

## ASSEMBLY

27 January 2021

<b>Title:</b> Council Tax Support Scheme 2021/22	
<b>Report of the Cabinet Member for Finance, Performance and Core Services</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
<b>Report Authors:</b> James Johnston, Senior Officer & Donna Radley, Head of Benefits	<b>Contact Details:</b> E-mail: <a href="mailto:James.johnston@lbbd.gov.uk">James.johnston@lbbd.gov.uk</a> <a href="mailto:donna.radley@lbbd.gov.uk">donna.radley@lbbd.gov.uk</a>
<b>Accountable Director:</b> Mark Fowler, Director of COMSOL	
<b>Accountable Strategic Leadership Director:</b> Claire Symonds, Chief Operating Officer and Acting Chief Executive	
<b>Summary</b> <p>The Council has a statutory duty to consider annually whether to revise its Local Council Tax Support Scheme (CTS) or replace it with another scheme. This report recommends keeping the current scheme for use in 2021/22 with a number of small administrative changes. The Assembly has a legal duty to approve the CTS by 31<sup>st</sup> January 2021.</p> <p>The Council's CTS scheme requires minor administrative changes to improve its clarity and general administration and assist in reaching those that are entitled to support.</p> <p>The scheme requires updating so it is aligned better, is more compatible and has greater clarity in its interactions with Universal Credit as this caseload continues to increase, replacing existing legacy welfare benefits.</p> <p>By replacing some paper application forms with electronic Universal Credit new claim applications received from the Department for Work &amp; Pensions we can further support residents who have been identified as eligible for entitlement to CTS but who, due to a number of reasons such as IT literacy, language barriers and understanding, are not applying. This also reduces the print requirement of LBBd and simplifies administration.</p> <p>Access to the CTS scheme for low income residents is also increased by the automatic granting of CTS entitlement if due for new Universal Credit claimants.</p> <p>The Cabinet is to consider this report at its meeting on 19 January 2021 (the date of publication of this Assembly agenda). Any issues arising from the Cabinet meeting will be reported at the Assembly meeting.</p>	

<b>Recommendation(s)</b>
The Assembly is recommended to agree that the Council Tax Support Scheme implemented for 2020/21 be retained for 2021/22, subject to the administrative changes detailed in section 2 of the report which improve clarity, align with other welfare benefits, primarily Universal Credit, and enhance access for those eligible for entitlement.
<b>Reason</b>
To assist the Council to achieve its priorities of a Well Run Organisation and Prevention, Independence and Resilience by improving access to support and services and protecting the most vulnerable in society.

## 1 Introduction and Background

- 1.1. The Welfare Reform Act in 2012 abolished Council Tax Benefit (CTB) from April 2013 and, in its place, support took the form of a local Council Tax Support Scheme (CTS). The Local Government Finance Act 2012 contains provisions for the setting up of local support schemes. The current scheme in Barking & Dagenham has been based around the Default Council Tax Reduction Scheme and has been ratified by Assembly.
- 1.2. The current scheme in operation ensures that:
  - The scheme is means tested
  - Pensioners are protected, i.e. they must be able to receive up to a 100% reduction (a provision of the national pension age scheme).
  - Everyone of working age contributes something towards their Council Tax. A “minimum payment” of 25% in Barking & Dagenham. There is a 75% maximum on which any entitlement to CTS is based.
  - Those who are not pensioners and with capital in excess of £10,000 are not eligible for a Council Tax reduction under this scheme.
  - Universal Credit is considered and aligned with the principles of Housing Benefit administration.

## 2. Proposals and Issues

- 2.1. The proposed revisions to the scheme are:
  - Change the effective date to the Monday following when Universal Credit changes in circumstances occur in line with existing change in circumstances rules.
  - To update the scheme regarding the treatment of Universal Credit:
    - To confirm what deductions made to Universal Credit awards are allowable deductions for the calculation of CTS.
    - To confirm that the minimum income floor (MIF) (a designated minimum amount of self-employed income applied when earnings are deemed to

be below a minimum amount) applied to self-employed claimants within Universal Credit awards, is not applicable for the calculation of CTS in line with existing legacy benefit claimants.

- To confirm that capital verification is conducted by the London Borough of Barking & Dagenham for Universal Credit claimants and capital is applied based on this verification and not by the capital verification undertaken within the Universal Credit award.
- To confirm the ongoing use of earnings declared within the Universal Credit award in the instance the Universal Credit award is no longer entitled due to excess earnings held.
- To confirm that CTS that is no longer entitled due to excess earnings contained within a Universal Credit award, can be re-awarded if it becomes re-entitled, due to a change in the Universal Credit award, within a 3 month period, without the requirement for a new application to be made.
- To confirm that where the London Borough of Barking & Dagenham has evidence, that on the balance of probabilities, Universal Credit was obtained as a result of fraud, deception or the failure to report significant circumstances, then the London Borough of Barking and Dagenham is permitted to estimate the income and household of the claimant, independently of the Universal Credit award.
- To confirm that earnings contained within a Universal Credit award are subject to the standard earnings disregards, as set out within the scheme for earned income for non-Universal Credit claimants.
- To mirror the CTS scheme to the Housing Benefit scheme regarding closed period supersessions for past periods of non-entitlement.
- To confirm when a suspension and termination can be applied to a live CTS claim.
- To confirm that when a new application for Universal Credit is made, and the London Borough of Barking and Dagenham receives an electronic Universal Credit new claim application, from the Department for Work & Pensions, this will be accepted as a claim for CTS, without the requirement for the resident to submit a paper application form. If entitlement to CTS is subsequently held, based on the Universal Credit award, this will be automatically awarded and the resident notified.
- To confirm that in the advent of the death of the claimant that the remaining applicant and partner has an extended time frame extended from one month to three months in order to make a new application for CTS.
- If entitlement to CTS is subsequently held, and the application is received within 3 months, CTS is awarded from the date of the new Council Tax liability. This is also applicable in the circumstance the existing Council

