

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Leader and Cabinet
AUTHOR/S: Finance & Resources Director

14 April 2005

CAPPING OF COUNCIL TAX 2005/06

Purpose

1. The purpose of this report is to advise Members formally of the announcement made by the Office of the Deputy Prime Minister ("ODPM") of its intention to "cap" this authority's council tax for 2005/06 and to inform Members' of the decision taken to challenge the Secretary of State's opinion that the Council's budget requirement is excessive.

Effect on Corporate Objectives

2.	Quality, Accessible Services	If the authority's council tax is capped at the level proposed by the ODPM, the effect on the Council's services, corporate objectives and priorities will be substantial, as explained in the report.
	Village Life	
	Sustainability	
	Partnership	

Background

3. The Local Government Minister announced in the House of Commons on 23 March 2005 that the Council was one of nine authorities "designated" with a view to in-year capping of its council tax in 2005/06. The Chief Executive has received a letter from the ODPM confirming this.
4. Designation means the ODPM either setting a maximum budget requirement for the Council ("capping") for 2005/06 or "nominating" it. The budget requirement is net district council General Fund expenditure after use of balances and reserves. After due process, it is possible that the ODPM could set the maximum budget requirement at the level an authority deems necessary (i.e. for this Council, at the equivalent of £140 Band D council tax). Nomination means the ODPM either capping the Council for 2006/07 at the time of the next local government financial settlement, or setting a notional budget requirement for 2005/06 which will be used in any future capping comparisons with that year.
5. The principles used by the ODPM to determine that an authority's budget is excessive were:
 - an authority has increased its budget requirement by more than 6% between 2004/05 and 2005/06; and
 - an authority has increased its council tax by more than 5½% in the same period.

(The principles used for shire districts for 2004/05 were 2% and 8½%, respectively, together with applying these principles only to councils with a Band D council tax greater than the shire district average, which has been dropped this year. Authorities were warned that the capping principles used for 2004/05 should not be considered a benchmark for 2005/06.)

6. An authority may challenge the amount proposed and seek substitution of a higher figure, by setting out in a notice, in writing, the maximum amount it considers should be stated for its budget requirement, together with its reasons. After the ODPM has considered the reasons set out by the authority and any additional information that has been provided, he will either:
 - make an order stating the amount which the authority's budget requirement for 2005/06 is not to exceed (i.e. the authority will be capped for 2005/06, either at the level proposed by the ODPM or at some level presumably between the budget requirement calculated by the authority and that proposed by the ODPM); or
 - cancel the designation and nominate the authority instead, either:
 - designating the authority for 2006/07 and determining the maximum for its budget requirement for that year (i.e. the authority will be "capped" for 2006/07); or
 - determining a notional amount for the authority's budget requirement for 2005/06 which will be used in any future capping comparisons with that year.
7. The amount that the ODPM proposed should be the Council's maximum budget requirement for 2005/06 was £10.350 million, which represented a reduction of £3.593 million or 25.77% from the Council's calculated budget requirement for 2005/06 of £13.943 million. **Appendix A** gives a General Fund Summary highlighting this information.
8. The Council had 21 days, beginning with the date of receipt of the letter, within which to inform the ODPM in writing that it either wished to challenge or accept the amount stated. The deadline for this was therefore 13 April 2005, the day before the meeting of Cabinet, and so a verbal update will be provided to the meeting.

Considerations

9. Capping the authority's council tax at £3.593 million below the Council's calculated budget requirement for 2005/06 of £13.943 million would obviously have a very substantial impact on the Council, in terms of either its services if a quarter of these have to be cut in order to meet required budget constraints, or its financial position if a large proportion of the Council's remaining reserves have to be used to subsidise the council tax in order to maintain services at the same level. The Council's remaining reserves could only be used in this way for 2005/06 and, assuming similar conditions would apply in future years, cuts in services would have to follow in 2006/07 in order to meet the ongoing budget constraints that would apply then. The option would be open to cut some services and use some reserves in combination in 2005/06.
10. If the authority's council tax is capped at some level between the budget requirement for 2005/06 calculated by the Council and that proposed by the ODPM, depending on the level of capping applied, there would still be a significant impact on the Council's services and/or financial position, similar to that outlined in paragraph 9 above.
11. Either of these events would seriously affect the services provided by the Council for its residents, either immediately or ultimately.
12. The Council has previously made the ODPM aware of its financial strategy in reducing dependence on its reserves, thereby holding its council tax at a comparatively low figure for a period of time, but that in due course this "subsidy"

would end and the council tax charge would have to increase in order to meet the underlying level.

