

THE LOCAL GOVERNMENT RATES INQUIRY

**Submission by the group of local authorities known as the
Rates Postponement Consortium**

April 2007

SUBMISSION TO THE LOCAL GOVERNMENT RATING INQUIRY

This submission is presented by a group of local authorities known as the rates postponement consortium ("the consortium"). (the names and contact details of the members of the consortium are set out in appendix 1).

The focus of the submission is the role of rates postponement as a tool enabling older people (and selected others) to better manage the impact on their financial affairs of residential rates.

The submission is divided into the following sections:

Section 1: background to residential rates postponement.

Section 2: current trends, including international experience.

Section 3: A recommended approach.

SECTION1: BACKGROUND TO RESIDENTIAL RATES POSTPONEMENT

The former Rating Powers Act 1988 allowed local authorities to adopt a policy for the postponement of rates on residential properties on proof of hardship. Most local authorities adopted such a policy.

In practice, the scope of hardship base postponement policies proved very limited. An applicant was required to demonstrate to the council itself that payment of rates would cause actual hardship. Legally, this required an applicant to go through the equivalent of an assets and income test in order to satisfy the local authority that, if they continued paying rates as they fell due, they would have insufficient resources to meet the essentials of everyday living.

Not only did this significantly limit access. It was also seen as a very demeaning process, requiring people who would generally have been able to manage their affairs, until their incomes reduced with retirement, to come before a council and go through a detailed process of demonstrating that they could no longer cope.

It seems to have been widely recognized that this requirement, especially when imposed on older people who had been used to managing their affairs without external assistance, was not an effective way of achieving the objective of providing a dignified means of giving older people a greater degree of flexibility.

In 2002 the Rating Powers Act was replaced by the Local Government (Rating) Act and the Local Government Act itself was also rewritten. The combination of these two acts now gives local authorities the option of adopting whatever postponement policies they wish so long as they do so through their Long Term Council Community Plan.

The councils who make up the rates postponement consortium have all adopted rates postponement policies under which older people may choose to defer payment of all or part of their rates indefinitely - in practice until their home is sold or they die (and in the case of sale, usually with an option to transfer the outstanding postponed rates to

another property within the district of the same local authority provided there is sufficient equity available).

No asset or income test is required. The applicant's financial affairs remain confidential to them and are not disclosed to the council. The only financial requirement is that the council will use a financial forecasting model, developed with actuarial assistance, to estimate the expected total of accrued rates and charges, year by year, until the expected date of death of the applicant (or survivor in the case of a couple). So long as the remaining equity is forecast to be at least 20%, then full postponement is automatically available.

The legislation is designed, in effect, to ensure that councils recover the cost of postponement but no more. They are prohibited from making a surplus and required to disclose any subsidy. In practice, all councils within the consortium set their charges, including interest, to recover their costs (interest is set at the council's marginal cost of borrowing which tends to be lower than the cost at which an individual could borrow because of the council's risk weighting and credit worthiness).

At the moment, councils simply offer this as a facility which older people may use if they wish to do so. There is scope for rates postponement to be used, in conjunction with the targeted rating provisions of the new legislation, as a means of offering additional services to older people. This would be done by charging for additional services, typically designed to facilitate ageing in place, as a targeted rate on the property and then postponing the targeted rate itself as part of the overall postponement arrangement.

Rates postponement can be seen as a subset of what is often described as home equity release. In the New Zealand market, a number of commercial firms offer variations on the theme of home equity release including lump sum advances, and options which allow for periodic payments. The interest cost on commercial advances is generally at least 2.5% per annum more expensive than rates postponement, the transaction costs (valuation, legal fees, commission) are very much higher and the usual requirement to borrow a lump sum may lead people to borrow more than they actually need.

A number of councils within the consortium also offer optional rates postponement to people under the age of 65. The terms and conditions are basically the same as for older people with the exception that the maximum term of postponement is limited to 15 years. This provides an option for people who may be going through a period of relative financial difficulty, for example a solo parent putting children through school, or someone who has retired early, perhaps because of sickness. The general expectation is that, at the end of the term of postponement, the ratepayer will find a means of repaying rates, perhaps to borrowing, perhaps through sale. However, where the ratepayer reaches the age of 65 during time limited postponement, the balance outstanding can be transferred to indefinite postponement so long as the remaining equity requirement is satisfied.

