

ASSEMBLY

21 January 2015

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| Title: Proposed Changes to the Council Tax Support Scheme 2015/16 | |
| Report of the Cabinet Member for Finance | |
| Open Report | For Determination |
| Wards Affected: All | Key Decision: Yes |
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| Accountable Director: Jonathan Bunt, Chief Finance Officer | |
| Summary <p>The Council has a statutory duty to consider annually whether to revise its Local Council Tax Support Scheme (CTSS) or replace it with another scheme. The Council then has a duty to consult with interested parties as to its proposals. The proposed changes were approved for consultation by Cabinet on the 18th November 2014. Following the Cabinet's decision a consultation exercise was carried out with all those potentially affected by the proposed changes. They were invited to participate in a survey and attend public consultation meetings between the 19th November and 20th December 2014.</p> <p>This Assembly report sets out the proposed new scheme for 2015/16 taking account of the consultation results. There is a legal duty for any changes for the 2015/16 scheme to be ratified by Assembly by 31st January 2015.</p> | |
| Recommendation(s) <p>The Assembly is recommended to:</p> <p>(i) Take account of the response to the consultation and agree to a revised CTSS scheme for 2015 /16 for working aged residents based on:</p> <ul style="list-style-type: none">• Amending the maximum liability level for assessment from 85% to 75%.• Withdrawing the Second Adult Rebate Scheme.• Reducing the capital threshold for working age claimants to £6,000.• Removing the provision to backdate claims from the amended scheme for working age claimants. <p>(ii) Retain the following discretionary areas:</p> <ul style="list-style-type: none">• To continue to disregard War Widows and War Disablement income from income assessment for the scheme.• To continue the extended payment scheme in line with the Housing Benefit scheme.• To replicate annual uprating of social security rates for Housing benefit in the | |

2015/16 CTSS.

- (iii) Approve the creation of a discretionary exceptional hardship fund from additional income generated across all savings proposals related to Council Tax for 2015/16.

Reason

The Council is facing unprecedented financial challenges and has identified significant savings that need to be made over the next 3 years. Potential savings that could be made have been identified from the CTSS scheme and therefore a revised scheme is recommended.

1. Introduction and Background

- 1.1. As part of the 2010 Comprehensive Spending Review, central government announced that it would localise support for Council Tax from April 2013. The proposals were part of a desire to implement a wider policy of localism which aims to give local authorities increased financial autonomy and be part of the reform of the Welfare System to improve incentives to work whilst protecting the most vulnerable in society.
- 1.2. 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 (CTSS). The scheme is now in its second year and helps low income households by reducing the amount of Council Tax that they have to pay.
- 1.3. CTSS has been funded by a fixed grant for the past 2 years. The funding has been based on expenditure in 2012/13 but with a factored reduction of 10%.
- 1.4. 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 on the Council Tax Benefit scheme that was in operation in previous years and has been ratified by Assembly. The scheme has included and replicated annual uprating of social security rates for Housing benefit. This will continue in 2015/16.
- 1.5. The current scheme in operation ensures that:
 - The scheme is means tested.
 - Pensioners are protected from any changes proposed as part of any local scheme, 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 makes a contribution towards their Council Tax. The current scheme prescribes a “minimum payment” of 15%. All calculations are based on a maximum of 85% of the appropriate Council Tax liability.
 - All other methods of calculating eligibility and entitlement remain the same as CTB.
- 1.6. Caseloads for Council Tax Support have decreased overall over the past 2 years. Working age claims have reduced by over 9%.

Table 1 – Profile of CTSS caseload

| Date | Pensioners in receipt of CTSS | Working age in receipt of CTSS | Total |
|-----------------|--------------------------------------|---------------------------------------|--------------|
| 1 April 2013 | 7,430 | 16,910 | 24,340 |
| 31 March 2014 | 7,277 | 16,340 | 23,617 |
| 27 October 2014 | 6,788 | 15,526 | 22,314 |
| 4 January 2015 | 6,717 | 15,342 | 22,059 |

2. Proposals and Issues

- 2.1. Like many local authorities, the Council is facing unprecedented financial challenges and has identified over £53m of savings that need to be made over the next three years due to reduced government funding and increased demand on services from a growing population. In order to achieve this level of savings, the Council has put forward and agreed a number of proposals. Potential savings have been identified from the current CTSS scheme to contribute towards the budget gap.
- 2.2. Working age residents already receiving CTSS and any new working age applicants would be affected by the proposed changes from April 2015. The Council's statutory responsibilities to provide a full support scheme for Pensioners remain.
- 2.3. The proposed new scheme will in many ways replicate the current scheme and will continue to;
- Be means tested.
 - Protect pensioners from any changes proposed as part of any local scheme, i.e. they must be able to receive up to a 100% reduction (a provision of the national pension age scheme).
 - Calculate eligibility and entitlement as under the previous Council Tax benefit scheme.

