appendix A. Because of the wish to convene a committee as soon as possible after this council assembly meeting, this report recommends the approval of individual named councillors for voting members and reserves/substitutes as follows:
 - Labour Group: 4 places (3 reserves)
 - Liberal Democrat Group: 2 places (1 reserve)
 - Conservative Group: 1 places (1 reserve)
12. The meeting is also asked to appoint a chair and vice-chair.
13. It is anticipated that the special council tax setting committee will meet on Thursday 24 February 2011. This will allow council tax notices to be issued in line with the normal statutory timetable.

Housing and council tax benefits - Local schemes

14. For the purpose of calculating both housing and council tax benefits, local authorities are allowed discretion in disregarding war disability pension and war widows' pensions above the fixed disregard required by law (currently £10.00).
15. The council's local schemes, like most schemes in London, currently disregards the whole of these pensions for the calculation of benefits. Benefit expenditure under the local schemes does not qualify for subsidy. There are currently some 32 people receiving the disregard at an estimated cost of £71,758. Benefit expenditure under the local scheme for 2011/12 attracts subsidy at 75% capped at 0.2% of the total benefit cost to the authority. Therefore an amount of £17,939 has been allowed for in the 2011/12 budgets.
16. It is considered that the withdrawal of the local scheme focused on this small number of people would cause undue hardship. It is however for council assembly to decide the level of pension that should be disregarded. This could range from the statutory relief of £10.00 to the total level of pensions. The level of pensions for 2011/12 will be £120.95 for standard war widows' pensions and £160.06 for war disablement pensions. Each year the council has to decide formally whether to continue with the existing scheme or to make changes to it. Council assembly is recommended to agree the continuation of the local scheme.

Community impact statement

17. The community impact implications will be addressed in the policy and resources report (general revenue fund) which will be considered by cabinet on 15 February 2011.

Consultation

18. The council has complied with the requirements of Section 65 of the Local Government Finance Act 1992 by consulting with business rate payers on spending plans for the forthcoming year.

SUPPLEMENTAL ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

19. The council is required to agree the formal resolution setting the council tax for 2011/12, and approve the local scheme for housing benefit and council tax benefit in 2011/12 that must be approved annually.
20. The Local Government Finance Act 1992 s.30 (the LGFA 1992) requires that Council Assembly sets an amount of council tax for each financial year and for each category of dwellings in its area. The amount is calculated by taking the aggregate of the calculations made by the authority under Sections 32 to 36, together with the precept issued to the authority by the Greater London Authority. Preceptors must issue their precepts before March 1 preceding the financial year to which they relate.
21. Pursuant to section 30 (7) of the LGFA 1992 no amount may be set before the earlier of the following: (a) 1st March in the financial year preceding that for which the amount is set; (b) the date of the issue to the authority of the last precept capable of being issued to it (otherwise than by way of substitute) by a major precepting authority for the financial year for which the amount is set. Section 30 (9) of the Act states that a purported setting of an amount, if done in contravention of subsection 30 (7) shall be treated as not having occurred.
22. Under section 39 of the LGFA 1992, the Greater London Authority ('GLA') is defined as a 'major precepting authority'. The GLA is intending to set its precept on 23 February 2011 and issue the same to the Council later that day. Council Assembly will be meeting on 22 February 2011. Whilst the budget calculations can still be made under sections 32-36 of the Act in advance of receiving the precept, as the Council is expressly prohibited from setting the council tax until the GLA has issued its precept, this means the council tax can not be set on 22 February.

Section 67 of the Local Government Finance Act 1992

23. Section 67 (2) (c) of the LGFA 1992 states that only the authority can set an amount of council tax for the financial year. However section 67 (3) of the LGFA 1992 provides that where the authority so directs a committee of the authority appointed by it for that purpose can carry out this function. The authority itself, not the committee, must specify the number of members of the committee and fix the length of term of the committee. The members of the committee must also all be members of the authority and not co-opted individuals.
24. Council Assembly can appoint the committee on 22 February pursuant to Part 4 of clause 3A of the Constitution.

