

## **MANAGING DOUBLE TAXATION**

### **A guide for local (parish and town) councils and principal local authorities**

This report was commissioned by the National Association of Local Councils (NALC), the body which represents the interests of the roughly 8,500 parish and town councils across England. Additional support came from the Commission for Rural Communities.

Information for this report was gathered between September and November 2010, a time when the policy context was rapidly developing. National Government policy has put increasing emphasis on localism and a more active civil society, whilst significant reductions in public sector spending have been announced through the Comprehensive Spending Review.

## **Introduction**

### **What is double taxation?**

In this context double taxation is where residents in certain local council areas are paying twice over for particular public services. It can happen because many local services are 'concurrent functions' – that is, they can be managed and delivered either by local parish and town councils or by principal local authorities (district, borough, unitary or county councils).

Typically double taxation comes about in relation to the most locally delivered services, such as maintaining children's play areas, closed churchyards, playing fields, open spaces, public conveniences and footpaths.

### **Why does it come about?**

There are two ways in which double taxation can happen:

1. Where provision of a service is delegated or devolved from a principal local authority to a local council without sufficient funding being passed on to cover the costs. This

may mean the local council having to make good the funding gap by raising the precept it levies on local residents;

2. Where, within a principal local authority's area, a service is delivered in some places by that authority and in other places by local councils. This can result in some residents paying for the service in their local council area through its precept, while at the same time they contribute to the cost of provision elsewhere through the Council Tax bill from their principal local authority.

### **Does it affect certain types of area?**

Different tiers of local government may end up providing the same services because some areas are parished and some are not. They are delivered by the principal local authority in the unparished areas. Larger towns and urban areas, in particular, are often unparished. However, the situation may also arise in fully parished areas, if some local councils accept responsibility for providing (and paying for) a service whilst others do not, perhaps because they lack the capacity to do so.

Residents in both smaller parish councils and larger town councils can be subject to double taxation. Some larger (town) councils seem willing to overlook double taxation, if its extent is modest in relation to their overall budget, but others seeking to maintain their town as a viable service centre do see it as a significant issue. For smaller parish councils the issue is typically more one of fairness – residents can't see why they should contribute to services in unparished areas, as well as paying in full (via the precept) for services in their village.

### **Who is this guide for?**

This guide has been written primarily for local (parish and town) councils and for principal local authorities, since any measures to address double taxation need to be agreed between these tiers of government. Its aim is to help them review apparent double taxation issues and to find the most appropriate way forward given local circumstances.

As far as possible the guide avoids technical detail. It runs through the main arguments for and against introducing a solution. It reviews the main approaches which have been adopted to-date, drawing on local examples, and it suggests some possible alternative approaches. It indicates those situations where the various approaches may be best suited.

Experience shows that resolving double taxation is not easy – indeed some say it can only be mitigated or imperfectly addressed. This guide tries to show how.

## The policy context

### Local council funding

Generally speaking local (parish and town) council funding for services can come from four<sup>1</sup> sources:

- By levying a precept on households in their area, which will be added to the annual Council Tax bill issued by the relevant district, borough or unitary council;
- From grants they receive, which could come from a variety of sources including a principal local authority;
- From income generated by other facilities of services that they manage, such as a car park or beach huts;
- Out of savings (money on account), which has been held over from previous financial years.

In practice the level of funding in the sector varies enormously – some 450 local councils have no annual budget, whilst around 50 have an annual budget over £1 million and one has a budget that exceeds £4 million.

### Legislation and guidance

The two most relevant pieces of legislation are:

- *Local Government Act 1972* – section 136 allows principal local authorities to pay grants to local councils in respect of concurrent functions, while section 101 allows one local authority to arrange for its functions to be discharged by another (this being further supported by section 20 of the Local Government Act 2000, which permits the joint exercise of functions);
- *Local Government Finance Act 1992* – sections 34 and 35 allow a billing authority (district, borough or unitary council) to switch some of its general expenses into ‘special expenses’, as a result of which it can charge different amounts of Council Tax in different parts of its area.

Grant schemes, service delegations and special expenses are described in more detail below.

The last piece of guidance issued by national Government on double taxation was that published in 2002<sup>2</sup>. The legislative framework described in that document still stands.

