



Hinckley & Bosworth Borough Council

FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

SCRUTINY COMMISSION
HINCKLEY AREA COMMITTEE

9 October 2017
16 January 2018

WARDS AFFECTED: ALL HINCKLEY AREA WARDS

SCRUTINY REVIEW: SPECIAL EXPENSES AREA

Report of Head of Finance

1. PURPOSE OF REPORT

- 1.1 To consider this report which was prepared for the Scrutiny Commission and referred by that body to the Hinckley Area Committee for consideration.

2. RECOMMENDATION

- 2.1 That the Hinckley Area Committee:

- Considers if there is a requirement for a special expenses policy for governing what costs will be considered as special expenses
- Considers the options for the Hinckley Area Committee (HAC) as listed at paragraphs 4.1 to 4.8 and to propose if a preferred option should be put to Council.

3. BACKGROUND TO THE REPORT

- 3.1 When a council sets its annual budget it is required to consider which of its expenses are "General" and chargeable to all taxpayers in the district and which are its "Special Expenses" and chargeable to taxpayers in the towns /parishes where the expenses relate to.
- 3.2 Council tax special expenses are for expenses taken into account when calculating the authority's council tax requirement, to cover charges to parts rather than the whole authority and are normally associated with covering the costs things, such as maintenance of parks and other open spaces that are not covered by parish councils. Special expenses should not be charged in areas where the cost of that function being charged for is covered by another body, such as via a parish precept. This avoids double taxation for the same service. Although exactly what items are included in special expenses will vary from council to council, and there needs to be a resolution by the billing authority to treat an area as a special expenses area and

levy a charge on that area. Special expenses can be levied in areas covered by a parish precept where the precept does not cover the items to be charged for via a special expenses element. There is no legal requirement to have a separate committee to consider the charge, most councils do not have such committees.

- 3.3 The power to include charges within Council Tax for items of expenditure noted as special expenses stems from the Local Government Finance Act 1992, as amended by the 2012 Act.
- 3.4 The borough consists of 24 parished areas, and one unparished area covering Hinckley. It is the urban area of Hinckley, which is subject to a special expenses element included in the council tax. The original coverage of the charge was for Parks and Open Spaces, Cemeteries and "Poop Scoop" schemes. From 2013/14 the costs of Argents Mead park was removed except for the War Memorial.
- 3.5 The original terms of reference did give further areas that fall within the scope of the HAC. It also gave the potential for the HAC to put forward proposals for growth items, including negative growth, items for both revenue and capital items. This would include proposals for applying for developer contributions for any major works to parks, community centres or any other significant changes to the current service provision within the special expenses area. Similarly any changes to the scale of fees and charges for facilities wholly within the special expenses area would be considered by the Committee. This was subject to three principals (in summary full version presented to HAC on 10/11/2016):
 - The final decision on budget items or scale of charges is retained by the full council (or executive, then cabinet, where delegation allows)
 - The Council (or Executive, then cabinet) want to delegate decision making powers on any specific issues to the committee they may do as and when that issue arises
 - Any item which affects the special expenses area, but also other areas should not be considered specifically by this committee

Review of current arrangements

- 3.6 The current position is that the HAC reviews the budget set for them based on costs allocated to the Hinckley area as special expenses. The Committee does not set a separate charge, similar to a precept for parishes, as the decision on the level of council tax, including special expenses, is agreed by full council. In addition, the decision as to what is categorised as a special expenses is also a decision for the full council (See para 3.13 for legal requirements). Therefore, the current scope of responsibility and power to raise additional income, influence the level of increase in council tax or reduce expenditure for Hinckley based functions is limited.
- 3.7 This position is being reviewed to ensure it meets the requirements of The Council and that the HAC is fit for purpose, is being used effectively and that it covers the correct budgetary areas. An alternative would be for the special expenses elements to fall under normal budgetary control procedures. There is no specific requirement for a separate Special Expenses Committee, and as noted above, the current procedures give limited ability to alter the current level of budget or services that fall within its remit.
- 3.8 Currently special expenses are only charged in the unparished areas, this is not the case in all councils. For example, Harborough District Council charge for services in

parish areas they feel met the definition of special expenses under their special expenses policy.

