

COUNCIL TAX AND COMMUNITY CHARGES RESTRICTIONS ON VOTING

1. Reason for Report

Members require to be aware of legislation in force from 6 March 1992 which may affect their voting rights on Council Tax and Community Charges matters.

2. Glossary of Terms

The Act – Local Government Finance Act 1992

3. Recommendation

Members are asked to note the provisions of Section 112 of the Local Government Finance Act 1992 which places the onus of disclosure on the individual Member and removes a Member's voting rights on Council Tax and Community Charge matters in certain specified circumstances.

4. Key Issues

4.1 Section 112 of the Local Government Finance Act 1992 stipulates that any Member who is

- two or more months in arrears of Council Tax; or
- three or more months in arrears of Community Charge

shall be required to disclose the fact that Section 112 applies to him as soon as practicable after the commencement of any meeting where any matter affecting the level of Council Tax or administration of Council Tax or Community Charge is being discussed and thereafter the Member is prevented from voting on these matters.

4.2 The requirement of disclosure and loss of voting rights arises if -

- a sum due by the Member in respect of Council Tax or Council Water Charge, either as an instalment or as a lump sum, and whether he is solely liable or jointly and severally liable to pay it -

has become payable and has remained unpaid for at least two months;

or if

- a sum due by the Member in respect of a Community Charge or Community Water Charge, either as an instalment or as a lump sum, and whether he is solely liable or jointly and severally liable, -

has become payable and has remained unpaid for at least three months.

4.3 Disclosure is required and the voting rights are lost at meetings in respect of -

- the setting of the Council Tax;
- the substitute setting of the Council Tax; and
- a reduced or deemed setting of the Council Tax.

4.4 Disclosure is also required and voting rights are also lost at meetings in respect of the exercise of functions for -

- administration, including collection of Council Tax;
- enforcement of recovery of Council Tax or Council Water Charge; and
- levy, collection, payment and recovery of Community Charges and Community Water Charge.

4.5 It is worthy of note that arrears of Community Charge can affect voting rights on Council Tax matters and vice versa.

4.6 Section 112 is expressed so that it applies to a Member if a sum of Council Tax under the Scottish provisions of the 1992 Act or if a sum of Community Charge under the Abolition of Domestic Rates Etc. (Scotland) Act 1987 is in arrears to the extent specified. It would appear to follow that a Member is subject to the disclosure requirement and loses voting rights if the appropriate arrears of Council Tax or Community Charge are payable by him to any levying authority in Scotland. Arrears due to a Council in England or Wales do not appear to affect a Member's voting rights on a Scottish Local Authority.

4.7 If a Member to whom Section 112 applies fails to comply or to forebear from voting on affected matters, he is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

4.8 A possible further consequence of a failure by a Member to comply with Section 112 of the Act is that in the case of any resulting injustice to an inhabitant of the area, the failure to comply may amount to maladministration by the Council even if the other Members and officers were not aware of the failure at the time.

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