

<b>Mayor and Cabinet</b>			
<b>Report Title</b>	Council Tax Reduction Scheme – consultation proposal for 2017/18		
<b>Ward</b>	All	<b>Item No.</b>	
<b>Contributors</b>	Executive Director for Customer Services and Head of Public Services		
<b>Class</b>	Open	<b>Date</b>	13 July 2016

## **1. Purpose**

- 1.1 To propose a Council Tax Reduction Scheme (CTRS) for 2017/18 that the Council should consult on.

## **2. Executive Summary**

- 2.1 On 1 April 2013 the Council implemented a local CTRS which passed on the government cut in grant of £3.28m in full to 24,648 working age households previously in receipt of Council Tax Benefit. The Council also implemented a Discretionary Hardship Scheme to help those suffering exceptional financial hardship.
- 2.2 The Council has continued to pass on the government cut in grant for the Council Tax Reduction Schemes since April 2013. Discretionary hardship provision is being met through existing legislation under Section 13(A) of the Local Government Finance Act (LGFA) (2012).
- 2.3 This report recommends that the Council consult on a CTRS for 2017/18 that continues to pass on the government cut in funding and maintain a scheme for supporting those suffering exceptional hardship through Section 13(A) of LGFA (2012). In addition, to consult on amending the scheme to calculate the Council Tax Reduction (CTR) award for those of working-age who are working and in receipt of Universal Credit (UC) using a means test, to maintain the existing arrangements and mitigate any increase in expenditure resulting from the ongoing rollout of UC. Pensioners will continue to be protected by legislation from the cuts in government funding.

## **3. Recommendations**

It is recommended that the Mayor agrees to:

- 3.1 Consult on a local CTRS for 2017/18 that passes on a cut in government funding to working age claimants.
- 3.2 Consult on introducing a means test for applicants of working-age who receive UC in addition to their earnings. This will maintain the current position where all those with earnings are means tested.
- 3.3 Continue providing discretionary support in cases of exceptional hardship using Section 13(A) of the LGFA (2012).

## **4. Policy context**

- 4.1 One of the primary functions of the Council is to promote the social, economic and environmental wellbeing of the borough and its people. In discharging this important role the Council has a specific duty to safeguard the most vulnerable from harm and to regulate access to public services and to provide social protection for those that might otherwise be put at risk.

- 4.2 As Council funding is provided through public resources (grants from central Government; Business Rates and Council Tax) the local authority must also demonstrate both responsibility and accountability in the stewardship of public resources.
- 4.3 The overarching policy and decision making framework for the discharge of the Council's many functions and duties is Lewisham's Sustainable Community Strategy. The Strategy contains two overarching principles which are:
- Reducing inequality – narrowing the gap in outcomes; and
  - delivering together efficiently, effectively and equitably – ensuring that all citizens have appropriate access to and choice of high quality local services.
- 4.4 Also contained within this overarching policy framework are the Council's ten priorities. These priorities describe the specific contribution that the local authority will make to the delivery of the Sustainable Community Strategy.

## **5. Background**

- 5.1 The government abolished Council Tax Benefit on 1 April 2013, from which point local authorities were required to define their own local CTRS. The government also reduced funding by 10% (£3.28m) and made a fixed amount available. Previously the Council Tax Benefit scheme funding had been fully covered by a government subsidy.
- 5.2 The Council has since agreed that Lewisham's Council Tax Reduction Scheme would pass on the grant cut to working-age claimants. Pensioners have been protected by legislation since the scheme's inception and so continue to receive the same amount of help as before.
- 5.3 From 1 April 2013, the funding for the CTRS was included in the Settlement Funding Assessment (SFA). Since then the SFA has been reduced by 30%, which is a loss to the council of £62m in grant funding. In 2016/17 the reduction of 8.4% was fully passed on to working age claimants. Subject to any change in the chancellor's forthcoming budget, a further reduction of 8% is expected for 2017/18.
- 5.4 Since 2015/16, the Council also agreed to make discretionary provision for those asked to contribute towards their Council Tax but who are experiencing exceptional hardship, through Section 13(A) of the LGFA (2012).
- 5.5 In February 2016, Lewisham and Forest Hill jobcentres commenced delivering UC and since then 552 UC claims have been made in the borough. Of these, 171 claimants are not in employment and 384 are employed.
- 5.6 Lewisham's current CTRS treats all those in receipt of UC and of working-age, regardless of their employment status, as being entitled to the maximum Council Tax Reduction without the need for a means-test – this means covering 97% of their Council Tax liability. Until UC those working have always had their income means-tested to determine the amount of Council Tax Reduction that they receive. The CTRS needs to be amended to maintain the current position where all those including those with earnings on UC are means tested.
- 5.7 If the CTRS is not amended the difference in the treatment of earned income between those not on UC and those now receiving UC would not be equitable and also it would result in increased CTR expenditure as UC rollout continues in Lewisham. Whilst it is difficult to estimate the precise nature of the increase, estimates suggest it could be in the region of an additional £1.87m per year over the course of the UC rollout which is due to complete in 2021.