- 3.9 In order for a special expense to be levied it must meet the definition of being a concurrent function. Therefore, a special expense is one incurred, if the function carried out by The Council is in only part of its area, but the same function is also carried out in another part of the district by one or more parish councils (Local Government Finance Act 1992, S35(2)(d)). The detailed identification of concurrent functions is therefore essential for treating items as a special expenses provision.
- 3.10 Therefore, any changes to the current financial areas that fall under special expenses would have to meet this test, appendix A give examples of items that may fall under special expenses, it is not meant to be a list of all items that are special expenses or to be an exhaustive list.
- 3.11 The strengths of using the special expenses provisions are that it meets three important principles for financial arrangements:
- fairness between council tax bills,
 - transparency, and
 - democratic control and accountability.

Therefore having a system of overview, which could be via a committee or scrutiny function, is needed to ensure these principles are delivered and maintained. That Committee or scrutiny function does not have to be one dedicated solely to the review of special expenses.

- 3.12 Countering this view is the notion of simplicity, in terms of keeping the administrative costs of The Council to a minimum. For example, special expenses are not considered significant then the billing authority may decide not to charge separately for them. However where the amounts involved are significant, and a decision has been made not to charge special expenses, it should have in place other means to ensure that finance follows function where concurrent functions exist and local taxpayers are being charged twice for them. The alternatives to special expenses are noted in the table below.

Alternative	How it works	Comment
Grants	The Billing Authority could pay a grant to some or all Parish/Town Councils towards the cost of a concurrent service. Council Tax payers pay the same throughout HBBC, but some of the Billing Authority budget is paid as a grant. This means that the Parish/Town precept is reduced by the grant amount and the Parish/Town Council can decide how to use the additional income subject to any conditions associated with the grant.	This is the simplest to administer.
Support in goods and kind	The Billing Authority provides support in goods, kind or expertise e.g. granting a peppercorn rent	This would not work for HAC as already using HBBC assets
Agency agreement	The Billing Authority pays a Parish/Town Council for providing a service rather than delivering it directly.	

- 3.13 To address the issue of concurrency being met for the levying a special expense for the Hinckley area, it may require consideration of a special expenses policy or scheme to be approved by The Council. This may then lead to expenses in parished areas falling under this definition, which is the case in other council areas, and then a wider remit than that of the current HAC would be needed. If it remains as it currently is then it could be moved to fall under the normal budgetary control arrangements with a Member lead. The introduction of a wider special expenses policy, if it begins to have an impact outside of the Hinckley area, may not be considered desirable to introduce as it would further complicate the administration of Council Tax.
- 3.14 It is also sensible to establish those areas that are considered borough wide expenses. For example, Northampton Borough Council has designed a special expenses scheme, whereby The Council defined some parks as being for the benefit of the entire borough. These tend to be the larger parks, but not in all cases with smaller parks being included. Therefore merely having an asset in the special expenses area, such as Hollycroft Park, does not make it a basis for a special expense charge.
- 3.15 To clarify The Council's position a special expenses scheme or policy should be approved by The Council to guide what is included with special expense charges included in council tax. This may potential identify areas outside of the Hinckley area that could be subject to special expenses charges, but is unlikely as most functions that could be considered special expenses should be covered by Parish Council precepts. Also, it could be decided that outside of Hinckley the impact is relatively insignificant and there is no requirement for a special expenses charge to be made.