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<sup>1</sup> There are other potential sources, such as loans and issuing fixed penalty notices (fines).

<sup>2</sup> *Best Practice Guidance on Double Taxation* (appendix 3 to The Quality Parish and Town Council Scheme), Office of the Deputy Prime-Minister, 2002. It is still available at this web address: <http://www.communities.gov.uk/documents/localgovernment/pdf/155163.pdf>

## **The changing context**

However, the policy landscape and context has moved on considerably, arguably making double taxation a greater consideration than it was before.

The number of local councils has increased, including where parishing took place as part of local government re-organisation. Some relatively large local councils have been created in places such as Salisbury and Shrewsbury. Since 2007 principal local authorities have been able to create new parishes and it has even become possible to do so within London.

The Coalition Government formed in 2010 has placed a great deal of emphasis upon localism; it wants to see more decisions and actions being taken at the most local level possible. As part of this policy drive it has highlighted the role of local councils.

Then there is the tightening financial position for principal local authorities. The Spending Review announced a 26% reduction over 4 years in their grants from central government and it confirmed that Council Tax charges cannot be increased in 2011/12. Many local services will inevitably be affected.

This suggests significant opportunities for local councils to expand their role as service providers to their communities. However, principal local authorities may be reluctant to hand over funding to them and may be tempted by the fact that the local council precept (unlike their own Council Tax charge) is not currently subject to capping. Under these circumstances more cases of double taxation could arise.

## **Should double taxation be addressed?**

This may appear to be a strange question. However, whilst there are good reasons to address double taxation, other arguments are articulated for not taking action. What is clear is that the issue should not be swept under the carpet and go unconsidered. Any decision whether or not to tackle double taxation should be as a result of having considered the local issues.

### **Reasons to resolve double taxation**

- *Accountability* – an often quoted principle is that “finance should follow function”. The organisation responsible for delivering a service – the local council in this case – should also hold the relevant budget. This strengthens democratic accountability by making clear who is responsible for decisions about that service;
- *Fairness* – it is inequitable if taxpayers are treated differently for no good reason. Residents in certain areas should not be paying both (in full) for the service in their locality as well as contributing to its provision elsewhere;

- *Sending the right signal* – public policy aims to encourage local councils to expand their role, so that services better meet local needs. However, allowing double taxation to arise discourages local councils from doing just that;
- *Partnership* – it is a practical way in which tiers of local government can demonstrate partnership intent, reaching agreement about concurrent services and their funding;
- *Taxpayer interests* – local Councillors have a legal duty to act in the best interests of their taxpayers. It is argued that this should include considering concerns about double taxation.

### **Arguments advanced for not taking action**

- *Administrative effort* – the effort and cost required to find an appropriate resolution and then manage it may be disproportionate for the scale of double taxation that occurs;
- *Unclear comparisons* – a truly accurate assessment of double taxation would require comparison of service levels in different (local council) areas. Such like-for-like comparisons are hard to achieve;
- *Historic accident* – uneven patterns of service delivery and which tier of government delivers what service are largely a result of past developments (rather than recent policy decisions);
- *Serving the wider area* – more centralised services, such as leisure or arts centres, serve people across the wider area. Indeed, district councils may only have one or two such centres, inevitably located in the largest settlement(s). Put another way, local council boundaries don't determine where people access services;
- *Income generating services* – there is a converse argument about what to do with services which generate a profit for the principal local authority. Should that profit help reduce the Council Tax charge for all its taxpayers or only those living close by the profitable service?

### **Weighing up the arguments**

When faced with a double taxation situation certain points are worth bearing in mind.

First, tackling double taxation does not imply that every local council area should have the same service levels. Individual local councils will want to decide how far they are prepared to use their precepting powers to enhance the standard of services which would otherwise be provided. Measures implemented to address double taxation should try to avoid compensating local councils for such enhancements.

Second, it is important to be clear about the legal position of different services; when something is a concurrent function and when it is a distinct function for one tier of government. Double taxation arguments can only be made in respect of those which are concurrent functions. Annex B is a list of concurrent functions.

Third, it will help to distinguish between those services delivered at a very local level (such as play areas, sports fields, litter collection and bus shelters) and those delivered centrally (such as leisure centres) which serve a wider catchment. It is more reasonable to expect users to travel to access some services than it is to others. The more locally a service is delivered, the stronger the case for addressing double taxation concerns.

