

<b>Council</b>			
<b>Report Title</b>	Council Tax Reduction Scheme 2019/20		
<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>	23 January 2019

## **1. Purpose**

- 1.1 To agree Lewisham's Council Tax Reduction Scheme (CTRS) for 2019/20.

## **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. Pensioners are protected from the changes under legislation maintaining their support at least in line with Council Tax Benefit levels.
- 2.2 At the end of the financial year 2017/18 the Council Tax collection percentage for customers in receipt of CTR was 80.48% a reduction of increase of 2.28% on the previous financial year and substantially better than the original estimate of 50% when the scheme was introduced. Year to date collection for 2018/19 is 40.55%, 2% below the profile for all Council Tax debt.
- 2.3 It is proposed that no changes are made to the CTRS for 2019/20 and that the Council continues to pass on the government cut in funding to working age claimants. Consultation was undertaken with local residents, stakeholders and preceptor during August and September 2018.
- 2.4 The consultation sought views on the proposal that the Council continues to pass on the shortfall in government funding in 2019/20 and that residents who would be entitled to CTR need not complete an application form.
- 2.5 The majority (61%) of those responding to the consultation agreed that the Council should continue to pass on the shortfall in government funding to deliver a CTRS for 2019/20.
- 2.6 The majority (70%) of those responding to the consultation agreed that the Council should award CTR to those residents entitled to it without their having to complete an application form.

## **3. Recommendations**

It is recommended that the Council agrees to:

- 3.1 Note the outcomes of the consultation set out in appendix 1;
- 3.2 Retain a local CTRS from 1 April 2019 that passes on any reduction in government funding, reflecting the Council's financial position;
- 3.3 Modify the retained local CTRS from 1 April 2019 to allow CTR to be awarded to households who are receiving universal credit or housing benefit and who the Council identifies would qualify for support but who have, for whatever reason, failed to complete an application form;
- 3.4 Continue to deliver additional support to the most vulnerable residents through use of the existing provision within Section 13A(1)(c) of the 1992 Local Government Finance Act.

#### **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. Council Tax Reduction Scheme background**

- 5.1 In 2013/14, the Government allocated a total of £25.8m for CTR in Lewisham which was split between the Council (£19.9m) and the GLA (£5.9m). The allocation was £3.28m less than the 2012/13 funding and the Council agreed to pass on this cut in Government funding to 24,648 working age claimants.
- 5.2 As a part of the local government finance settlement for 2014/15, the Government announced that the resources for the CTRS would be rolled into the Council's overall formula grant, commonly known as the Settlement Funding Assessment (SFA), from 2014/15 onwards. This means that it is no longer possible to establish individual authority allocations for CTRS. For 2014/15, it was assumed that the comparative shortfall would be at a similar level to the previous year. For 15/16, the budget available was reduced to reflect the SFA reduction for the Council for the previous year.
- 5.3 Consideration had been given to absorbing the cut in grant. The use of reserves was discounted as the majority of reserves are earmarked for other purposes with the remainder needed for any urgent one-off unavoidable expenditure. The alternative would have meant either making further savings from other services or raising Council Tax for all payers, the impact of which was likely to be in excess of the threshold set by the Secretary of State beyond which a binding Council Tax referendum would need to be held.
- 5.4 As in previous years, the scheme agreed for 2018/19 was based on the established Council Tax Benefit scheme which had been in use since 1993. However, there is one significant difference that enables the Council to continue to deliver a scheme that accounts for the cut in grant. This is that maximum awards of Council Tax Reduction do not meet the full Council Tax liability for working age households, who are expected to contribute a minimum 25% towards their Council Tax for 2018/19.
- 5.5 When Lewisham's 2013/14 CTRS was drafted, there were 33,875 households receiving Council Tax Benefit of which 24,648 were working age and 9,227 were pensioners.
- 5.6 The 2018/19 caseload (households receiving an award of Council Tax Reduction) stands at 23,909. However, the breakdown between working age and elderly remains similar at 69% (16,394) and 31% (7,515) respectively when compared with the 72% and 28% in 2013/14.
- 5.7 The outturn collection percentage for customers in receipt of CTRS for 2017/18 80.48%, a decrease of 2.28% on the previous financial year. The drop in collection is attributable to the sharp increase in contribution from CTRS claimants. In 2016/17 CTR claimants contributed a minimum of 3% towards their Council Tax, this increased to 33% for 2017/18. With that said,

collection was still substantially better than the original estimate of 50% when the scheme was introduced.

