

Item No: 5.2	Classification: Open	Date: 23 February 2005	Meeting Name: Council Assembly
Report title:		Setting The Council Tax 2005/06	
Wards or Groups affected:		All	
From:		Director of Finance	

RECOMMENDATIONS

1. That members note the suggested new GLA precept level of **£254.62 (up 5.5%)**.
(Note: in the event that the GLA set a different level of tax on 14th February a further update will be prior to the the meeting on 23rd February.
2. That the Council Tax for Band D properties in Southwark be set at:

(i)	the former parish of St Mary Newington	£1,109.80
(ii)	the former parish of St. Saviours	£1,111.57
(ii)	the remainder of the Borough	£1,113.68
3. That the formal resolution re. Council Taxes in 2005/2006 (shown in Appendix C) be approved.
4. That the existing local War Widows schemes for Housing Benefits and Council Tax benefits be continued in 2005/2006.

BACKGROUND

5. The Council is required under the *Local Government Finance Act 1992* to determine the level of Council Taxes in the Borough for 2005/2006. This must be done before the 11th March 2005.
6. The Mayor proposes an increase in the Greater London Authority precept of **5.5%** with the Assembly on 14th February 2005. This means that the precept from the GLA will be **£254.62**.

KEY ISSUES FOR CONSIDERATION

The Council Tax For Southwark Services

7. Based upon a net budget requirement of **£437,210,613** the Council Tax required, for Southwark services only, in 2005/2006 is **£859.06**. This means that the Council tax required for Southwark services will increase in 2005/06 by **3.6%**.
8. The Council's total requirement has to be increased by the demands of the preceptor - the Council has no control over the level of the precept.

Preceptors Requirements

- 9 The Greater London Authority will announce its precept on **14th February 2005**. The estimated amount required from Southwark is **£22.820 million** - a demand on the Band D Council Tax of **£254.62**.

Council Tax In Southwark In 2005/2006

- 10 The Council Tax for a Band D property is therefore:-

Authority	Band D Tax 2004/2005 £	Band D Tax 2004/2005 £	Change %
Southwark	829.21	859.06	3.6%
Greater London Authority	241.33	254.62	5.5%
TOTAL BAND D TAX	1,070.54	1,113.68	4.0%

Full details of Council Taxes levels for all property bands are shown in Appendix B.

Differential Council Taxes

- 11 Under the Council tax legislation, any surplus on special funds must be used to reduce the level of Council Taxes in two areas of the borough.

12 ***The Former Parish of St. Mary Newington - Walworth Common Estate***

The available balance on this account at 31st March 2006 is estimated at a surplus of £24,512 and the cost of Council Tax relief of £1 is estimated at £12,948. The maximum relief that can be granted in 2005/2006 is therefore £3.88 for a Band D property, giving a Council Tax of **£1,109.80** for a Band D property in this area.

13 ***The Former Parish of St. Saviours - Borough Market***

The available balance on this account at 31st March 2006 is estimated at a surplus of £2,721 and the cost of Council Tax relief of £1 is estimated at £1,126. The maximum relief that can be granted in 2005/2006 is therefore £2.11 for a Band D property, giving a Council Tax of **£1,111.57** for a Band D property in this area.

Housing And Council Tax Benefits - Local Schemes

- 14 For the purpose of calculating both housing & 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 65 people receiving the disregard at an estimated cost of £142,000. Benefit expenditure under the local scheme for 2005/06 attracts subsidy at 75% capped at 0.2% of the total benefit cost to the authority. Therefore an amount of £35,500 has been allowed for in the 2005/06 budgets.
- 16 In the view of officers the withdrawal of the local scheme focused on this small number of people would cause undue hardship. It is however for Members 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 2005/2006 will be £99.50 for Standard War Widows' Pensions and £131.30 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. Members are recommended to agree the continuation of the local scheme.

LEGAL IMPLICATIONS

- 17 Council is being asked to agree the formal resolution setting the Council Tax for 2005/2006, and approve the local scheme for Housing Benefit and Council Tax Benefit in 2005/2006 that must be approved annually.
- 18 Council is required by Section 30 of the *Local Government Finance Act 1992* (the LGFA 1992) to set an amount of Council Tax for each financial year and each category of dwellings in its area.
- 19 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 1st preceding the financial year to which they relate.
- 20 Once the authority has set the amount of Council Tax under Section 30 relating to the different geographical areas of the borough, the amounts for each valuation band are then calculated according to the ratios set out in Section 5 of the Act.
- 21 The amounts must be set before March 11th but are not invalid merely because they are set after that date.
- 22 Section 67 of the Act requires the budget calculations under Sections 32 to 37 to be made by the Council, but allows the setting of the Council Tax to be exercised by a Committee of the Authority appointed for that purpose.
- 23 Section 25 of the Local Government Act 2003 requires the chief finance officer to report to the authority when it is making the calculations required by section 32 of the LGFA 1992 on (a) the robustness of the estimates made for the purposes of the calculations, and (b) the adequacy of the proposed financial reserves. The authority is required to have regard to the chief finance officer's report when making the calculations.

Restrictions On Voting Under Section 106 Of *The Local Government Finance Act 1992*.

- 24 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 or Community Charge (Poll Tax) payments which have remained unpaid for at least two months.

- 25 The payments to which the Section applies are any type of either sole or joint & several liability for personal Community Charge, and any failure to pay any agreed sum of personal Community Charge together with the corresponding provision with respect to Council Tax. Thus members are advised that this Section is likely to apply to them if they are currently two months in arrears of any amounts of Community Charge or Council Tax, even if they have made any special contractual arrangement with the Council to pay off the arrears.
- 26 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.
- 27 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 & 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 & 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 & Council Tax respectively.
- 28 It is 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.
- 29 Section 106 thus clearly applies to this report.

Housing & Council Tax Benefits - Local Schemes

- 30 Council 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), so as to provide by disregarding in determining that person's income the whole or any part of any War Disability Pension or War Widows' Pension. Any such modifications may be adopted by resolution of the Authority, and the Authority may also by resolution revoke or vary such resolution.
- 32 The Council is required to make this decision annually.

EQUAL OPPORTUNITIES IMPLICATIONS

- 33 The equal opportunities implications of both the budget requirement and the increases in Council Tax levels are dealt with in the item entitled "Policy and Resourcing - The Councils Medium Term Financial Strategy and the 2005/06 Revenue Budget (The Budget and Policy Framework)" elsewhere on this agenda.

STAFF SIDE CONSULTATION

- 34 There has been no specific staff side consultation in respect of this item, a copy will be forwarded to Staff Side through the normal channels.

APPENDIX A

Audit Trail

Lead Officer	Eleanor Kelly Director of Financer.	
Report Author	John Braggins Strategy Accountant	
Version	Final	
Dated	February 9 2005.	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	Yes	Yes
Executive Member	Yes	No
Date final report sent to Constitutional Support Services	February 10 2005	