SECTION 2: CURRENT TRENDS INCLUDING INTERNATIONAL EXPERIENCE

It is now widely accepted that the imposition of rates or property taxes on the principal residence of older people is one of the most difficult issues confronting local government funding arrangements. As Sir Michael Lyons observes in his recently released final report into local government "Submissions to my Inquiry, and other evidence, suggest that there is particular concern about the impact of council tax on pensioners, linked particularly to concerns about the Council tax burden on households who are asset-rich but income-poor. Many retired and older people wrote to the Inquiry, often expressing deep concerns about the impact of council tax on them, and about the likely impact of tax increases in the future."

The policy choices are complex. Sir Michael found that there was widespread support for the idea that older people should pay less: "concerns about fairness to older people are perceived by many as central to the Council tax debate. In surveys conducted for the

Inquiry, three quarters of all respondents agreed that the elderly should automatically pay less council tax even if they own a property without a mortgage. There was substantial though lower support for the idea that elderly people should pay less even if they have a lot of savings, pensions or investments."

On the other hand, he also noted "one of the tensions facing the government in reforming local taxation is addressing people's concerns about the unfairness of council tax to older people, within a tax system that already puts much of the burden of taxation on working-age taxpayers. With an ageing population, transferring the burden of council tax towards younger households might become unaffordable in the future."

Research which he had previously commissioned actually suggested that generally there was a high correlation between income and the level of council tax provided that the analysis was undertaken not on a year by year basis, but over the individual's life cycle (NERA Economic Consulting: Options for Reforming Local Government Funding, a report for the Lyons Inquiry Study Team). A further complication is that any direct or indirect subsidy on the rates or property tax otherwise payable by an elderly person or persons ultimately becomes a subsidy to their estate, and thus a transfer to capital beneficiaries who are unlikely to be a priority target for public assistance. The fact that this is the case is normally hidden from the public debate because of the immediate focus on the cash flow of the elderly person or people involved.

The English local government funding system is significantly different from that in New Zealand. Specifically, there is no equivalent to the power to postpone rates.

Despite the absence of such a power, Sir Michael explicitly recognized the need to consider such a possibility. The following paragraphs set out his argument:

7.166 Deferred payment schemes are used in some countries to allow pensioners with equity in their homes to postpone property tax liability until their property is sold. For example, the Canadian province of British Columbia has operated a deferral scheme for over-60s and some other homeowners since 1974, with 11,000 households currently making use of the option to defer tax. Householders must have at least 25 per cent equity against the property's assessed value, and pay interest on the amount deferred when the property is sold.

7.167 Equity release products are already available from a range of private sector lenders in this country and could in theory be used to pay council tax or for any other purpose. The Financial Services Authority regulates equity release products, providing assurance to those who take this option up. However commentators have raised concerns about the suitability of those schemes to older people, particularly if the amounts to be released are relatively small, in which case transaction costs might outweigh the benefit of equity release. The Institute for Public Policy Research suggests that in some cases the quality of advice from providers on equity release can be poor, creating a risk of mis-selling. There is some doubt over whether markets are currently able to provide the right opportunities for equity release for low-income homeowners struggling with council tax.

7.168 Equity release might not be the right option for all households, and should be a matter of individual choice on take-up. However the Joseph Rowntree Foundation suggest that attitudes to inheritances are changing, and that people are increasingly prepared to draw down wealth for spending during their lifetime. For some, releasing housing equity might be an attractive way of coping with tax liabilities in old age.

7.169 Equity release schemes linked to council tax could in theory be operated locally, but there might be economies of scale in running a national scheme, perhaps in collaboration with the financial services industry. There are modest precedents for this, including in existing provisions to allow homeowners moving into residential care to defer some fees until their property is sold. It would be important that equity release for

council tax were considered carefully alongside government policy on social care, charges for which are partially determined by a person's assets including housing equity.

Of particular interest are both his reference to the evidence of increasing willingness to draw down equity during a lifetime, and his reservations about private sector home equity release schemes.