The full detail of the scheme to be followed can be found on the Council's website at <http://moderngov.barking-dagenham.gov.uk/ieListDocuments.aspx?CId=179&MId=8131&Ver=4> .

- 2.4. A number of proposals are being recommended to make changes to the current scheme. The amended scheme would be implemented from 1 April 2015. These will only affect working age claimants as pensioners are protected as stated above.
- 2.5. The proposed changes are;
- Support for working age recipients will be capped at 75% as opposed to 85% under the current scheme.
 - This will mean the maximum support that working age residents will receive will be 75% of their liability. As a minimum, they will need to make a contribution of 25% of their Council Tax charge.
 - Removal of the Second Adult Rebate scheme.
 - This is an alternative award of support. It is given to help applicants who do not satisfy the means test but have a non dependant adult that lives with them who is on a low income and is expected to contribute towards the Council Tax charge. The income of this second adult is

assessed (rather than the applicant's) and a reduction of up to 25% can be awarded.

- Removing backdating of claims from the amended scheme for working residents.
 - This will mean that there will be no provision for backdating of claims for working age claimants.
- To reduce the maximum capital threshold for working age residents to £6,000.
 - This will mean reducing the capital threshold to £6,000 and therefore claimants with savings above this level will not be eligible for CTSS. The expectation is that these applicants will use their savings to pay their Council Tax bill. The previous threshold was £16,000.
- To continue to disregard War Widows and War Disablement income from income assessment for the scheme.
 - This discretion will remain within the scheme and will mean that any calculation which includes income relating to War Widows and War Disablement will continue to be disregarded in any calculation of the scheme in 2015/16.
- To continue the extended payment scheme in line with the Housing Benefit scheme.

2.6. The adoption of these changes will realise overall savings of £700k per annum. The predominant risk of the proposed changes will be around the collectability of Council Tax. People in receipt of CTSS are on low incomes and there is a risk that the collection rate could drop if the new recommendations are adopted; however this has been factored into the projected savings. For comparison, the overall collection rate for Council Tax is over 94% but current collection for this group of residents is just over 70%. The same collection and enforcement process is followed for all debts.

2.7. As there are proposed changes to the CTSS, the Council is required to consult with the public. The consultation regarding the proposed amended scheme took place between the 19th November and 20th December 2014. This is a legal requirement. The consultation took the form of writing to all residents who potentially would be affected this meant the issuing of approximately 16,000 letters, an online survey and the holding of two public meetings. There were also press releases generating coverage in the local press and digital signposting at the one stop shops.

2.8. The aims of the consultation were to

- Inform residents and help them to understand the impact that the proposals would have on them.
- Clarify why the proposals are being made.
- Detail the alternative proposals that are being looked at.
- Give residents the chance to have their say.
- Inform the public that the Council is looking to take on board the opinions of residents and give purposeful consideration to realistic alternative proposals
- Identify what is important to residents and whether they supported or did not support the proposals.
- Ensure that the consultation was legally compliant.