- 5.8 As at 31 August 2018 the year to date collection for 2018/19 was 40.55%, 2% below the % profile for all Council Tax debt. It should be noted that whilst the Council Tax collection rate gives an indication as to how well or not the CTRS scheme is working, it's not a totally reliable indicator as it comprises of 'won't payers' as well as 'can't payers'. So far this year 9,773 reminder letters with a debt value of £368,275 have been sent to customers in receipt of CTR because of late or non-payment.
- 5.9 To ensure the Council awards the maximum CTR and maintains council tax collection, the current CTRS will be amended to allow the Benefit Service to receive and process awards of CTR without the need for a claimant to submit an actual application. In future, the Council will be able to award CTR where we know someone would be entitled to support but has not claimed and we are able to validate their eligibility and circumstances through the availability of other information we are able to access elsewhere including housing benefit and universal credit claims, DWP, HMRC or any other source.
- 5.10 The rationale for this amendment is that it will provide in many cases a swifter and more cost-effective procedure to the ultimate advantage of all those seeking council tax reduction. Regulations made under the Local Government Finance Act 1992 enable local authorities to accept applications for reduction by electronic means (e.g. e-mail) or telephone as well as in writing. Consideration has been given to whether either or both of those alternative means would provide a more proportionate way of achieving the council's aims. However, experience to date suggests that neither e-mail nor telephone calls, both of which can be time-consuming and often non-productive, will have the desired effect. This question can be reconsidered if necessary in relation to next year's reduction scheme.
- 5.11 Unlike some other authorities the Council has received no challenges to the CTRS in the Courts or appeals about decisions to the Tribunal.
- 5.12 The Council worked with the voluntary sector in the creation of the CTRS and continues to work closely with them on specific cases and how we administer the scheme.

## **6. Council Tax collection**

- 6.1 At the commencement of the CTRS many local authorities had low expectations about the level of Council Tax that would be collected from claimants in receipt of CTR and were concerned about the impact it would have on the Council's overall budget position. Accordingly, many authorities

set low in-year collection targets for this group, some in the region of 50-60% of the amount due for the year.

- 6.2 Outturn collection results for the majority of London authorities have been better than expected with many far exceeding the initial predicted levels. Action to recover outstanding debt from CTR recipients follows the same format as that of non CTR recipients in line with the Local Government Finance Act 1992.

## **7 Hardship Scheme**

- 7.1 In 2015/16, the Council replaced the separate cash-limited pot with the existing provision under Section 13A(1)(c) of the 1992 Local Government Finance Act 1992 which gives it the power to provide support to any households encountering exceptional financial hardship. For 2018/19, criteria was developed to ensure that any additional support was correctly targeted to those most in need. Customer experiencing severe financial hardship can apply for additional help, so far this year 105 applications for additional help have been received and 74 awards made, 3 were reclassified and have received alternative help and two did not meet the criteria. The remaining cases are under consideration.

## **8. Consultation on the CTRS for 2019/20**

- 8.1 A consultation exercise was undertaken between August and September 2018. Our approach was to engage with a sample of Council Tax payers not receiving CTR as well as those currently in receipt of CTR. This provided all those with an interest in this matter an opportunity to share their feedback.
- 8.2 The consultation was intentionally proportionate in approach. The proposals for the 2019/20 CTRS remain unchanged from the initial scheme that was introduced in 2013/14, for which a comprehensive consultation and Equalities Analysis Assessment were undertaken.
- 8.3 Responses to the consultation on the proposed CTRS for 2019/20 were promoted through the following methods:
- A self-completion survey was publicised across the Council's website;
  - A hard copy format was made available upon request for those without access to the internet;
  - A letter was sent out to 500 households inviting them to participate in the survey. This was done in proportion to whether or not people were in

receipt of CTR - 25% to those in receipt of CTR and 75% to those not in receipt of CTR;

- Briefings were provided to Council Tax, Housing Benefits and Customer Service Centre staff who were encouraged to promote the survey during all relevant customer contacts;
- Paper surveys were available to customers visiting the Customer Service Centre at Laurence House during the period of the consultation;
- The consultation on the CTRS was promoted via the Council's website (August – 24 September 2018).