Fourth, principal local authorities should understand the geography of their double taxation issues, as different situations point towards different ways of addressing the issue.

Considerations are: whether they have both parished and unparished areas; and how much their local councils vary in the extent to which they deliver concurrent services.

Fifth, it is relevant to understand how double taxation issues have come about. In particular, whether they are historic in nature or are arising as a result of decisions taken now. In theory it is easier to deal with situations arising now. Understanding this will also help to identify the best approach.

Last, it will be useful for local councils to form a view about what they are prepared to fund from their precept and to be as strategic as possible in their thinking. There is a risk of being bounced into ad hoc decisions to save (any and all) threatened services. Double taxation is never ideal, but may be tolerated up to a point for higher priority services. Local councils can take more informed decisions by knowing which services matter most to their community. One (admittedly large) local council says that if a service is really important for its town it will deliver that service for the town's sake and not worry unduly about double taxation.

## Conducting reviews and creating local policies

It is not uncommon for principal local authorities and local councils to report that there are concerns about double taxation in their area. Sometimes these have festered for a long time and have damaged working relationships.

Any plans for a review should build upon existing **partnership working** arrangements between the principal local authority and the local councils sector e.g. a Parish Councils Liaison Group. It needs to happen in the context of wider relations between the tiers of government. They may, of course, set up a working group to progress and report back on the review. If there are no existing appropriate arrangements, something ought to be developed at the outset. It is important that both parties buy-in to the review process and debate its findings, hopefully to arrive at common conclusions.

The review will need to be informed by a good **local evidence** base. This might usefully determine:

- Which concurrent functions are in fact being delivered by both the principal local authority and by local councils;
- How those services are being funded and, hence, whether it is the case that double taxation is occurring;
- Which areas are subject to double taxation, including whether they are parished or unparished;
- How that double taxation has come about and whether it is historic or arising now; and
- What scale of funding is involved in cases of double taxation, including for individual local councils.

Gathering this evidence may require an early survey of local councils in the area. It may also be appropriate to have a break point in the review once it has been determined whether or not double taxation appears to be occurring. The review may not need to go any further.

If there is an issue, the various **options** for addressing double taxation (outlined below) will need to be considered to find the one (or ones) which best suit local circumstances. It may be useful at this stage to explore examples of these approaches from other local authority areas. The evidence collated by the review will be an important input, though other factors such as local policy objectives and resources will undoubtedly come in to play too. Another factor to bear in mind (and which might be estimated) is the effort and **cost** that would be required to manage the various options e.g. grant schemes. Any option selected will need to be proportionate, in relation to the scale of the double taxation issue.

Having identified a proposed way forward, it could be a good time to **consult** with every local (parish and town) council in the area, especially if there has not been prior consultation. This will help ensure that the review has been fair and has heard all grievances. It will also be a way to demonstrate transparency. Fundamentally, it can test views about the option which appears to best suit local circumstances and help to build consensus. A further possibility is using the consultation to gather views to inform implementation e.g. on timescales and funding processes, though care would need to be taken this is not seen locally as jumping the gun.

**Implementation** will require further detailed work to determine how the chosen option will operate locally. It would also be helpful to consider how that will be monitored and reviewed. With any approach to double taxation there are likely to be some teething problems or room for improvement. Over the longer term local circumstances will change and the approach may cease to be appropriate. The Quality Parish Councils scheme suggests that mechanisms for relations and financial discussions between principal local

authorities and their local councils are set out in a **charter** document. This can usefully set out the agreement reached about addressing double taxation and for keeping it under review. It also helps place the issue into a broader consideration of joint working arrangements and, perhaps, ambitions for service devolution. It will now need to take account of measures proposed in the Government's Localism Bill (November 2010), such as the Community Right to Challenge.

#### ***Charters – what they say about double taxation***

Leeds City Council: "Where Leeds City Council and one or more local councils agree that a particular concurrent function will be provided by the parish or town councils in their own areas ... then Leeds City Council commits itself to ensuring that double taxation does not occur in financial arrangements it makes with the local councils."