- 2.9. The Council received 147 responses to the survey from residents out of the 16,000 who were written to during the consultation. A full report on the consultation and the results can be found at Appendix 1. 40+ residents also attended the public meetings.
- 2.10. In summary
- 62.76% of the consultees that replied agreed that working age claimants should pay something towards their Council Tax bill but 66.90% did not support the lowering of the maximum support level from 85% to 75%.
 - 63.89% did not agree that all working age claimants should have the same maximum support level.
 - 78.62% of people did think that certain groups of people would be more affected than others. 29% of those that answered felt that those with disabilities would be affected more and 21% state that lone parents would be worse off.
 - 53.1% of consultees stated that they would not want an increase to Council Tax instead of a cut to CTS.
 - With regards to second adult rebate, 38.62% did not agree with the proposal to remove this part of the scheme but 34.48% of those who replied to the consultation did not hold a strong view or did not know.
 - 45.52% supported a drop in the capital limit from £16,000 to £6,000
- 2.11. The vast majority of consultees were residents of Barking and Dagenham. 26.11% stated that there were from households with someone who was disabled and 19.75% were lone parent households. 25.37% stated that they were carers.
- 2.12. During the consultation period, either via the survey or in the public meetings there was an opportunity for comments to be made or questions to be answered. All of these representations were considered and replied to, and are summarised below:
- **The proposals are unfair and it is unrealistic to expect the poorest and/or most vulnerable to pay more Council Tax.**
Due to the unprecedented level of budget savings required the Council has had to look at all services and opportunities to make savings and increase income. Although changes will be made to the CTSS, support will still be available at up to 75%, applied fairly across all working age recipients. The Council has lobbied against the cuts to its funding by Government and will continue to do so but difficult decisions have to be made across all services and areas of expenditure. There are local organisations such as the Citizens Advice Bureau and the Disablement Association of Barking & Dagenham who are there to help by providing advice and support. Where people are deemed to be in exceptional financial hardship they may qualify for a discretionary reduction.
 - **It is unfair that pensioners are protected from these proposals**
The Council must protect pensioners, this is a policy set down by central government. The Council recognises that this may seem unfair and that a cut to all, both working age and pension age people, would have seen a lower drop in support.
 - **Why are the disabled not protected?**
The Council did not propose providing full or partial protection for persons who are deemed disabled because this would mean other groups would be asked

to pay more than currently being proposed. The Council believes it to be less of a burden and fairer overall if everyone (of working age) contributes.

- **How can disabled people, who do not have the capacity to work be expected to pay?**

Those that are unable to pay their Council Tax bill; especially those with disabilities who may find work impossible may be eligible to receive help through the Discretionary Reduction scheme which is aimed to help people in those circumstances.

- **Is this how the scheme is going to be? Set in stone?**

- The scheme will continue to be reviewed annually and residents invited to give their feedback on any further proposed changes.

- 2.13. Consultees also had the opportunity to propose other alternatives for changes to the scheme. These included charging non dependent household members separately based on their income as well as savings from other Council departments such as transport and management.
- 2.14. Prior to introducing the local scheme in 2013 a comprehensive equalities impact assessment (EIA) was undertaken. This found that some groups such as claimants with a disability and lone parents, predominantly women with young children may experience a greater impact from the changes than other groups, these groups are protected to some degree however due to higher applicable amounts and disregarded income upon which support is calculated.
- 2.15. A detailed EIA has been completed following the public consultation period that took place between 19 November and 20 December 2014. This is found at Appendix 2.
- 2.16. To mitigate the impact on other parties and stakeholders, the Council will continue to work jointly with the CAB and other voluntary groups plus the third sector, including the Credit Union. The Council will continue to signpost claimants to support that is available. It is recognised that there have been a number of Welfare Reform changes that have affected residents in the Borough including changes to Housing Benefit with regard to under occupation for Social Housing tenancies and the introduction of the Benefit Cap in August 2013. There has been a very proactive approach to help residents who have been affected which has been achieved by referral to appropriate and specialist support such as DABD, CAB and other voluntary and third sector organisations. This has been with regard to help with debt, budgeting and access to affordable credit.
- 2.17. Discretionary Housing Payment (DHP) has been used in support of residents who have been in difficulty with their housing costs. In 2013/14 over 98% of the received funding was paid to claimants to support them through the Welfare reform changes. The Council is able to “top up” from its own funds up to 2.5 times the Government funding and increase the overall DHP fund. There are proposals to look at this option as Welfare Reform continues to be a risk to households. There is also provision under S10 / 13A (1)(c) Local Government Act 2012 to reduce Council Tax liability by a discretionary hardship scheme, this further supports existing Council Tax legislation. Each case considered must be treated on its own merits, if it is assumed that there would be exceptional financial hardship.

- 2.18. The budget proposals for 2015/16 include a number of changes to Council Tax collection and it is recommended that a discretionary fund for exceptional hardship initially of £50,000 could be created from the additional income collected across all of those initiatives. Due to the nature of a discretionary fund it is difficult to be very specific on the instances in which it could be applied but examples highlighted during the consultation meetings were for disabled residents unable to work or to assist in clearing historic debts which may have previously been covered by the backdating provisions and where the resident was meeting the ongoing payments. A policy is being developed.