Special Expenses and Council Tax calculations

- 3.16 The council tax charge for the Hinckley area includes a special expenses element. The basis of this charge is governed by the requirements of the Local Government Finance Act 1992. There has been some concern that the special expenses have not fallen where they are incurred, or that Council Tax payer outside the area have been charged for special expenses items.
- 3.17 The Council has to calculate council tax and special expenses based on the requirements of the Local Government Finance Act. This means that The Council has to calculate the average of tax over the whole of the council tax area and special expenses. Then the total of special expenses are then deducted. This gives the average council tax increase net of special expenses. Then The Council has to add back the total special expenses costs, but divides that cost by the tax base for the area to which the special expense applies. This means that taxpayers outside the special expenses area are not charged for the costs of functions that do not fall in their area. This is why two differing increase are referred to in relation to council tax increases when split between the Whole Council and special expenses.
- 3.18 The table below gives how this was used for the 2017/18 budget requirement for council tax, a more detailed breakdown is given in appendix 2. This table demonstrate that although the average increase in council tax spread over all council taxpayers, those council tax payers in the Hinckley area had a £6.43 increase in its council tax bill when the treatment of special expenses is included. This is because the special expenses element is borne by those taxpayers living in the Hinckley area. This would be similar to parish areas that have to cover the costs of parish precept in their area.

Basis of calculation	2016/17	2017/18
To fund HBBC + Special Expenses	£4,261,912.00	£4,561,526.00
Tax base	36,399	37,362
Average cost	£117.09	£122.09
Increase		£5.00
Deduct Special expenses	-£612,952.00	-£655,703.00
To fund HBBC	£3,648,960.00	£3,905,823.00
	£100.25	£104.54
Increase (before parish or Special Exps)		£4.29
Increase in special expenses if spread over entire tax base	£16.84	£17.55
Increase		£0.71
Special expense cost	£612,952.00	£655,703.00
Special expenses tax base	10,238	10575
Cost falling on special expense area	£59.87	£62.01
Increase for special expenses		£2.14
Total increase for council tax payers in special expenses area (£4.29+£2.14)		£6.43

- 3.19 Therefore any decision to change the basis of special expenses needs to consider the impact on council tax payer, in particular moving functions that have a borough wide benefit would lead to the tax costs falling unfairly on a minority of the council tax base. For example, if a further £100,000 of costs had been considered to be special expenses, then the £6.43 increase noted above would become £13.20, when across all council tax payers The Council had agreed an average £5 increase. This is because of the “parish precept” type of impact special expenses has in the Hinckley area.
- 3.20 The HAC cannot raise a precept as a parish can, as special expenses are a method for the calculation of Council Tax for the whole of the Borough. However, consideration of special expenses can also cover income generation assets such as car parks. This could be used to off set the required increase in Council Tax in areas affected.

Proposed options

- 4.0 Changes to the current special expenses policy will be subject to consultation as it has a disproportionate impact on council tax payers in the Hinckley area. Therefore, before significant changes are made to the costs that fall into the special expenses charge a legal view will be required on whether consultation is required

No change

- 4.1 The current system has the benefit of being in place and generally understood and accepted by Hinckley Council Tax payers. The HAC is established and monitors the current spend. The current remit could remain unchanged and any functions not currently within its budget considered borough wide. Appendix 2 has a breakdown of the 2017/18 budget.

- 4.2 This has the benefit of simplicity, but leaves a committee with a limited scope of responsibility beyond monitoring the budget. This may be seen as an overly complicated way of monitoring what is effectively a charging mechanism laid down in legislation. Also, it does not address the question of fairness of taxation as if the current arrangements should reflect a definition of what constitutes a special expense attributable to an area and what is a borough wide benefit and funded by all council tax payers.

Dissolve the current HAC

- 4.3 The scope and responsibility of the current HAC is limited, it has little influence over what is charged for that area or the increase in Council Tax for the Hinckley area. The special expenses charge is effectively a calculation based on guidance in legislation, which has to be followed where there are special expenses. This could be covered by the normal budgetary control mechanism, with a Member lead. Other elements of special expenses, such as car park income and market consideration could be covered using the same budgetary control systems. The number of Councils with a special expenses based committee appears low based on a review of other council's committee structures, whereas the charging of special expenses is not unusual.
- 4.4 Potentially this may mean there is less scrutiny of what is being treated as special expenses.

