



**Full Council**  
19 January 2015

**Report from Strategic Director, Regeneration  
and Growth**

For Decision

**Proposed Local Council Tax Support scheme for 2015/16**

**1. Summary**

1.1 This report sets out:

- 1.1.1 A recommended Local Council Tax Support Scheme for 2015/16 based on the experience from the first two years of the local scheme and continuing to achieve a financially neutral position;
- 1.1.2 The findings from the consultation process;
- 1.1.3 The financial impact of Brent's Local Council Tax Support scheme on Brent, and;
- 1.1.4 A recommendation to undertake a fundamental review of the scheme for 2016/17.

**2 Recommendations**

2.1 Members of Full Council are asked to consider and approve the following recommendations:-

- 2.1.1 That the Local Council Tax Support Scheme remains unchanged in year 3 of the scheme (2015/16) except for the provisions in paragraph 2.1.4;
- 2.1.2 In approving the recommended scheme for 2015/16, to agree that applicable amounts, allowances and non-dependant deductions (not relating to pensioners) are not uprated in the local scheme;

- 2.1.3 Any upratings to the government-prescribed scheme (i.e. for pension-age claimants) are actioned;
- 2.1.4 That the changes introduced in 2014 for Housing Benefit in respect of EEA nationals is mirrored in the CTS scheme from April 2015;
- 2.1.5 That a fundamental review of the scheme is undertaken during 2015 with the revised scheme having an implementation date of April 2016.

### **3. Executive summary**

- 3.1 Following the abolishment of the national council tax benefit scheme at the end of March 2013, every local authority in England had to implement their own local scheme for awarding Council Tax Support. Together with any savings from technical changes in the council tax scheme itself, approximately 10% (though actually 13.7% in Brent) of the previous income from government subsidies for council tax benefit needed to be found, estimated to be between £5.2M to £6M in Brent.
- 3.2 The scheme that was devised during 2012 was expected to deliver these savings and was also designed to be financially robust enough to be at least a two year scheme. It was expected that significant changes would not be needed during the first few years unless the anticipated savings were not realised or a review of the equalities impact assessment found unintended inequalities in the scheme.
- 3.3 The scheme was amended slightly in 2014/15 to incorporate a full disregard of war disablement and war widows pensions and to move those in receipt of incapacity benefit into the 'vulnerable' category hence giving these residents protection from the 20% minimum contribution.
- 3.3 The scheme has delivered financially during the first two years and there have been no unexpected equalities issues arising from the scheme implementation following an Equalities Impact Assessment carried out in 2013.
- 3.4 The prescribed scheme for pensioners (that the Government insist should be protected in the scheme) will need to be amended to take into account annual uprating figures. It is recommended that the local scheme itself should remain substantially unchanged; this includes not uprating applicable amounts, premiums, disregards, non dependant deductions or other figures that the DWP would have uprated in the old Council Tax Benefit scheme.

### **Background**

## **4 Main principles of the Local Council Tax Support Scheme**

4.1 As it is not recommended to modify the local scheme from the 2014/15 scheme, it is not intended to give a full explanation of the thinking behind Brent's local scheme. However, it may be useful to restate the government's key principles for any local scheme as well as our own set of principles which describe our own scheme.

4.2 The government's key principles for all authorities are:-

- Pensioner claimants will be protected from any change in their existing CTB award. This may result in the prescribed 10% financial saving falling disproportionately on working-age claimants unless it can be met through other arrangements.
- Localised CTS schemes must support work incentives which will be introduced through DWP plans for the Universal Credit and that will always seek to make people better off by being in work.
- LA's must ensure that appropriate consideration has been given to support for other vulnerable groups, including those which may require protection under other statutory provisions including the Child Poverty Act 2010, the Disabled Persons Act 1986 and the Equality Act 2010, amongst others.

4.3 The principles of our local council tax support scheme, representing a number of variations to the previous CTB scheme are as follows:-

**Principle 1: "Everyone should pay something"**

All working age customers (unless defined as protected) are required to pay a minimum element of their Council Tax set at 20%.

**Principle 2: "The most vulnerable claimants should be protected" (from the minimum contribution)**

Claimants are protected from the 20% minimum contribution if they are entitled to a disability premium or disregard, or in receipt of a Disability Living Allowance, Disabled Persons Reduction for Council Tax purposes, War Disablement Pension and War Widow's Pension or Carers Allowance.

**Principle 3: "The scheme should incentivise work"**

Incentives to work are achieved by letting claimants who are working keep more of what they earn (before means-testing) – the scheme increases the earnings disregards for Single Person, Couple and Lone Parent earnings by £10 per week (set at £5, £10 and £25 respectively in the old CTB scheme).