3. **Financial Implications**

Implications completed by Carl Tomlinson, Group Finance Manager

- 3.1. There has been a reduction in the Council's Revenue Support Grant. This has reduced the amount of government funding available to support all Council services including the Council Tax Support Scheme.
- 3.2. The proposed changes to the Council Tax Support Scheme and other proposed changes will increase the amount of collectable Council Tax. The actual increase in Council Tax income will be dependant on what can be collected. It is estimated that 60% will be collected on marginal collection based on the amended 75% maximum liability level for working age claimants.
- 3.3. After considering the collection rate it is expected the changes to the Council Tax Support Scheme will generate an additional £700k of Council Tax income.
- 3.4. The Council will also need to consider whether it wishes to create a discretionary fund for circumstances of exceptional hardship. It is anticipated, based on estimated collection rates that a discretionary fund of £50,000 can be created initially to assist those with exceptional circumstances

4. **Legal Implications**

Implications completed by Paul Feild, Senior Governance Lawyer

- 4.1. Schedule 1A of the Local Government Finance Act 1992 requires that apart from consulting a major precepting authority (e.g the GLA), Councils must consult "such other persons as it considers are likely to have an interest in the operation of the scheme".
- 4.2. The key issue is that the changes in Council Tax Support must be made in the light of being informed by consultation. Consulting about a proposal does inevitably involve inviting and considering views about possible alternatives. This very issue of adequate consultation on Council Tax Support was considered by the Supreme Court in October 2014 regarding a judicial review of Haringey London Borough Council. The Court made a restatement as to who should be consulted and on what basis.
- 4.3. In terms of who must be consulted the demands of fairness are expected to be somewhat higher when an authority contemplates depriving someone of an existing benefit or advantage than when the claimant is a bare applicant for a future benefit.

If a person is likely to lose something or be worse off, then they should be specifically identified and consulted. In Haringey all those affected were written to and the letters were hand delivered. This is considered to be sound practice.

- 4.4. In terms of when consultation should take place, firstly the position is that consultation must be at a time when proposals are still at a formative stage. Secondly, that consultation must give sufficient reasons for any proposal to permit a person to in the Court's words "give an intelligent consideration and response". Thirdly that adequate time must be given for consideration and response and, finally, fourth, that the product of consultation must be conscientiously taken into account in finalising any statutory proposals.
- 4.5. The consultation process utilised in this case has been carried out in accordance with legal advice to take account of the recent case law to further the purpose of this particular statutory duty to consult to ensure public participation in the local authority's decision-making process.

5. Other Implications

- 5.1. **Risk Management** - It is considered likely that Council Tax will be increasingly difficult to collect from affected groups. Council Tax collection rates for those working age residents who are in receipt of Council Tax Support is currently over 70% against overall baseline collection of over 94%. Further changes to the scheme could affect overall collection rates.

The synergistic effect of all the other Welfare Reform changes such as the alteration of the Housing Benefit rules on underoccupation of Social Housing, the introduction of the Benefit Cap as well as these specific changes to the Council Tax Support Scheme could affect other areas of debt collection such as rents.

- 5.2. **Corporate Policy and Customer Impact** - There has been a full public consultation with regards to the proposals outlined in this report. This took place between 19 November and 20 December 2014. This has taken the form of direct contact with all affected, an online survey, information on the Council's website and also two face to face public meetings and press releases. Following consultation the results has been collated and analysed (Appendix 1). A full equality impact assessment to determine the effects on Borough residents has also been produced (Appendix 2).

The CTSS is in line with the Council's vision and priorities, specifically to enable social responsibility by supporting residents to take responsibility for themselves while protecting the most vulnerable. We are also working to attract inward investment to create employment opportunities.

Public Background Papers Used in the Preparation of the Report:

- Proposed full policy document for CTSS 2015/16 (<http://moderngov.barking-dagenham.gov.uk/ieListDocuments.aspx?CId=179&MId=8131&Ver=4>)

List of appendices:

- **Appendix 1:** Full Consultation Results Report
- **Appendix 2:** Equality Impact Assessment