

Council Tax Referendums – Summary of Legal Requirements

A. Setting the council tax and making substitute calculations

1. The County Council must determine whether its relevant basic amount of council tax is excessive by reference to the ‘council tax principles’ issued by the Secretary of State.¹ It must make the council tax calculation and issue precepts before 1 March each year.
2. If the County Council determines that its council tax increase is excessive, it must notify the billing authorities (i.e. Oxfordshire’s City and District Councils) that a referendum is required – and these authorities then must make arrangements for holding a referendum². The County Council must also make “substitute calculations” to produce a basic level of council tax that does not exceed the excessiveness principles³. It must then issue to the billing authorities, when giving notice of the need for a referendum, a substitute precept based on those calculations.
3. The result of a council tax referendum is binding. If the County Council’s council tax increase is approved by voters then the council tax calculations continue to have effect and will apply for the remainder of the financial year.
4. If the increase is not approved then the substitute calculations will automatically take effect. An equality of votes between ‘yes’ and ‘no’ means that the increase has not been approved and the substitute calculations will take effect. The billing authorities would then have discretion (subject to a right for council taxpayers to request a refund on demand) to:
 - issue new bills immediately
 - offer refunds at the end of the year or
 - allow credits the following year

B. Holding a council tax referendum⁴

Date and responsibilities

5. For 2014/15, the date for holding the referendum must be no later than 22 May 2014.⁵ Responsibility for organising a council tax referendum lies with Oxfordshire’s billing authorities (the City and District Councils). These must organise referendums on the County Council’s behalf.
6. The counting officers for each billing authority will issue a ‘notice of poll’ and conduct a poll in their area. The County Council will need to appoint a “Chief Counting Officer” to draw together the statement of results of each poll and then declare and publish the overall result. The Chief Counting Officer will have the power of direction over the individual counting officers and to order any recount.

¹ Section 52ZB and 52ZC of the Local Government Finance Act 1992 (‘the 1992 Act’)

² Sections 52ZB(2), 52ZG, 52ZB(4) and (6), 52ZK and 52ZM of the 1992 Act

³ Sections 52ZJ and 52ZL of the 1992 Act

⁴ Council tax referendums are regulated by The Local Authorities (Conduct of Referendums)(Council Tax Increases)(England) Regulations 2012 (and as amended by the Secretary of State)

⁵ The Local Authority (Referendums Relating to Council Tax Increases) (Date of Referendum) (England) Order 2013).

These multiple referendums, held on the Council's behalf, must be held on the same day.

Starting the referendum process

7. The County Council would start the process by publishing an initial notice stating that a referendum is to take place. It must do so as soon as practicable after determining that its council tax increase is excessive and not less than 28 days before the poll. This should set out:
 - The reason for the referendum
 - The referendum question (the question format being set out in Regulations)
 - The authority that will organise the referendum
 - Where further information about the referendum can be obtained
8. This notice triggers the period during which the referendum campaign expenses limit will apply. The Council must also publish on its website information setting out the consequence of 'yes' and 'no' votes for council tax payers in all bands and about the costs of the referendum.

Expenses limits

9. The limit of expenses incurred by, or on behalf of, any individual or body campaigning in a referendum is the aggregate of £2,362 plus the amount found by multiplying 5.9 pence by the number of entries in the relevant electoral registers (taken together for all areas).

Cost of the referendum – keeping costs down by combining polls

10. Regulations allow returning officers for certain elections, and the counting officers for referendums, a discretion to hold a council tax referendum in combination with other polls and to combine certain activities such as the issuing of polling cards.
11. The costs of holding its referendum would fall to the County Council and the City/District Councils would be entitled to recover the expenses incurred in holding a referendum on its behalf. However, where the polls for a referendum are combined with those for any other election, the cost of taking the combined polls (excluding any cost solely attributable to one election or referendum) and any cost attributable to their combination would be apportioned equally among the elections or referendums.

Result of the Referendum

12. The Chief Counting Officer will draw together, declare and publish the result. In addition, the authority which triggers a referendum is required to inform the Secretary of State of the result of a council tax referendum.

Challenges to a referendum result

13. Four or more voters will have the right to challenge the result of a council tax referendum by petitioning the Courts. However, until such time as a court hears a petition, the result of the referendum will stand.

Peter G Clark, County Solicitor and Monitoring Officer.