Enhance the current Remit of the HAC

- 4.5 The current role of the HAC could be enhanced by allowing them to take over more functions that are deemed to fall solely within the Hinckley area, both income and cost generating functions. This could not be covered by additional council tax to The Council as a whole, as HAC cannot levy a precept. However, by controlling costs and generating income it may be possible to reduce the impact on council tax payers within the Hinckley area. This could also lead to new asset creation if funds allowed.
- 4.6 This enhanced role would mean allocating income streams, such as from some car parks in Hinckley and the use of those funds to the discretion of the HAC. In addition, income from events, such as from Markets, Allotments or events organised by the HAC would also become part of the special expenses budget.
- 4.7 Controlling costs, could involve HAC having some control over awarding contracts for areas, such as grounds maintenance. This element of increased income and cost control would give the HAC more scope and a stronger reason to have committee coverage.
- 4.8 In the short to medium term this is likely to significantly increase the costs to council tax payers in the Hinckley area. An example of costs that The Council could decide to treat as a special expense is Holycroft Park. This would mean it is no longer considered a borough wide facility and the costs would fall on council tax payers in the Hinckley area. The estimated costs that would become part of the special expense budget is a net impact of £159,000, or an increase for Hinckley area council tax payers of £15.04. The main cause of this increase is the grounds maintenance costs of £126,000 per year. Currently there is only £27,000 of income associated with Holycroft Park. In the first year, this increase could be offset by using all of the reserves held in the HAC budget.

Move to the formation of a Hinckley Town Council

- 4.9 The move to enhance the HAC role would increase the potential for the formation of a Hinckley based Town Council. This would be the indication if full decision making over the level of income, via a precept, was the desired outcome, but this is a significant extension of the current position.
- 4.10 To set up a town or parish council, there needs to be a petition presented to The Council containing the signatures of at least 7.5% of the local population, with a clear reason to the purpose behind creating the new parish or town council. This does not automatically lead to the creation of a new town council, but leads to a Community Governance Review meaning The Council would then have to launch a consultation process to confirm a majority of residents are in favour before setting the date for the first election and creation of the parish council.
- 4.11 This has risks for The Council as the more that is labelled as part of special expenses prior to this, the higher the risk that it will be lost to the newly established town Council. For example, if borough wide assets, such as a park, were treated as part of special expenses, the more likely that asset would become part of the asset base of the new town council. This would mean the Borough Council loses control of that asset and any potential future benefits.
- 4.12 Therefore there is the potential for costs to fall on The Council and resources to be tied up in creating the town council that could be more productively used. Also, the establishment of the town council does not remove the need for the Borough Council to consider if it needs to levy a special expense charge. Also, a town council the size of the HAC's budget would also need to employ staff directly, which would add costs. The result could be a higher tax burden for residents within the Hinckley area for little benefit in the level of services provided.

Other considerations

- 4.12 Any change to the current arrangements should be based on clarification of what HBBC's definition of what falls within special expenses, based on the requirements of the Local Government Finance Act 1992. This would need to be clarified in terms of having a set policy. This could potentially mean other parishes areas would be captured by this policy, with implications for how Council Tax is administered and the need to commence charging special expenses in more areas than Hinckley. This may not be considered suitable and would require consultation with any parishes affected.

5. FINANCIAL IMPLICATIONS [AW]

- 5.1 Balances and reserves of the HAC budget will be affected by any decision to extend the range of functions considered as special expenses in that area.
- 5.2 Other implications are contained within the body of the report.