8.4 The principal focus of the survey sought to clarify:

- a) Whether or not the Council should maintain the current CTRS for 2019/20, where working age residents pay a contribution to their Council Tax bill to account for the cut in Government funding?
- b) If respondents disagreed with the proposal detailed above, what alternatives they thought the Council should use to deal with the shortfall in funding?
- c) Whether or not respondents agreed that the Council should award CTR to those residents entitled to it without their having to complete an application form.

8.5 The headlines from the consultation were as follows:

- Around two thirds (61%) of respondents agreed that the Council should maintain the current CTRS where working age residents pay a contribution to their Council Tax bill to account for the cut in Government funding.
- 70% of respondents agreed that the Council should award CTR to those residents entitled to it without their having to complete an application form.

8.6 A more detailed analysis of the consultation results can be found within appendix 1.

## 9. Implementation timetable

Date	Action
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12 December 2018	Mayor and Cabinet agree CTRS scheme for 2019/20
23 January 2019	Full council agree CTRS scheme for 2019/20
January 2019	CTRS scheme agreed as part of budget process and before 31 January 2019
February 2019	Council sets its budget
March 2019	Council Tax bills issued

## **10. Financial implications**

- 10.1 The Council set aside £19.8m for the CTRS in 2018/19 and is currently projecting to spend £18.9m. In 2017/18, £20.5m was set aside, with the year-end position being a spend of £17.0m.
- 10.2 When setting the budget for 2019/20 and beyond, the Council will need to consider:
- Reductions in the council's budget resulting from the Autumn Statement and the provisional Local Government Financial Settlement (LGFS) in December;
  - The impact of changes on demand brought about by changes to welfare regulations;
  - The use of any surplus balance from 2018/19 that may be available;
  - The longer term impact arising from the CSR in December.

## **11. Legal implications**

- 11.1 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 CTRS"s..
- 11.2 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.
- 11.3 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.”

- 11.4 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.”.
- 11.5 The Supreme Court Judgement R–v- London Borough of Haringey (29.10.14 ) is “*on point*” with the subject of this Report and it 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.)
- 11.6 By way of explanation, it is stated within the said judgment (at para. 41 by Lady Hale and Lord Clarke) that while there need not 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.”
- 11.7 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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.

11.8 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at above.

11.9 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

11.10 The Equality and Human Rights Commission has 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:  
<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

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

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

11.12 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:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

## **12. Crime and disorder implications**

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

## **13. Equalities implications**

13.1 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.

13.2 The Council's obligations under the Equality Duty have been considered as part of the overall consultation analysis on the CTRS for 2018/19. More specifically, appendices 2 and 3 include analysis of respondent characteristics.

13.3 A detailed Equalities Analysis Assessment was performed in 2012/13 for that years CTRS. As there is no evidence to date of particular groups being impacted by the scheme and no changes are proposed to the scheme for 2017/18, no further assessment is required at present.

## **14. Environmental implications**

14.1 There are no environmental implications arising from this report.

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

### **Mayor and Cabinet Report, 6 December 2018, Council Tax reduction review report**

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

## **Appendix 1 - Consultation report on CTRS 2018/19**

### **Introduction**

1. The Council Tax Reduction Scheme (CTRS) consultation ran between August and September 2018. This report outlines the responses to this consultation survey.

### **Summary of results**

2. In total there were 94 responses to the questionnaire. Of these, 57 (61%) of respondents agreed with the proposal that the Council should maintain the current CTRS for 2019/20, where working age residents pay a contribution to their Council Tax bill to account for the cut in Government funding.
3. Further details regarding the survey responses and the consultation more broadly are presented below.

**Question One.** The Council's preferred approach is to continue to pass on the shortfall in government funding to all those of working age receiving council tax reduction. This will mean that everyone of working age will have to contribute towards their Council Tax. To what extent do you agree or disagree with this approach?

	<b>%</b>	<b>Count</b>
<b>Number of Responses</b>	-	93
<b>Strongly agree</b>	38.3%	36
<b>Agree</b>	22.34%	21
<b>Neither agree nor disagree</b>	9.57%	9
<b>Disagree</b>	12.77%	12
<b>Strongly disagree</b>	15.96%	5
<b>Total</b>	<b>100%</b>	<b>93</b>

**Question Two.** Do you think the Council should award CTR to those residents entitled to it without their having to complete an application form?