**Principle 4: "Everyone in the household should contribute"**

Other adults in the household ("non-dependants") contribute more proportionately to their income – the scheme doubles the range of non-dependant charges from the 2012/13 CTB scheme charges and

replaces the nil charge in the CTB scheme for Job Seekers Allowance (Income Based) claimants with the lowest charge of £6.60.

**Principle 5: “Better off claimants should pay relatively more so that the least well off receive greater protection.”**

The scheme increases the taper used in the Benefit calculation for those above the means-test (i.e. whose income exceeds their needs) to 30% from the previous 20% in the CTB scheme.

**Principle 6: “Benefit should not be paid to those with relatively large capital or savings”**

The scheme reduces the savings cut-off limit to £6,000 from the amount of £16,000 in the CTB scheme.

- 4.4 It is recommended that premiums and personal allowances used to determine basic living needs for a claimant and their family when calculating entitlement to CTS shall again be held at the rates applied in 2013/14. This will help mitigate against the continued reduction in the Rate Support Grant which now includes the funding for Council Tax Support.
- 4.5 Any customer who becomes entitled to Universal Credit will be treated as if on a passported benefit, as described in the scheme for year one. This introduces some financial risk which is detailed below.
- 4.6 In order for there to be consistency in joint claims for Housing Benefit and Council Tax Support, it is recommended that the changes affecting EEA nationals in 2014 for Housing Benefit will now be mirrored in the CTS scheme for 2015/16.
- 4.7 In particular, this means that any new claim for CTS made on or after 01 April 2015 from an EEA jobseeker will be disallowed unless the resident retains their worker status. This will not affect customers who are already receiving CTS unless their circumstances change and any EEA national who is in genuine and effective work will continue to be able to claim CTS.

## **5 Consultation Arrangements**

- 5.1 The consultation for 2013/14 when the scheme was introduced was extensive and consideration was given to all proposals that were received as part of that exercise. Some proposals were taken forward into the scheme itself; for example, the proposal to define as vulnerable those in receipt of carer’s allowance (providing care for another person).
- 5.2 There is only minor amendment recommended for the 2014/15 scheme (and this amendment would affect less than 10 people based on current information), so it was not incumbent of the Council to consult as extensively as for the year one scheme - many authorities chose not

to consult where the scheme is essentially the same as the year one scheme. Further, it is recommended that there will be a fundamental review of the scheme to be undertaken next year and this will be subject to a full consultation process. Nevertheless, Brent thought that it was preferable to seek views on a 'no change' policy.

5.3 On this occasion, the consultation was made available only online and e-mails were sent to over 100 key stakeholders including voluntary organisations, advice agencies and housing associations with details of the consultation and how to respond.

5.4 The questionnaire is included as Appendix A.

### **Consultation Responses**

5.4 The online questionnaire restated the key principles of Brent's Local Council Tax Support scheme and respondents were asked the following questions:-

- With reference to the 6 key principles, please indicate how important these are to you (ranking 1 to 6);
- To what extent do you agree or disagree with Brent proposing 'No change' in its scheme for 2015/16, except for aligning the rules on EEA nationals claiming benefit to the national legislation that applies to customers claiming Housing Benefit (5 different rankings from strongly agree to strongly disagree);
- To what extent do you agree or disagree with Brent proposing to align the rules on EEA nationals claiming benefit to the national legislation that applies to customers claiming Housing Benefit (5 rankings from strongly agree to strongly disagree), and;
- With reference to the proposal to fundamentally review our scheme for 2016/17, two questions were asked. Firstly, do you think that the scheme should be fundamentally reviewed or should the current scheme be continued into 2016/17 and secondly, if the scheme is to be reviewed, are there any particular elements or principles that you think should be incorporated into a new scheme.

5.5 There were only 5 responses although this is partly, at least due to the recommendation that the scheme be fundamentally reviewed for 2016/17 with a full consultation taking place.

5.6 4 out of 5 respondents felt that protecting the most vulnerable is the most important principle (80%).

5.7 Responses to the other questions were mixed. Two respondents strongly agreed that the scheme should remain unchanged, but the other three strongly disagreed. One respondent strongly agreed with the alignment of CTS to national legislation for EEA nationals, but two strongly disagreed; two neither agreed nor disagreed.

- 5.8 Three respondents agree that the scheme needs to be reviewed although one of those considers this should be happening this year. When answering what elements in particular could be reviewed, two respondents specifically mentioned abolishing the 20% minimum contribution, one wanted more work incentives but one felt there shouldn't be a need for the scheme at all (one did not respond to this question).
- 5.9 With such a small response and a variation in responses even amongst this sample, it is recommended not to make any amendments in light of the consultation.