13. The Council has attempted since November 2004 to engage the ODPM in a constructive dialogue about the difficult issues faced by the Council in the context of massive pressures for population growth. The Council wrote to the ODPM on 7 January 2005 to raise concerns about the proposed local authority settlement for 2005/06, the plans for council tax capping in 2005/06 and the likely impact of both on services for South Cambridgeshire residents. The Council has also asked the ODPM to reconsider the capping criteria such that it puts this in the context of the overall amount that the local authority is charging.
14. The Council could have accepted the amount stated by the ODPM. However, this would have meant that the Council would have to either:
 - cut its services by a quarter in 2005/06 – clearly, this is not a reasonable proposition for the Council to consider;
 - use £3.6 million of its remaining reserves in 2005/06 to subsidise the council tax so that services could continue at the same level – reserves are only available to do this for one year and, assuming similar criteria applied in 2006/07, the Council would then face having to cut services by a similar amount in 2006/07; by then the Council would have reduced its reserves to its previously stated minimum of £1.5 million – again, clearly, this is not a reasonable proposition for the Council to consider;
 - cut some services and use some of its reserves in 2005/06 – the Council would need to make some early decisions regarding which services should be cut, according to its objectives and priorities, and would face having to make further cuts in services in future years; reserves would only be available to use for a limited period, depending on the balance decided upon between cuts in services and use of reserves – once again, this is not a favourable option for the Council to consider.
15. In the light of these considerations, the Council has therefore challenged the amount stated by the ODPM.

Financial Implications

16. If the Council's challenge is successful, the Council will be able to (a) continue with its planned approach to reduce reliance on reserves over a five year time span, as provided for in the Medium Term Financial Strategy, and (b) continue with its services, objectives and priorities for 2005/06, but mindful of any future restrictions on their future growth and development that may be applied, unless the Council wishes to subsidise this by using some of its reserves. The Council will therefore have to review the Medium Term Financial Strategy in the light of the outcome of the ODPM's designation procedures, in order to consider how it will meet the targets set, and it will have a period of time in which to do this in a planned and programmed manner.
17. If the Council is unsuccessful in its challenge, depending on the level at which the authority is capped, the Council may have to use some of its remaining reserves to subsidise the council tax in order to maintain services, or cut some services, or a combination of these, up to the amount of the £3.6 million difference between the budget requirement the Council has calculated and the ODPM has proposed.
18. In addition, the Council would have to meet the cost of re-billing, estimated at some £50,000.

19. Furthermore, if some services are cut, the Council may also have to meet immediate redundancy costs and future increased contributions to the pension scheme in respect of staff whose contracts might be terminated early. It is difficult to estimate how much this might cost the Council at this stage and a report would be brought to Members at the earliest opportunity.
20. Finally, earlier than planned use of some of the Council's remaining reserves will result in a loss of interest on balances, which in itself will have implications for the Council's financial strategy.