6. LEGAL IMPLICATIONS (AR)

- 6.1 Within the body of this report it sets out the relevant statutory powers under the Local Government Finance Act 1992.
- 6.2 In addition to this, and also referred to within the body of this report, an assessment will need to be undertaken as to whether there is a requirement for a public

consultation. Under a duty to consult the Council is required to undertake a consultation with:

- (a) Representatives of persons liable to pay any tax, precept or levy to or in respect of the authority;
- (b) Representatives of persons liable to pay non-domestic rates in respect of any area within which the authority carries out functions;
- (c) Representatives of persons who use or are likely to use services provided by the authority; and
- (d) Representatives of persons appearing to the authority to have an interest in any area within which the authority carries out functions.

If this is required to be undertaken, then the responses will need to be considered, prior to the implementation of any decision.

7. CORPORATE PLAN IMPLICATIONS

- 7.1 Expenditure incurred to achieve an attractive 'green' borough that minimises its impact on the environment

8. CONSULTATION

- 8.1 None.

9. RISK IMPLICATIONS

- 9.1 It is The Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
None	None	None

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 10.1 All expenditure and income relates to the urban area of Hinckley.

11. CORPORATE IMPLICATIONS

- 11.1 By submitting this report, the report author has taken the following into account:
 - Community Safety implications
 - Environmental implications
 - ICT implications

- Asset Management implications
 - Human Resources implications
-

Background papers: Budget working papers and Civica files

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Appendix A:

- Allotments
- Boating pools
- Bus shelters
- Car parking (off street)
- CCTV (installation and maintenance)
- Cemeteries and burial grounds
- Changing rooms and pavilions maintenance
- Christmas lights and trees
- Closed cemeteries and burial grounds
- Commons and common pastures
- Community centres
- Crematoria
- Entertainment and the arts
- Footway lighting
- Grants to bus operators
- Grass cutting
- Grounds maintenance relating to open spaces, recreation grounds and sports pitches, including children's play areas
- Information services (transport, tourism)
- Highways maintenance
- Leisure facilities
- Litter and dog waste bins
- Museums
- Open spaces
- Parks
- Playgrounds
- Play schemes
- Playing fields
- Public clocks
- Public conveniences
- Public seats adjoining highways
- Recreation grounds
- Sports pitches
- Street cleansing
- Subsidies for uneconomic post or telecommunications services
- Taxi fare concessions
- Tourism promotion
- Traffic calming
- Village greens
- Village halls
- War memorials

Items are currently within special expenses are listed in Appendix b

Appendix B

Description	Value
Grounds Maintenance (Routine)	£271,710.00
Salaries - Full Time	£105,250.00
Interments	£57,800.00
Grounds Maintenance (Additional Works)	£34,670.00
Asset Management Recharge	£34,110.00
Tree Works	£23,200.00
Play Area Maintenance	£23,050.00
Materials	£16,500.00
Poop Scoop (Special Expenses)	£12,450.00
Effluent Treatment	£7,880.00
Water Metered	£7,820.00
Depot Office Recharge	£7,040.00
Hired & Contracted Services	£6,250.00
Accounting adjustments, e.g. pensions, capital charges.	£5,630.00
Electricity	£5,100.00
Equipment Purchase	£4,790.00
Legal Department Recharge	£4,580.00
Accountancy Recharge	£4,200.00
Creditors Management Recharge	£4,190.00
Hinckley Neighbourhood Watch	£4,000.00
Equipment Maintenance	£3,440.00
Central I.T. Recharge	£3,290.00
NNDR	£2,950.00
Footpath Lighting Recharge Leics CC	£2,580.00
Human Resources Recharge	£2,520.00
Communication & Promotion Recharge	£2,480.00
Car Allowances	£2,410.00
Public Liability Insurance	£2,260.00
Contact Centre Recharge	£2,060.00
Hinckley Town Centre Christmas Lights	£2,000.00
Items costing less than £2,000	£11,200.00
Total Costs	£677,410.00
Burial Fees	-£78,500.00
Hire Fees	-£3,100.00
Income items less than £2,000	-£1,310.00
	-£82,910.00
Net movement reserves and balances	£61,203.00
Budget Requirement	£655,703.00