Northumberland County Council: "Where for the time-being parochial services are being provided by the County Council, the County Council will seek to finance them by way of a special expense ... Where the County Council seeks to devolve to a local council the responsibility for delivering a service which is not a parochial service ... the County Council will normally pay the local council the full amount of the cost of providing that service."

Good communication, partnership working and trust are likely to underpin any successful review process. They are needed at both officer and member (councillor) levels. Indeed, reviews conducted badly e.g. which fail to follow through or go back on decisions, can seriously undermine local working relations.

### **Main options for addressing double taxation**

There is no correct solution to double taxation. Rather there are different approaches which will suit differing local circumstances. Five common approaches are outlined below. It should be noted that these are not on the whole exclusive and could be operated in parallel for different services (indeed, this may make local sense).

#### **Option 1 : Delegation with funding**

Section 101 of the Local Government Act 1992 allows one local authority to arrange for the discharge of any function by another. Principal local authorities set up a delegation (or devolution) scheme, so that local councils can put forward a business case to take on responsibility for managing and/or delivering a service. If accepted, some form of contract will be signed with terms and conditions, including the budget to be paid to the local council. The service standards to be met are sometimes called a Service Level Agreement.



Where the other options below are generally about resolving historic or emerging double taxation issues, this option is mainly about stopping new cases of double taxation from arising. Double taxation can be said to occur if services are delegated, but with insufficient funding to cover the delivery costs being assumed by local councils (with the funding gap met from their precept). By providing adequate funding double taxation is avoided.

A guidance note on service delegations, with case study examples, was published by NALC and the CRC in 2009 (*Guidance note: Service delegations to parish and town councils*<sup>3</sup>). It found that most schemes expect delegations to be cost-neutral or better – local councils must at least match principal local authorities on service delivery cost. While local councils may lack economies of scale, they can often provide services at lower cost because they have fewer overheads or can use less specified equipment or make use of volunteers.

#### ***Isle of Wight Council***

When this unitary council was formed in 2005 it made a commitment to develop its 33 local councils. A Parish Devolution Empowerment Framework was developed, initially through two pilots with the Quality Parish Councils at Brading and Wootton Bridge. The framework provides a clear process and criteria for considering service delegation bids received from local councils. It allows councils to become involved to varying extents to match their capacity, from taking full ownership of services through to performing a service monitoring role. Successful bids will receive funding to go with the delegated services, but the amount must be no more than Isle of Wight Council would have spent if it continued providing the services.

#### **Option 2 : Special expenses**

Sections 34 and 25 of the Local Government Finance Act 1992 allow different amounts of Council Tax to be calculated for different parts of a billing authorities' area. If there are services which a district (or unitary<sup>4</sup>) council is only providing to certain parts of its area they become 'special expenses', unless it resolves otherwise. Special expenses are removed from its general expenses and are shown separately from general expenses on the Council Tax bill. Such functions must be concurrent, must be a district council responsibility and must be being delivered by both tiers (district and local councils) in different places.

The billing authority only charges special expenses to Council Tax payers in those places where it is delivering and funding the relevant services. In other areas local (parish and town) councils are delivering these services and will be funding them (most probably from the precept they levy on their residents).

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<sup>3</sup> Accessible online at [http://www.nalc.gov.uk/Publications/Booklets\\_and\\_Resources.aspx](http://www.nalc.gov.uk/Publications/Booklets_and_Resources.aspx)

<sup>4</sup> To be precise, this refers to district level services which are provided by a unitary council.

Special expenses can be declared either for unparished areas or for local council areas where those councils are not delivering services. The neighbouring examples of Rother and Wealden district councils in East Sussex illustrate this point. They have opted to use special expenses for rather different reasons.

***Rother District Council***

This district in East Sussex has used special expenses since it was created in the 1974 local government re-organisation from an amalgamation of one (parished) rural district and two (unparished) urban boroughs. They are levied on residents in the unparished towns of Bexhill and Rye (at £47 for a band D property in Bexhill in 2010/11). They are applied in respect of museums, bus shelters, the Bexhill Town Forum, and parks and open spaces, the last of these being much the largest component. The calculation of special expenses for the two towns is largely based upon actual costs from previous years. For something like parks, the district knows what costs its grounds contractors have estimated for each location they maintain.