5.8 In view of the existing and future pressures on the Council's budget, it is recommended that consultation is carried out to explore an alternative calculation of the CTR award for those of working-age, receiving UC and who are in employment. The calculation would be the same means test as the one currently in place for those of working-age and in employment but not receiving UC, whereby for every £1.00 of income they have above a specified amount they "need" to live on, they contribute 20% of the excess towards their Council Tax liability.

## **6. Proposed Council Tax Reduction Scheme for 2017/18**

6.1 The Council has the following options when developing its CTRS for 2017/18:

- To pass on the cut in government grant to those of working age as the Council has done in the four previous years.
- To absorb the cut in government grant. However, the Council is having to make significant savings over the next 4 years so absorbing further cuts in government grant it is not considered possible without making further cuts on the services it delivers.
- To use reserves to deal with the cut in government grant. It is not considered prudent to use reserves as a way of dealing with any shortfall in government funding as the majority of reserves are earmarked for other purposes with the remainder needed for any urgent one-off unavoidable expenditure.
- To increase Council Tax. If the Council were to deal with the shortfall in funding by increasing the Council Tax for everyone, the impact would be likely to be in excess of the 2% threshold set by the Secretary of State beyond which a binding referendum would need to be held.

6.2 The Council's financial position is such that it is having to make savings of around £60m by the financial year 2019/20. Having considered the different options the Council has to deal with, and given the shortfall in funding, officers advise that the Council Tax Reduction Scheme be retained in its current form for 2017/18. In addition the Council should consult on introducing a means test for applicants of working-age who receive UC in addition to their earnings. It is recommended that the Council carry out a consultation accordingly.

## **7. Consultation**

7.1 This report proposes to carry out a proportionate consultation on the CTRS for 2017/18.

7.2 Residents will be asked to consider two points, namely whether the local CTRS for 2017/18 continues to pass on the cut in government funding to working age claimants and whether to introduce a means test for applicants of working-age who receive UC in addition to their earnings.

7.3 The consultation will be proportionate in approach and will consist of the following:

- A self-completion survey – promoted across the Council's website, and available in hard copy upon request;
- A letter sent out to a sample of households – some being council tax payers and the remainder being in receipt of CTR - inviting them to participate in the survey;
- A general press release from Communications promoting the survey, which will be emailed to local media, blogs and websites;

- Targeted communication to local community groups representing the interests of those residents identified as most vulnerable to any of the proposed changes in the CTRS for 2017/18.

7.3 It is anticipated that this consultation will be undertaken between August and September 2016.

## 8. Proposed implementation timetable on the Council Tax Reduction Scheme 2017/18

Date	Action	Responsibility
December 2016	Mayor and Cabinet agree Council Tax Reduction Scheme for 2017/18	Customer Services
January 2017	Testing for annual Billing	Customer Services/Capita
January 2017	Council Tax Reduction Scheme agreed as part of budget process and before 31 January 2017	Council
January 2017	Council Tax base set	Customer Services
February 2017	Council sets its budget	Resources
March 2017	Council Tax bills issued	Customer Services

## 9. Financial implications

9.1 There are no financial implications at this stage as the recommendation is only to consult on the proposed CTRS for 2017/18.

## 10. Legal implications

10.1 Section 33 of the Welfare Reform Act 2012 abolished Council Tax Benefit. The Local Government Finance Act 2012 amends the Local Government Finance Act 1992 to make provision for council tax support through locally adopted CTRSs.