## **6 Financial Impact**

- 6.1 The funding for the Council Tax Support Scheme is no longer separately identified but is included within the Revenue Support Grant. In the first year of the scheme (2013/14) the scheme was funded from a specific government grant of £24.121m and the total Council Tax Support granted was £22.291m (Brent's share).
- 6.2 This indicates a working surplus in year one of the scheme, but this is partly offset by lower collection rates. Furthermore, it was anticipated that a surplus would be needed to mitigate against funding cuts in subsequent years.
- 6.3 For 2014/15, the Revenue Support Grant which now includes funding for Council Tax Support fell by 17.8% so that an indicative figure for CTS funding is £19.835m.
- 6.4 The latest forecast expenditure for CTS in 2014/15 is £26.85m – the Brent share of this is £20.938m (the GLA split is 22.02% in 2014/15) so that there is an indicative deficit this year of just over £1.1m.
- 6.5 The caseload for Council Tax Support is 30,600 and based on current trends, it is anticipated that this will remain fairly static during the next 18 months. If there were no increase in Council Tax for the 2015/16 financial year and assuming the same split between Brent and the GLA, next year's expenditure for Council Tax Support is forecast to be £20.94m. If there was to be a Council Tax rise of 2%, the forecast expenditure in 2015/16 on CTS would be £21.43m.
- 6.6 However, CTS cannot be viewed in isolation to Council Tax setting and collection; it is a Council Tax discount, not a welfare benefit as under the previous national scheme, and as a result has a similar effect on the Council Tax yield as do other discounts and exemptions. In other words it is one of several factors, including non-collection, which will reduce the net yield from the Council Tax levied. In Brent, taking account of all factors, including the current CTS scheme, approximately £0.8M will be raised for every 1% Council Tax increase.

## **7 Risks associated with not changing the scheme in year 3**

7.1 There are financial risks of keeping the scheme unchanged in 2015/16 and these are as follows:-

7.1.1 The actual caseload and associated expenditure due to caseload variances are unknown. Estimates are based on current trends but the caseload may increase or fall within the lifetime of next year's scheme.

7.1.2 The impact of Universal Credit (UC) remains unclear. It was decided for years one and two to treat anyone in receipt of UC as a 'passported' case so that customers in this position would be treated as if they were receiving Income Support, JSA (Income Based) or ESA (income related) and this is carried into year 3. Currently, the indications are that there will not be any widespread rollout of UC in Brent before 2016, however, if the UC programme does start affecting Brent residents on benefits other than 'passported' ones during 2015/16, their entitlement will be more than if they were on 'standard' (i.e. means-tested) CTS.

7.1.3 Although collection rates for 2014/15 are at levels consistent with the financial model put forward (they are at the top end of the forecast amount), actual full year collection for customers affected during year 2 will not be known until next year. As there is no additional help that can be given if customers are struggling to keep up with their payments, there is a risk that collection will fall during 2015/16 as some customers try and pay arrears from the previous years.

## **8 Proposal for a scheme review in 2016/17**

8.1 Although the current scheme has satisfied the financial objectives during the first two years and is robust enough to continue to meet these objectives during 2015/16, there are increasing budgetary pressures that mean it may be necessary to review the scheme for 2016/17.

8.2 Additionally, many residents who do not fall into a protected category may be finding it increasingly hard to meet their financial commitments as they continue to be liable for at least 20% of their council tax bill.

8.3 In order to meet the dual objectives of financial robustness whilst at the same time being as fair as possible in attempting to help vulnerable residents, it is proposed to fundamentally review the scheme for implementation in 2016/17.

8.4 Because of the large amount of work involved, the work to review the scheme will need to commence in January 2015.

## **9. Equalities Impact Assessment**

9.1 This is included as Appendix B in this report. However, the EIA has not identified any adverse impacts in the first year of operation. Prior to the first year implementation, potential adverse impacts were identified for the Asian ethnic group and for older working-age claimants, though these were accepted as justifiable consequences of the policy intention within the scheme.

## **10 Legal implications of the recommended scheme**

10.1 In relation to the content that must be set out in a Council tax reduction scheme, that is currently set out in section 10 of the Local Government Finance Act 2012 and in clause 1 of Schedule 4 which inserts Schedule 1A to the Local Government Finance Act 1992 (“LGFA 1992”). Under these provisions, a Council Tax Reduction / Support scheme must state the following:

- (1) A scheme must state the classes of persons who are to be entitled to a reduction under the scheme;
- (2) A scheme must set out the reduction to which persons in each class are to be entitled (and different reductions may be set out for different classes);
- (3) A scheme must state the procedure by which a person may apply for a reduction under a scheme;
- (4) A scheme must state the procedure by which a person can make an appeal under section 16 of the LGFA 1992 against any decision of the authority which affects (a) the person’s entitlement to a reduction under the scheme, or (b) the amount of any reduction to which the person is entitled;
- (5) A scheme must state the procedure by which a person can apply to the authority for a reduction under section 13A(1)(b) of the LGFA 1992.