***Wealden District Council***

The district is completely parished and the issue here is maintaining closed churchyards. A review in 2008 decided not to take action, but circumstances have altered since and special expenses are to be introduced for this one service area from 2011/12. It is a response to further parochial (church) parishes closing churchyards and the relevant civic parishes deciding they don't wish to take the responsibility for maintaining them. Legislation permits parish councils to pass that responsibility over to the district.

Residents in local council areas where this happens will see special expenses charged on their Council Tax bills. Wealden can track the cost of maintaining each closed churchyard from its financial records. A further sum will be added to build up a sinking fund for major one-off items, such as wall replacement. Wealden DC stresses that the key issue is fairness. Residents already paying a precept for their local churchyard should not be penalised.

**Option 3 : Grant schemes**

Section 136 of the Local Government Act 1972 allows principal local authorities to pay grants to local (parish and town) councils, funded from their general expenses, in respect of concurrent functions. This will compensate local councils (or part compensate them), where they are delivering services which would otherwise fall to the principal local authority to provide. It negates or reduces the need for local councils to fund such services out of their precept. Hence, it avoids or reduces double taxation.

Grant schemes can vary significantly in their nature and complexity. Examples include: funding applications which meet specified criteria; allocating grants based on some local formula; managing a competitive bidding process; providing match-funding for locally raised money; and funding administrative costs so local councils can manage services. It is possible

to operate a scheme so it allows local councils to opt in to a grant system or opt out of it, so that service delivery remains with the principal local authority.

A certain amount of bureaucracy is generally required to operate a successful grants scheme. Typically, this might include a set of rules and criteria, an application process, an audit trail for the grant money and a monitoring process to measure outputs.

***Ribble Valley Borough Council***

A patchwork has existed, with some local councils managing certain services and others not, in this Lancashire district since the 1974 re-organisation. In 2009 they introduced a Concurrent Functions Grant Scheme covering seven functions – play areas, burial grounds, bus shelters, footpaths, footway lighting, litter collection and dog waste bins. Local councils can apply for the re-imbursment of 25% of eligible costs they incurred in the previous year. That percentage was pragmatically chosen to fit what the district could afford. If applications were ever to exceed the scheme budget the percentage would be reduced, though experience to-date shows this is unlikely to happen. To make the scheme work all applications must be received by the same annual deadline. It is limited to revenue expenditure and excludes administrative overheads, which the district would view as “close to taking back service responsibility” if it funded. The scheme is designed to make a contribution, rather than cover full costs; the district says it would otherwise be unaffordable and it retains an incentive for local councils to keep costs down. The scheme’s introduction is felt to have gone down well with local councils.

***Braintree District Council***

Sixty parish councils cover most of the area, but the main town of Braintree is unparished. A Parish Support Grant scheme has operated since 1974 for concurrent services. This paid a proportion of costs incurred, that proportion being higher for smaller than for larger local councils. The amount was also capped in relation to a local council’s band D property precept. Complexity was one reason this scheme was modified five years ago, as well as local councils seeking more grant stability from year to year. Braintree DC now pays the same grant as in previous years, plus an indexed amount for inflation. Indeed, the year the scheme was introduced they added 10% to cover some past inflation. The district says the scheme is now administratively simple to operate, but acknowledges it would become dated if it did not from time-to-time take account of changes in service responsibilities.

**Option 4 : Help in-kind**

Rather than dealing directly with the services causing double taxation concerns, principal local authorities can provide local councils with support or goods in-kind as recompense for or a goodwill gesture towards their expenditure on those services. This can take a wide variety of forms, including: paying for local council election expenses; providing IT hardware or technical support; conducting free inspections of local council-run services; helping them with service maintenance; access to training opportunities; access to procurement contracts and discounted supplies; undertaking printing at low or no cost; reduced planning fees;

project development support; help with drawing up contracts; short-term staff placements; permitting the joint use of assets; and charging peppercorn rents.

Some support and goods are likely to be more useful than others, depending on the capacity and needs of local councils. Effort should be made to match up what the principal local authority could offer with what will prove most beneficial to local councils. It may also be that certain types of support should be deemed inappropriate e.g. with audit, where some separation of roles is preferable.

