

COUNCIL TAX 2024-25 LEGAL POSITION

1. Introduction

- 1.1 If a Member has a disclosable pecuniary interest, 'other registrable Interest' or 'non-registrable interest' in a matter under discussion, they must take advice from the Monitoring Officer. Generally, that will be to disclose the interest, not participate in any discussion or vote on the issue and not remain in the Chamber unless a dispensation has been granted.
- 1.2 A matter is not regarded as affecting a Member's financial interest or well-being unless it affects the member "to a greater extent than it affects the financial interests of the majority of the inhabitants of the ward affected by the decision and that a reasonable member of the public knowing all the facts would believe it would affect your view of the wider public interest."
- 1.3 However, any Member who is in arrears with their Council Tax payments needs to give careful consideration to the provisions of Section 106 of the Local Government Finance Act 1992. This states that if any arrears remain unpaid for at least 2 months, then the Member must disclose this at the beginning of any meeting which is to consider any Council Tax calculation or any matter which might affect the Council Tax calculation, and shall not vote on any such matter.
- 1.4 If any Member is likely to be in such a position, or is concerned as to whether any interest should be declared, then advice should be sought as quickly as possible from the Monitoring Officer. Under the Councillors Code of Conduct, all members have been granted a general dispensation under section 33 of the Localism Act 2011 in order to enable them to participate and vote in any discussion with regard to setting the Council Tax.

2 Statutory Position

- 2.1 The Borough Council is required to maintain a Collection Fund for both Council Tax and National Non-Domestic (Business) Rates. Any sums paid into an authority's Collection Fund shall be used in the making of payments which are to be met from that fund or transfers from it.
- 2.2 The Council as "billing authority" for the Borough is required, to set an amount of Council Tax for each financial year and for each category of buildings. In accordance with the Council's Procedure Rules 19.5 and the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, at a meeting of the Council at which it is to determine its budget and Council Tax:-
 - (a) Immediately after any vote is taken at a budget decision making meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the Members who cast a vote for or against the decision or who abstained from voting.

- (b) Reference to a “budget decision making meeting” for the purposes of Standing Order 14(3) means a meeting where the Council (i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992 (as amended); or (ii) issues a precept under Chapter 4 of Part 1 of that Act,
- (c) Reference to a “vote” for the purposes of Standing Order 14.(3) are references to a vote on any decision related to the making of the calculation or the issuing of the precept referred to in (b) above as the case may be.

2.3 The amounts of Council Tax must be set by billing authorities before 11 March in any financial year, but such amounts are not invalid merely because they are set on or after that date. No amount may be set before the earlier of the following:-

(a) 1 March

(b) The date of issue to the Council of a precept for the relevant financial year from a "major precepting authority" (e.g. the Police and Crime Commissioner).

2.4 No amount may be set unless the Council has made the calculations required by the 1992 Act (as amended by Section 74 of the Localism Act 2011). Members will recall that one of the required steps was to determine the respective Council Tax Base for the Borough and for each parished and non-parished area. The Local Government Act 2003 (section 84) replaces section 67 Local Government Finance Act 1992 which required full Council to formally approve the Council Tax base for the whole of its area. Under the new regulations, it is now for each Local Authority to make its own arrangements for adopting the Council Tax base. The tax base for 2024-25 has been calculated in accordance with The Local Authorities (Calculation of Council Tax Base) Regulations 1992 as amended (the 1992 Regulations).

2.5 The 1992 Act as amended provides that billing and precepting authorities may make substitute calculations of their budget requirements and amounts of Council Tax. Except in certain special cases (e.g. where the previous calculations have been quashed), the substitute budget requirement cannot be greater than the previous requirement. In the case of billing and major precepting authorities, any substitute amount of tax calculation as applicable to any dwelling cannot exceed the previously calculated amount.

2.6 If the amount of Council Tax set as a result of substitute calculations is less than the original amount set, persons who have overpaid may require repayment or may allow the billing authority to choose whether to repay or credit the overpayment.

2.7 Differential charging is provided for within a billing authority's area. These provisions require the Council to set differential amounts of Council Tax for different parts of the Borough in response to precepts issued for parts from parishes and for its own special expenses.

2.8 A "major precepting authority" under the 1992 Act includes the Police and Crime Commissioner, and a Fire Authority whilst a "local precepting authority" includes a parish council and the chair of a parish meeting. In the case of a local precepting authority

(e.g. a parish council) the billing authority has no power to set substitute amounts of Council Tax if the precept is issued late, but in this event regulations allow billing authorities to anticipate such precepts.

- 2.9 A billing authority, which has set amounts of Council Tax, is required to publish notice of the amounts within 21 days of setting them in at least one newspaper circulating in the area. Failure to do this does not make the amounts invalid.
- 2.10 In accordance with Schedule 5 of the Localism Act 2011, as a billing authority the Borough has a duty to determine whether its relevant basic amount of council tax for a financial year is excessive. If, according to the principles approved in Section 52ZB of the Local Government Act 1992 the Borough's council tax for the year is deemed to be excessive the Borough will be required to hold a referendum. For 2023/24 the Secretary of State granted Slough Borough Council the power to increase its Council Tax rate above the referendum limit to 7.99%, with an additional 2% for the Adult Social Care precept, in light of its financial challenges. Power to repeat this uplift has once again been granted for 2024/25.

3 General Advice

- 3.1 In considering whether to approve any given level of expenditure, Members must be satisfied that there is evidence which establishes that such a level of expenditure is necessary to meet the needs of the Borough and to comply with the statutory duty to set amounts of Council Tax. Members should have particular regard to the effect on Council Tax payers of various expenditure levels.
- 3.2 Members should consider whether income can reasonably be increased commensurate with the responsibility to meet what Members perceive are the needs of the community.

Stephen P Taylor
Monitoring Officer
7th March 2024