Tax account remains and the award is granted from the cessation date of the prior CTS claim now ended.

- 2.2 A number of the changes above assist residents that are harder to reach, and that could experience IT challenges or English may not be their first language, therefore not receiving the support they are entitled to.

### **3. Consultation**

- 3.1 The proposals in this report were considered and endorsed by the Corporate Strategy Group at its meeting on 19 November 2020.
- 3.2 The matter is also to be considered by the Cabinet at its meeting on 19 January 2021 and any issues arising from that meeting will be reported at the Assembly meeting.

### **4. Financial Implications**

Implications completed by Katherine Heffernan, Head of Service Finance

- 4.1 The Council is required to maintain a Council Tax Support Scheme. This is now funded as part of the Council's overall funding settlement and so any increases or decreases in take up or cost fall upon the Council's budget (rather than being provided for by a grant).
- 4.2 The total current cost for the 2020/21 financial year is in the region of £15.8m. This however includes an additional discretionary payment made as a result of the COVID situation, which is fully funded by central government. Excluding this the cost of the scheme to date is £13.7m and it is estimated that this may increase further this year to around £14m to £14.2m.
- 4.3 This income loss is accounted through the collection fund and is shared between Barking & Dagenham and the GLA. Where the income loss is higher than expected this becomes a cost to the authority's budget in the following financial year.
- 4.4 The Council has a duty to set a tax base for council tax purposes by 31 January, each year, using data held by the Council on 30th November the previous year. Increases in the Council Tax Support Scheme reduce the tax base for the next financial year and so can reduce the available budget. Current data has shown increased access to the scheme due to Covid-19, and the costs for 2021/22 will reach £13m. Increased costs for the current financial year can be attributed to greater access to the scheme, caused by Covid-19 and its impact on the local economy and employment.
- 4.5 This report proposes minor administrative changes to the current scheme. If these are not expected to have a separate impact on the level of take-up there are no direct financial implications arising. However, it is possible that the switch to accepting automated applications linked to new Universal Credit claims will rightly increase the numbers of residents on low income accessing the scheme. This would result in additional costs which could be as high as £760k, which is the Council's 79.5% share of the costs.

- 4.6 However, it should be noted that where amounts specified such as the applicable amount rise by less than local income inflation this will over time tend to remove households from eligibility and so reduce the cost of the scheme. As the existing legacy benefit case load is replaced by Universal Credit claimants this will also reduce the cost of the scheme for working age claimants due to the tapers that are applied within the calculation of Universal Credit. It must be remembered that households on very low incomes on or near the thresholds for Council Tax Support are likely to struggle to pay their Council Tax and so the true cost to the Council taking into account collection rates, arrears and bad debt is likely to be much lower.
- 4.7 The Council must set aside a discretionary fund for circumstances of exceptional hardship. It is anticipated that a discretionary fund of £50,000 can be created to assist those with exceptional circumstances. This would be monitored and reviewed quarterly, although case law does suggest that if exceptional hardship is shown the Council must grant a discretionary reduction and cannot refuse due to a “depleted budget”. It is therefore vital that a clear policy is implemented so the Council can set their own criteria of whom would qualify for a discretionary reduction. The cost of the discretionary fund will reduce the overall Council Tax collected by £50,000.

## 5. Legal Implications

Implications completed by Dr Paul Feild, Senior Governance Lawyer

- 5.1 The CTS is a continuation of the 2019/20 scheme as approved by the Assembly last year. It was produced following consultations as required by the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012.
- 5.2 As observed in the report the discretionary hardship fund while set at £50,000 shall be administered according to the exceptional hardship policy and the cap is not a reason for refusal.

## 6. Other Implications

- 6.1 **Risk Management** - It is considered likely that keeping the current scheme will continue to make it difficult to collect Council Tax from those entitled to a reduction under the scheme. Presently there are 77,338 live properties with a Council Tax Charge in this borough, as of 28<sup>th</sup> August 2020, and 16,152 Council Tax Support claims against these properties.
- 6.2 **Corporate Policy and Equality Impact** – An Equality Impact Assessment has been undertaken and is set out at Appendix 1.

**Public Background Papers Used in the Preparation of the Report:** None

### List of appendices:

- Appendix 1 – Equality Impact Assessment