***Lancaster District Council***

Following a governance review, which led to the creation of Morecombe Town Council, the district set up a Task Group to review concurrent functions and review how it dealt with double taxation. The outcome, since 2009, has been a flexible approach which mixes grants and help in-kind. The review generated evidence about double taxation and, as a result, help is now provided only for services and in places where it has been shown to exist. Local council circumstance and district policy determine the resulting mix of grants and help in-kind. Examples of help in-kind include the district providing local councils with free service inspections and with maintenance.

**Option 5 : Do nothing**

Sometimes, even after reviewing the situation in some detail, the local decision is made not to take action which would address apparent double taxation issues. Such decisions are most likely to be reached by principal local authorities and, of course, they may not satisfy the affected local (parish and town) councils. ‘Do nothing’ is often a response to the complexity of the issue and, hence, the perceived difficulty of finding a resolution which would satisfy all parties.

Some advantages and disadvantages associated with these five options are set out in the table below. Of course, sometimes what is good for local (parish and town) councils is not so good for principal local authorities.

| <b>Options</b>          | <b>Advantages</b>  | <b>Disadvantages</b>   |
|-------------------------|--|--|
| Delegation with funding | Local councils are being paid for taking on a service.<br>Delegation schemes often come with advice and support for local councils.<br>A structured way for principal local authorities to manage service devolution.<br>Such schemes send a positive message on service devolution. | It would be difficult to apply retrospectively (to sort historic double taxation issues).<br>The principal local authority remains responsible for the service, so there will be monitoring requirements.<br>Delegation schemes often don't fully recompense local councils for the service costs. |

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|------------------|--|---|
| Special expenses | <p>This can be seen as, theoretically, the most accurate methodology and option.</p> <p>So it most obviously tackles historic cases of double taxation. Special expenses are not subject to the (local government funding) capping regime.</p> <p>It has an obvious logic to it where local councils have passed service responsibility up to the principal local authority.</p>   | <p>It can be complex to identify service costs by locality and hence to compute special expenses.</p> <p>It introduces another expense line on Council Tax bills, making them harder to explain to the public.</p> <p>It can generate very variable Council Tax bills between localities.</p> <p>It is (legally) restricted to services delivered by district councils.</p> <p>It could be said to assume people are accessing services where they live.</p>                                  |
| Grant schemes    | <p>Such schemes are relatively easy to set up.</p> <p>Principal local authorities generally have experience of operating grant schemes.</p> <p>Arguably they have a positive public image i.e. “grants are good, taxes are bad”.</p> <p>They readily allow for (even encourage) service improvements by local councils.</p> <p>They need not be restricted to the local councils sector.</p> <p>For principal local authorities, it is easy to contain the overall cost.</p> | <p>It is unlikely to cover all local council costs and will probably come with restrictions.</p> <p>Indeed, there is likely to be an annual scheme budget which local councils cannot exceed.</p> <p>There will be some bureaucracy e.g. grant criteria, application forms and monitoring.</p> <p>The principal local authority has to justify its decisions about grant allocations.</p> <p>Such schemes tend to be annually renewable and local councils may find they are easy to cut.</p> |
| Help in-kind     | <p>It should be simple and efficient for principal local authorities to operate.</p> <p>It can deliver genuinely useful support to local councils (where they lack expertise or resources).</p> <p>Certain types of support should cement partnership working.</p> <p>It should be easy to adjust over time to fit new circumstances.</p>  | <p>This could be viewed cynically as little more than “a fudge” of the real double taxation issues.</p> <p>It is likely that the help in-kind will not fully compensate local councils for the double taxation.</p> <p>It benefits the local council, though not necessarily the precept payer.</p> <p>It may not discriminate between those local councils which do and don’t experience double taxation.</p>  |
| Do nothing       | <p>This avoids devising a system which is out of proportion to the scale of the double taxation issue.</p> <p>There is no system requiring management time and effort.</p> <p>It accepts the inherent complexity of patterns of service use.</p>   | <p>It is a “cop out”, which doesn’t seek to address the issues.</p> <p>Residents in certain localities are left paying seemingly unfair local taxes.</p> <p>Local councils may be disincentivised from taking service responsibilities.</p> <p>It may damage the principal local authority’s partnership reputation.</p>  |