10.2 Section 13A of the 1992 Act requires every local authority to adopt a CTRS. Paragraph 2 of s. 13A sets out the two principal factors which are determined by the CTRS; namely, "eligibility" and "reductions". A CTRS therefore defines the amount of council tax paid by residents of a local authority by reference to i) those persons who are defined as eligible for a reduction in council tax liability and ii) the extent of that reduction.

10.3 Paragraph 5 of Schedule 1A sets out the obligations imposed on the Council in respect of revising and replacing a CTRS. Para 5(1) "For each financial year, each billing authority must consider whether to revise its scheme or to replace it with another scheme. Para 5(2) provides that "The authority must make any revision to its

scheme... no later than 31 January in the financial year preceding that for which the revision ...is to have effect.”

- 10.4 Paragraph 3 of Schedule 1 contains obligations in respect of consultation. It applies to an authority when revising a scheme as it applies to an authority when making a scheme. (para. 5(5). Para. 3 requires the authority, before [revising a] scheme to, “...a) consult any major precepting authority which has power to issue a precept to it, b) publish a draft scheme in such manner as it thinks fit, and c) consult such other persons as it considers are likely to have an interest in the operation of the scheme.”.
- 10.5 The Supreme Court Judgement R –v- London Borough of Haringey (29.10.14 ) makes it clear, that whilst consultation needs always to be proportionate, “even when the subject of the requisite consultation is limited to the preferred option, fairness may nevertheless require passing reference to be made to arguable yet discarded alternative options.” (Lord Wilson Para. 28,)
- 10.6 By way of some assistance it is stated within the Judgment (at para. 41 by Lord Reed that) “...a requirement to provide information about other options [does not] ...mean that there must be a detailed discussion of the alternatives or of the reasons for their rejection. The consultation required in the present context is in respect of the draft scheme, not the rejected alternatives; and it is important, not least in the context of a public consultation exercise, that the consultation documents should be clear and understandable, and therefore should not be unduly complex or lengthy. Nevertheless, enough must be said about realistic alternatives, and the reasons for the local authority’s preferred choice, to enable the consultees to make an intelligent response in respect of the scheme on which their views are sought.”
- 10.7 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 10.8 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 10.9 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 10.10 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

10.11 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

10.12 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## **11. Crime and disorder implications**

11.1 There are no direct crime and disorder implications arising from this report.

## **12. Equalities implications**

12.1 In the discharge of their functions, the Equality Act 2010 places a Duty on public bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- foster good relations between those who share a protected characteristic and those who do not share that characteristic; and
- advance equality of opportunity between those who share a protected characteristic and those who do not share that characteristic.

12.2 A full analysis was done in 2013/14. To build a picture of CTR claimants' propensity to pay their liability, Council Tax accounts were matched with CTR benefit accounts where possible. Across the two data sets it was possible to match 87% of all the records. Thus analysis was done for comparator purposes and only to indicate if any of the claimant types have been disproportionately impacted by the scheme.

12.3 Accounts were also flagged as having a zero, credit or debit balance (account status) and the assumption was made that an account with either a zero or credit balance contains no outstanding Council Tax liability.

12.4 It is important to note that the applicants receiving CTR today may not be the same as those receiving it in a months time, or their award may be greater or less depending on how their circumstances change. This analysis has also only taken CTR into account and it is worth bearing in mind that a number of these claimants may also be in receipt of additional benefits which may have been subject to caps or changes as part of Welfare Reform.

12.5 Claimants that are in receipt of other benefits are known as passported and may either be of working age or they or their partner may be in receipt of state pension credit. Claimants that are only in receipt of CTR are known as non-passported and again can either be of working age or they or their partner may be in receipt of state pension credit.

12.6 There are very few CTR claimant types that have not settled their Council Tax liability to a satisfactory level once the award has been applied. Therefore the Council Tax Reduction Scheme appears to be working well and has not had an adverse impact on any particular group or equalities characteristic (where data is available).

### **13. Environmental implications**

13.1 There are no environmental implications arising from this report.

### **14. Background papers and report author**

14.1 If you require further information about this report, please contact Ralph Wilkinson, Head of Public Services, on 020 8314 6040.

14.2 The Council Tax Reduction Scheme for 2016/17 can be found at:  
<http://www.lewisham.gov.uk/myservices/benefits/council-tax-reduction-scheme/Pages/default.aspx>