Legal Implications

21. The Head of Legal Services has commented as follows:
 - Although the Council's net general fund expenditure has increased by only 6% from last year to this, the budget requirement (as for every year for many years) has been skewed by the use of reserves (general fund balance). Central government has sought to control levels of public expenditure in several ways such as 'capping'. We have been designated and have served notice as to why we should not be capped at the level of £10.35m proposed by the ODPM. He will consider what we have said and any other information he thinks is relevant. He may cap at any figure up to our own budget requirement or nominate. Any capping order is subject to approval of the House of Commons.
 - Because of the requirement to obtain parliamentary approval, it is not considered to be appropriate to challenge though the Court Ministerial decisions made in this context, provided the correct statutory procedures have been followed. Nevertheless, challenge is possible in the case of manifest absurdity, which makes the historical background very pertinent indeed.
 - To suggest that the Council can deliver in 2005/06 increased services to a greater population spending less than our net general fund expenditure than in 2002/03 [£10.48m] (and still leave a prudent reserve) is manifestly absurd. The underlying requirement will still be for millions more than this in the following year, 2006/07, exacerbated by reduction in interest on balances, but without any available further reserves to prevent catastrophic cuts in services.
 - Given the Council's prudent medium term strategy to utilise reserves over the next five years limiting expenditure so as to keep council tax levels as low as possible, but at the same time to maintain a sensible general fund balance, and given that our council tax level is below the average district level in any event, it is absurd to take any other course than cancel the designation and nominate this authority for 2006/07 using our budget requirement for 2005/06 as the 'notional amount' which would be used in any future capping comparisons. That would be consistent with our medium term strategy.
 - The Minister's statement simply does not take account of the historical and extraordinary use of general fund balance [£3.7m last year] to keep down council tax. The notice has warned of legal challenge.

Staffing Implications

22. If the authority is capped, it is possible that some posts might have to be terminated, either because the services to which they relate are cut or because staffing costs, being a very high proportion of the expenditure incurred by the Council in delivering its services, are an obvious area of reducing costs, albeit at a probable adverse effect on services.

Risk Management Implications

23. The officer Risk Management Group, at its meeting on 17 March 2005, assessed the potential impact of council tax capping as "Critical" (i.e. with an impact on many processes, financial loss up to £500,000, national publicity, or strong regulatory sanctions) and the likelihood as "Very High" (the highest level, i.e. over 80% likely to occur). In the light of the announcement by the ODPM, the Finance & Resources Director considers that the impact should be raised to "Catastrophic" (the highest level), i.e. with an impact at strategic level, on corporate objectives or annual priorities, financial loss over £500,000, national adverse publicity, or central government intervention.
24. If the authority is nominated, i.e. its budget requirement for 2006/07 is limited (paragraph 16 above), the Council will have to plan and prioritise with even greater care the future growth and development of its services, objectives and priorities to make sure that these can be delivered within the financed restrictions imposed.
25. If the authority is capped in 2005/06 (paragraph 17 above), the Council will have to decide very quickly how it will meet the gap in its budget requirement, either by using some of its reserves, or cutting some of its services, or some combination of these. As explained earlier in the report, this will have very serious implications for either the services that the Council is able to deliver or the future financial position of the Council.

Consultations

26. A four-page consultation paper was sent to all households in the District in September 2004 along with the Autumn '04 edition of South Cambs Magazine. The Council received around 2,500 replies, which is a very positive response rate to a postal questionnaire. 60% of respondents who chose from the viable council tax options offered stated their preference for a Band D charge of £140 or more in 2005/06. (The other 40% preferred a Band D charge of £120, which still represents a recognition of the need for a significant increase.) These results were featured in the Winter '04 edition of the Council's magazine.
27. The Council's Chief Executive has attended two meetings sponsored by the Local Government Association of the nine authorities designated for capping purposes.

Conclusions/Summary

28. The choice the Council faced was between accepting the ODPM's cap, which has huge implications for services and finances, and challenging it.
29. If the Council had accepted the ODPM's cap, in all probability it would have to cut services, either this year or next and thereafter.
30. The only way the Council could maintain its objectives, priorities and services was by challenging the ODPM's cap successfully.
31. The Leader of the Council and the Chief Executive, in consultation with the Resources and Staffing Portfolio Holder and the Finance and Resources Director, have therefore challenged the maximum amount proposed as the budget requirement, by setting out in a notice in writing the maximum amount the authority considers should be stated, together with its reasons and supporting information.

Recommendations

32. Cabinet is recommended to approve the action taken to challenge the ODPM's cap.

Background Papers: the following background papers were used in the preparation of this report: Letter from the ODPM to the Chief Executive dated 23 March 2005

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