## Further possibilities for options

There may be other ways in which double taxation could be avoided or mitigated. These include:

- A **local agreement** being struck between the principal local authority and its local councils about which of them will take responsibility for which concurrent functions. Those functions to be delivered by local councils will be funded from their precept (or other income sources). Northumberland would like to reach this point for certain services (see box below). Its appeal is its ambition for the local councils' sector. Implemented, it also clarifies the financial and political accountability for different services. Indeed, it should be more stable and less liable to annual review than many options described above. Another feature is that no money need change hands between the tiers of government. However, to tackle double taxation it must be clear that the principal local authority's Council Tax bill has been kept down in line with its reduced role in service delivery. It also requires the whole principal local authority area to be parished, unless some other way can be found for unparished places to provide for themselves. One other obvious stumbling block is that it requires all local councils to sign up and manage the devolved services<sup>5</sup>;
- **Income generating** services or facilities being handed over to a local council at the same time as services or facilities which will cost them are handed over. The transfer of a package of services to the local council would then be made broadly cost-neutral;
- Local councils **contracting** with their principal local authority to provide certain services, much as third sector or commercial organisations might, on a full cost recovery basis. Some principal local authorities now wish to become service commissioners rather than service deliverers (the 'easyCouncil' model);
- Taking on a service with an **endowment**. Seaford Town Council has taken on an art gallery from the district council with some money towards the initial running costs and a pot of money to be used for future maintenance (capital) needs. Though only a short-term fix on the running costs, it gives them a period in which to reduce costs. Section 106 agreements (made with a developer, where planning permission is granted) have sometimes been used to generate a pot of funding to allow a local council to manage services;

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<sup>5</sup> Lower capacity local councils can work with neighbouring higher capacity ones to deliver services. Guidance on such 'clustering' can be found at [http://www.nalc.gov.uk/Publications/Booklets\\_and\\_Resources.aspx](http://www.nalc.gov.uk/Publications/Booklets_and_Resources.aspx)

- More generally, levels of double taxation might be reduced (though not eliminated) if local councils seek different ways or lower cost **models to deliver services** e.g. using volunteers, community trusts, sharing services with neighbouring local councils and different services sharing a building and/or staff (a one-stop-shop).

#### **Northumberland County Council**

The aim here is to reach a point where certain services are the responsibility of the local councils sector. This has been made possible by the formation of a unitary Northumberland authority and the creation of parishes in all previously unparished areas in 2009. The county association of local councils led the drafting of a Charter agreement between the county and the local councils sector. This states that some service areas will normally be provided by local councils – bus shelters, public seats, allotments, burial grounds, war memorials, play areas, playing fields and community centres. It recognises that certain local councils need to develop their capacity before the aim can be realised. In the meantime, a special expenses scheme operates for those local councils which have not taken on certain of these service responsibilities.

### **Choosing an appropriate option**

Principal local authorities and the local councils sector will need to find the option or options which best fits their local situation and addresses particular local concerns. Whilst there can be no hard and fast rules about this, the following indicates some situations where the different options may work well:

Delegation scheme with funding: where local councils taking on responsibility for certain services is a new feature or something that the parties wish to encourage through a promoted local policy initiative.

Special expenses: for services where provision is geographically dispersed (i.e. accessed very locally) and where the local costs can be identified. It is unsuited to centralised services with one or just a few outlets in a district. It can only apply to district council functions.

Grants schemes: where there is a complex mix of services affected by double taxation issues and/or a real mix of local councils which do and don't provide those services.

Help in-kind: where the sums of money involved with double taxation are relatively modest and where the local councils sector can identify appropriate support needs.

Do nothing: where the sums of money involved are minimal for both parties (principal local authority and individual local councils). Also, where the services in question are centralised and can be said to serve the whole district.

Local agreements: where the whole principal local authority area is parished, where service provision is geographically dispersed and where there is (emerging) consensus among the local councils sector about taking on certain service responsibilities.

As noted earlier, a review may find that different options are best suited to different local services. As long as it does not over-complicate matters, it may be entirely appropriate to operate a mix of options.