The same issue also arose in *A Fairer Way*, the November 2006 report of the Scottish Local Government Finance Review Committee. It also recognized the particular difficulties confronting older people as a major concern for current local government funding arrangements. Rather than Sir Michael Lyons' approach of suggesting the use of the private market, the Scottish committee recommended the implementation of a local authority run option. It proposed a somewhat complex process because of two factors; the absence of a formal postponement power, and the constraints which affect borrowing by UK local authorities. The Committee's proposal was:

38. The scheme would be open to any homeowner without a mortgage or with sufficient residual equity. Whether eligibility should be limited to those over, say, the age of 65 is a political decision. The selected age limit must be high enough to ensure that the owner's (residual) equity in the house is sufficient to cover their actuarial life expectancy. In these circumstances, and given that the annual deferment would be less than 1% plus rolled-up interest, life expectancy should not be such for the debt and accumulated interest to exceed the residual value in the house, which value will increase over time. If this is considered a concern, then insurance cover should be obtainable with a one-off payment.

39. When qualifying householders receive the local property tax bill from their local authority, they would have the option each year of deferring payment. Whether they should be able to defer all or all except, say, £500 of the bill is for debate. Should they be required to make some contribution to the local authority's costs or not? Low income households in receipt of 100% Council Tax Benefit make no contribution to such costs and logically there is no reason why those deferring should not defer the whole amount.

40. The householder would inform the local authority of their intention to defer and send in documentary proof of their age(s). The local authority would then approve their application. The deferment would be funded through a new, special purpose company (SPC) with no other assets or liabilities, set up for any or all local authorities which are participating. Each annual deferment would be a separate amount in a SPC account in the name of the householder. So for example, after 5 years of deferments, the householder would have an account with SPC with five separate drawings and five varying amounts of compound interest. Interest would be charged by SPC but would be rolled up and added to the amount borrowed. So the householder would have no annual interest to pay.

These two separate inquiries both support the proposition that one means of addressing the problem of affordability is to encourage options which allow older people to defer rates payments by drawing on the equity in their properties. New Zealand is in the fortunate situation that a very cost-effective option already exists, and operates in a way which puts a strong emphasis on protecting the interests of older people themselves (for evidence in support of this statement, see the recent report of the Controller and Auditor-General, *Residential Rates Postponement*).

Take-up in New Zealand has been slower than the consortium anticipated, primarily because of opposition from older person's advocates, in particular Grey Power. This organisation chose to categorise rates postponement as a device for enabling councils to increase their rates on the basis that, if people didn't like the higher rates, they had the option of postponement.

Attempts to persuade Grey Power that this is absolutely not the case have generally been unsuccessful despite pointing out (1) it has been developed and designed as a service to give older people an additional option, and to ensure that the decisions they take are as far as possible independent and in no way influenced by the local authority (2) that the majority of residential ratepayers are not yet eligible for rates postponement and (3) councils generally go to quite significant lengths to keep rates low - something which is now painfully obvious as a consequence of the 2006/2007 round of LTCCPs which forced councils to incorporate additional spending commitments which many had preferred to ignore as a means of holding rates down.

SECTION 3: A RECOMMENDED APPROACH

The consortium invites the Local Government Rating Inquiry to endorse the use of optional rates postponement for older people as a means of giving them an additional tool for managing their financial affairs.

It would be particularly helpful if the Inquiry were able to lay to rest the argument that rates postponement is somehow an excuse enabling local authorities to increase their rates faster than they would otherwise do.

In discussing rates postponement in a New Zealand context, the Inquiry might like to point to the growing interest internationally in providing options for older people to defer rates or property tax payments, and the evidence that attitudes towards drawing down equity to meet essential living costs are now changing quite significantly.

APPENDIX: RATES POSTPONEMENT CONSORTIUM MEMBERS AND THEIR CONTACT DETAILS

The following councils are the members of the rates postponement consortium:

[Ashburton District Council](#)
Environment Waikato
[Far North District Council](#)
[Gisbourne District Council](#)
[Kapiti Coast District Council](#)
[Marlborough District Council](#)
[Masterton District Council](#)
[Nelson City Council](#)
[Queenstown Lakes District Council](#)
[Rodney District Council](#)
[Rotorua District Council](#)
[South Wairarapa District Council](#)
[Thames-Coromandel District Council](#)
[Western Bay of Plenty District Council](#)

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