	<b>%</b>	<b>Count</b>
<b>Number of Responses</b>	-	93
<b>Strongly agree</b>	47.87%	45
<b>Agree</b>	22.34%	21
<b>Neither agree or disagree</b>	8.51%	8
<b>Disagree</b>	8.51%	8
<b>Strongly disagree</b>	11.7%	11
<b>Total</b>	<b>100%</b>	<b>93</b>

**Sample Profile (fieldwork, August-September 2018) (excluding 1 non-response)**

<b>Which applies to you?</b>	<b>%</b>	<b>Count</b>
<b>Number of Responses</b>	-	93
<b>A resident in the borough of Lewisham</b>	87.23%	82
<b>A Council Tax payer in the borough of Lewisham</b>	74.47%	70
<b>A resident that currently receives Council Tax reduction</b>	22.34%	21
<b>A resident who has received Council Tax Reduction or Council Tax benefit in the past</b>	13.83%	13
<b>A person receiving state pension credit</b>	1.06%	1
<b>A person receiving state pension</b>	12.77%	12
<b>A full-time student</b>	0.0%	0
<b>A full-time employee</b>	37.23%	35
<b>A part-time employee</b>	7.45%	7
<b>Self-employed</b>	13.83%	13
<b>Unemployed</b>	8.51%	8
<b>A lone parent</b>	8.51%	8
<b>An unpaid carer for children or adults</b>	5.32%	5
<b>A representative of a charity based in the borough of Lewisham</b>	2.13%	2
<b>A representative of a community group based in the borough of Lewisham</b>	2.13%	2
<b>A landlord for properties in the borough of Lewisham</b>	5.32%	5
<b>Other (please specify below)</b>	2.13%	2

**Sample Profile: Gender (excluding 4 non-responses)**

<b>Option</b>	<b>%</b>	<b>Count</b>
<b>Number of Responses</b>	-	90
<b>Male</b>	34.04%	32
<b>Female</b>	54.26%	51
<b>Not answered</b>	4.26%	4
<b>Prefer not to say</b>	7.45%	7
<b>Total</b>	<b>100%</b>	<b>90</b>

### Sample Profile: Age

Option	%	Count
Number of Responses	-	94
Under 18	0.00%	0
18-24	0.00%	0
25-29	5.32%	5
30-34	8.51%	8
35-39	8.51%	8
40-44	12.77%	12
45-49	12.77%	12
50-54	11.70%	11
55-59	7.45%	7
60-64	9.57%	9
65-69	7.45%	7
70-74	6.38%	6
75-79	0.0%	0
80-84	0.0%	0
85+	1.06%	1
Prefer not to say	4.26%	4
Not answered	4.26%	4
<b>Total</b>	<b>100%</b>	<b>94</b>

### Sample Profile: Ethnic Group

	%	Count
Number of Responses	-	94
White	64.89%	61
Mixed / multiple ethnic groups	5.3%	5
Asian / Asian British	6.38%	6
Black / African / Caribbean / Black British	8.51%	8
Any other ethnic group (please specify below)	6.38	6
Prefer not to say	8.51%	8
<b>Total</b>	<b>100%</b>	<b>94</b>

### Sample profile: What type of household do you live in?

Option	%	Total
I own my home with a mortgage	29.79%	28
I rent my home privately	10.64%	10
I own my home without a mortgage	22.34%	21
I rent my home through a housing association or other social housing provider	22.34%	21

<b>I am currently staying with family for free</b>	<b>2.13%</b>	<b>2</b>
<b>I am currently staying with friends for free</b>	<b>0%</b>	<b>0</b>
<b>I am in temporary accommodation</b>	<b>1.06%</b>	<b>1</b>
<b>I am in supported housing</b>	<b>2.13%</b>	<b>2</b>
<b>I live in a care facility</b>	<b>0.0%</b>	<b>0</b>
<b>I do not currently have a fixed address</b>	<b>0%</b>	<b>0</b>
<b>Prefer not to say</b>	<b>2.13%</b>	<b>2</b>
<b>Not Answered</b>	<b>7.45%</b>	<b>7</b>