## **Conclusions – some principles of good practice**

Government policy is to encourage the devolution of services and included within that is a wish to see local councils grow their role and better serve their communities. It is apparent from policy and strategy documents by principal local authorities that they broadly share this objective. There are many reasons why some local councils are more willing to take on responsibility for services than others. Their size and capacity plays a major part. Funding arrangements, however, can also be a reason. Ideally they should incentivise local councils. Unfortunately, concerns about under-funding and double taxation can have the opposite effect, if they are seen as penalising the more willing and active. Local councils may find their residents more willing to pay for services they know will be delivered close by, but probably not if it is simply perceived as funding an unfair situation.

A good practice principle is, therefore, that where services are to be delegated appropriate funding should go with the service(s) being transferred to local councils. Otherwise, new instances of double taxation will be created. Principal local authorities should consider their approach carefully where they seek to reduce their role or cut back certain services. Equally, local councils should think strategically about the services which matter most to their communities and not walk into double taxation situations unless they are prepared to tolerate them.

A further good practice principle is that concerns about existing double taxation, where they exist, should be properly considered. Some exploration, at least, is required to see whether there is a case for further assessment and a local review.



The process for identifying a local approach needs to be arrived at through dialogue between the principal local authority and its local councils sector. Ideally, the commitment to address double taxation concerns (and any approach adopted) should be set out in a local charter or a similar document that has been agreed by both parties.

Any review of concerns about double taxation and, where appropriate, to find the best option to address it, should be built on local evidence. If possible this should show which services are involved, how they are being delivered, which areas experience double taxation, how that has come about and on what scale double taxation exists. Reviews will also need to consider the cost of implementing and managing an option, since this should be proportionate to local double taxation issues. There may be a trade-off between taking the most accurate approach and having something that is simple to operate.

The main options for addressing double taxation have been fairly widely tested (e.g. special expenses, grant schemes, help in-kind), but there is scope to experiment with other approaches. Public sector reform may encourage some of them to be tried. Reaching a local agreement about concurrent functions – which will be delivered by the principal local authority and which by the local councils sector – is an appealing approach with ambitions for devolution. But it may require a fully parished area and for all parishes to be on-board.

Where decisions about the approach to take will depend on local councils raising a precept, those decisions should be taken well in advance. Local councils must be given time to plan their precept accordingly for the coming year and should not be faced with sudden in-year or unfunded costs.

Patterns of service provision and use are inherently complex. Double taxation may never, therefore, be entirely solved. However, a balanced approach would aim to make local taxation as fair as possible, whilst accepting that not every anomaly can be removed.

## Annex A - key questions for a review

When conducting a review of double taxation concerns, the following questions may be helpful ones to ask:

1. What is the best mechanism for working through the issue? What liaison arrangements and/or policies already exist between the tiers of local government?
2. Which concurrent functions (services) are being delivered in some places by the principal local authority and in other places by local councils?
3. How are those services being paid for by taxpayers and funded by local government?
4. Can double taxation be said to exist? Are households in certain localities paying both for their own and towards other people's services?
5. How has that situation come about? Is it historic or happening as a result of changes now?
6. Why is it happening? Is it because some areas are unparished or because not all local councils feel able to take responsibility for these services?
7. What is the scale of the issue in monetary terms? Is this a substantive sum, including for individual local council areas?
8. Given the information gathered through the review, what appears to be the most suitable option (or options) for addressing double taxation?
9. What will be the cost and effort required to implement that option (or options)? Does that in any way alter the answer to question 8?
10. Given the information gathered, is there consensus between the main parties about the local facts and the best way forward?
11. How will the new approach for tackling double taxation be set out, monitored and reviewed in future?
12. How much is the local situation and policy context changing? Is the approach being adopted viewed as a long term solution or an interim one?

## Annex B – List of concurrent functions

Allotments  
Boating pools  
Bus shelters  
Car parking (off street)  
CCTV installation and maintenance  
Cemeteries and burial grounds  
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  
Information services (tourism and transport)  
Highways maintenance  
Leisure facilities  
Litter and dog waste bins  
Museums  
Open public spaces  
Parks  
Play grounds  
Play schemes  
Playing fields  
Public clocks  
Public conveniences  
Public seats along highways  
Recreation grounds  
Sports pitches  
Street cleansing  
Taxi fare concessions  
Tourism promotion  
Traffic calming  
Village greens  
Village halls  
War memorials

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