Restrictions on Voting Under Section 106 of the Local Government Finance Act 1992

25. Section 106 of the Local Government Finance Act applies at any time to a member of an authority, if at that time the member is due to pay council tax payments which have remained unpaid for at least two months.
26. The payments to which the section applies are any type of either sole or joint and several liability for council tax, and any failure to pay any agreed sum of council tax. Therefore members are advised that this section is likely to apply to them if they are currently two months in arrears of any amounts of council tax, even if they have made any special contractual arrangement with the council to pay off the arrears.
27. If this section applies to any member, he/she at the relevant meeting and as soon as practicable after its commencement, must disclose the fact that the section applies and not vote on any question with respect to this matter.
28. The relevant meetings are those at which any of the following are the subject of consideration, namely:

- (a) "any calculation required by chapter 111, 1V, V of part 1 of the 1992 Act".

The only calculations likely to be made by this authority are those under chapter 111 of part 1 of the act, (chapter 1V relates to precepting and chapter V limitations on council tax (i.e. capping)

The chapter 111 calculations include the calculation of the budget requirement, basic amount of tax, the additional requirements because of the special trust funds, the calculation of the tax for the different valuation bands and the basic amount of council tax to be set under Section 30.

- (b) "Any recommendation, resolution or other decision which might affect the making of any such calculation"

This is an extremely wide wording and would extend well beyond merely setting the budget. It applies to virtually any matter where the financial implications directly or indirectly might affect the calculations concerning the council tax. It would therefore apply to decisions concerning the level or extent of services as well as the expenditure, receipt or forgoing of any money.

- (c) "the exercise of any function under Schedules 2-4 of the 1988 and 1992 Act"

The functions under either the 1988 or 1992 Acts concern the administration and the enforcement of community charge and council tax respectively.

29. Section 106 of the Local Government Finance Act 1992 makes it a criminal offence for a member to vote when prohibited from doing so or to fail to make the necessary disclosure. There is a statutory defence, with the onus of proof on the member, to prove that he did not know that the section applied to him or her at the time of the meeting or that the matter in question was the subject of

consideration at the meeting. Prosecutions shall not be instituted except by or on behalf of the Director of Public Prosecutions.

Housing & Council Tax Benefits - Local Schemes

30. Council assembly is also being asked to agree the continuation of the disregard of war disablement pensions and war widows' pensions for benefit purposes.
31. By virtue of Section 139 of the Social Security Administration Act 1992 (as amended by the council tax legislation (the Local Government Finance Act 1992) the authority may modify any part of the housing or council tax benefit scheme administered by the authority (although the original scheme is determined by the Secretary of State),
- (i) So as to provide for disregarding, in determining a person's income the whole or part of any war disability pension or war widows' pension payable to that person or to his partner or to a person whom he is polygamously married.
 - (ii) Any such modifications may be adopted by resolution of the authority, and the authority may also by resolution revoke or vary such resolution to such an extent as it may be prescribed.
32. The council is required to make this decision annually.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Council Tax Base for 2011/12 report	160 Tooley Street London SE1P 5LX	John Braggins 020 7525 (5)7489
Policy and Resources Strategy – The 2011/12 Revenue Budget (The Budget and Policy Framework)		Cathy Doran 020 7525 (5)4396

APPENDICES

No.	Title
Appendix A	Council Tax Setting Committee – Proposed role and functions, matters reserved and political composition

AUDIT TRAIL

Lead Officer	Duncan Whitfield, Finance Director	
Report Author	John Braggins, Strategy Accountant	
Version	Final	
Dated	10 February 2011	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law and Governance	Yes	Yes
Finance Director	Yes	Yes
Cabinet Member	Yes	No
Date final report sent to Constitutional Team	10 February 2011	