10.2 As for stating the classes of people who are to be entitled to a reduction under a scheme, classes may be determined by reference to the following:

- (i) The income of any person liable to pay council tax on the authority in respect of a dwelling;
- (ii) The capital of any such person;
- (iii) The income and capital of any other person who is a resident of the dwelling;
- (iv) The number of dependants of any person within paragraph (i) or (iii) above;
- (v) Whether the person has made an application for the reduction.



- 10.3 As for stating the reduction to which persons in each class are to be entitled and if different reductions are set out for different classes, a reduction may include the following detail:
- (a) A discount calculated as a percentage of the amount which would be payable apart from the scheme;
  - (b) A discount of an amount set out in the scheme or to be calculated in accordance with the scheme;
  - (c) Expressed as an amount of council tax to be paid (lower than the amount which would be payable apart from the scheme) which is set out in the scheme or is to be calculated in accordance with it; or
  - (d) The whole amount of council tax (so that the amount payable is nil).
- 10.4 The Local Government Act 2012 states that for each financial year, Councils must consider whether to revise its Council Tax Reduction / Support scheme or replace it with another scheme and that such decisions need to be made by 31 January in the financial year preceding that for which the revision or replacement scheme is to take effect. If any revision to a scheme (or any replacement scheme) has the effect of reducing or removing a reduction to which any class of persons is entitled, the revision or replacement must include such transitional provision in relation to that reduction or removal as the Council thinks fit. The Local Government Act 2012 states that Full Council has to make the final decision to revise or replace its Council Tax Reduction / Support Scheme.
- 10.5 The Local Government Act 2012 states that the Council must consult with the GLA, which is a precepting authority, when preparing or revising or replacing a Council tax reduction scheme and that thereafter, the Council must publish a draft Council Tax reduction scheme and then consult with other such persons who are likely to have an interest in the operation of such a scheme. Thereafter, the Council (i.e. Full Council) has to make a decision to revise its Council Tax Support scheme by 31 January 2014 which will then be effective from April 2014.
- 10.6 In addition to the Public Sector Equality Duty, which is discussed below, the Department for Communities and Local Government has advised that the following should also be taken into account when setting up a Council Tax Reduction Scheme:
- Child Poverty Duty under the Child Poverty Act 2010;
  - Homelessness Act 2002;
  - Armed Forces Covenant;
  - Chronically Sick and Disabled Persons Act 1970,
  - Disabled Persons (Services, Consultation and Representation) Act 1986,
  - and the Children Acts 1989 and 2004.

The above-mentioned legislation was referred to and considered in the report to Full Council on 10 December 2012 when Full Council decided to make and approve the proposed local Council tax support scheme for 2012/13. As only minor amendments are being proposed for the local scheme for 2014/15 and as no changes are proposed for the main principles of the local scheme for 2014/15, the legal implications regarding the above-mentioned legislation as set out in the report to the Full Council meeting of 10 December 2012 will not be repeated in this report.

- 10.7 The public sector equality duty, as set out in section 149 of the 2010 Act, requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic
- 10.8 The “protected characteristics” are: age, disability, race (including ethnic or national origins, colour or nationality), religion or belief, sex, sexual orientation, pregnancy and maternity, and gender reassignment. Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.
- 10.9 Having “due regard” to the need to “advance equality of opportunity” between those who share a protected characteristic and those who do not includes having due regard to the need to remove or minimise disadvantages suffered by them. Due regard must also be had to the need to take steps to meet the needs of such persons where those needs are different from persons who do not have that characteristic, and to encourage those who have a protected characteristic to participate in public life. The steps involved in meeting the needs of disabled persons include steps to take account of the persons’ disabilities. Having due regard to “fostering good relations” involves having due regard to the need to tackle prejudice and promote understanding.
- 10.10 The Council’s duty under section 149 of the Equality Act 2010 is to have “due regard” to the matters set out in relation to equalities when considering and making decisions on the provision of localised council tax support for the area of Brent. Due regard to the need to eliminate discrimination, advance equality and foster good relations must form an integral part of the decision making process. When the decision comes before the Executive, Members of the Executive must consider the effect that implementing a particular policy will have in relation to equality before making a decision. An Equality Impact Assessment will assist with this.
- 10.11 There is no prescribed manner in which the equality duty must be exercised, though producing an Equality Impact Assessment is the

most usual method. The Council must have an adequate evidence base for its decision making. This can be achieved by means including engagement with the public and interest groups and by gathering detail and statistics on who claims Council tax benefit and who benefits from certain discounts and exemptions which may be under consideration for changing.

10.12 The Equality Impact Assessment is set out in Appendix B to this report.

## **Appendices**

Appendix A – Consultation Questionnaire

Appendix B – Equalities Impact Assessment

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