



**Cabinet**  
23 October 2017

**Report from the Strategic Director of  
Resources**

For Action

Wards affected:  
ALL

**Review of Local Council Tax Support Scheme**

**1.0 Purpose of the Report**

- 1.1 Since April 2013 all Councils in England and Wales are required to operate a local Council Tax Reduction Scheme. These local schemes replace the former national Council Tax Benefit (CTB) scheme.
- 1.2 Brent introduced its current scheme ("Council Tax Support") in 2013 and it has remained in place with only minor changes since then. Councils are required to review and confirm or change their scheme each year.

**2.0 Recommendations**

- 2.1 To agree that Brent's Council Tax Support ("CTS") scheme should remain unchanged in 2018/19.
- 2.2 To note the factors which will be relevant for consideration regarding the future of the local scheme beyond 2018/19.

**3.0 Detail**

**Background**

- 3.1 CTS is a local scheme providing eligible Council Tax Payers with support by way of a reduction to their Council Tax bill dependent upon their income and circumstances. The current Brent scheme became effective from 1<sup>st</sup> April 2013 and has remained broadly unchanged with minor amendments since then.
- 3.2 Unlike the former national CTB scheme that was fully funded by the Department of Work and Pensions (DWP), the local CTS Scheme, whilst demand-led, is funded by a fixed amount that is "rolled up" within the Council's revenue support grant allocation and therefore not separately identifiable.
- 3.3 The Council has a statutory duty to provide a local CTS Scheme for working-age claimants within its area. Pension Credit-age claimants are subject to statutory provisions determined on a national basis that must be incorporated

within each authority's local scheme. The authority's scheme must be reviewed each year and any revisions to the scheme made by Full Council by 31<sup>st</sup> January. A decision to leave the scheme unchanged can be made by Cabinet.

- 3.4 A fundamental review of the current Brent scheme was undertaken in 2015, and concluded that in terms of legal, financial and equitable robustness, the current scheme can be considered as a success. There have been no legal challenges brought against the scheme, and no unforeseen impact was identified. There was no perceived appetite for radical change or a departure from the main principles governing the scheme at that time.

#### **4.0 CTS scheme 2018/19**

- 4.1 Many of the arguments for retaining the scheme when it was reviewed in 2015 are still applicable for 2018/19; there have been no major problems or legal challenges to the scheme, it is well-established and caseload and expenditure are falling. Changing the scheme to any degree is costly and carries risks. In addition the future impacts of other welfare reforms may still play a part in the consideration of any future approach.

- 4.2 The current scheme also has a significant advantage both for residents, and administratively, in that its structural similarity to the Housing Benefit (HB) scheme means that claimants can claim both HB and CTS at the same time, making a joint claim and providing the same supporting evidence. However it should be noted that as more of the working-age caseload moves onto Universal Credit (UC) over the next few years, this advantage will be lost as claimants will be required to claim UC from the DWP and CTS from the Council.

- 4.3 The two main disadvantages with the current scheme are as follows:-

4.3.1 Under the current scheme, any claimants in receipt of UC gain a "maximum" (i.e. in most cases 80%) rebate regardless of whether they are unemployed or in work. This is no different to treatment of UC's legacy benefits for unemployed claimants, but it does treat working claimants slightly more generously if they are in receipt of UC rather than Working Tax Credit (as the latter would currently be subject to a means-test).

4.3.2 This difference is currently marginal in terms of impact on the individual, and on the overall cost of the scheme. However as more claimants move onto UC, this aspect of the Brent scheme will increase CTS expenditure.

4.3.3 Brent has been live on UC since March 2015 (for new claims from unemployed single job seekers only) and currently has 307 CTS claimants on UC, mostly unemployed. Brent is scheduled to go live with UC Full Service (again new claims only) from August 2018. The half-year effect of this in 2018/19 would see up to 1,338 more new claims from working claimants move onto UC, however this would only increase annual CTS expenditure by approximately £86K, which is likely to be outweighed by continuing caseload decrease which would reduce expenditure by £758K if current caseload trends continue.

- 4.4 Secondly, Brent's scheme has frozen its applicable amounts, premiums and allowances at 2012/13 rates and therefore there is no inflationary uplift in the scheme each year. This does not affect any claimant receiving maximum

rebate (either 80% or 100% of liability) but does mean that any claimant subject to the means-test does not see an increase in their needs allowance, so if their other income increases, they see a small reduction in their CTS. It should be noted that almost all national benefit rates have been frozen since 2015/16 also.

4.5 Both of these disadvantages are considered marginal in comparison to the potential effects of other factors faced by claimants (eg the impacts of UC and other welfare reforms) and indeed the Council as a whole (the financial impact of caseload variation), and the potential cost involved in changing the scheme, to say nothing of the risk opening up the scheme as a whole to challenge from external organisations and pressure groups.

4.6 It is therefore proposed to retain the existing scheme for at least a further year into 2018/19.

## **5.0 CTS scheme 2019/20 and beyond**

5.1 There are a number of factors for consideration for Brent's scheme in 2019/20 and beyond. These include:-

5.1.1 The aforementioned built-in increase in CTS expenditure due to the treatment of working UC claimants (5,945 claimants in total): this is expected to incur an additional annual cost of £1.3M (other factors remaining equal) by 2023/24 if all working age claimants have moved onto UC by then as predicted by DWP.

5.1.2 The impact of caseload change: at present this is on a downward trend with a 3% decrease in the last year. Authorities already on UC Full Service report further drop-offs in CTS claims. A continuing reduction in caseload may help to make the current scheme more viable for a longer period but obviously this is at the mercy of other economic factors.

5.1.3 Table 1 below shows a best estimate of the likely migration of claimants in work from HB to UC, and the gross financial impact this would have under the current CTS scheme. For comparison and to keep this in context, this has been mapped against the gross financial impact should the CTS caseload continue to decrease at 3% per year.

5.1.4 It can be seen from the table that should caseload continue to decrease at the forecast rate, the financial saving from this will outweigh the expected increased expenditure caused by UC in both 2018/19 and 2019/20 (other factors remaining equal). However from 2020/21 onwards net expenditure is likely to increase, presenting a more pressing case for amending the current scheme.

**Table 1: Year by year financial impact on the CTS scheme of caseload migration to UC (other factors unchanged)**

Year*	No. of working claimants moving from HB to UC**	Additional annual cost due to claimants moving to UC (cumulative from 2017/18)	Impact of 3% caseload decrease (cumulative from 2017/18)	Net financial impact	Net % expenditure increase / (decrease)
2018/19	1,338	£85,631	(£757,740)	(£672,109)	-2.7%
2019/20	2,675	£611,653	(£735,008)	(£123,355)	-0.5%
2020/21	644	£957,352	(£712,958)	£244,395	1.0%
2021/22	644	£1,098,716	(£691,569)	£407,147	1.6%
2022/23	644	£1,240,080	(£670,822)	£569,258	2.3%
2023/24	0	£1,304,981	(£650,697)	£654,285	2.5%

\*Allowance has been made for some slippage in the DWP UC rollout timetable

\*\*Non-working claimants are treated the same on UC as on HB within the current CTS scheme

5.1.5 As more working age claimants move onto UC, there will also be less of an argument to retain a scheme which so closely resembles the HB scheme. The ability to claim both CTS and HB together will disappear for working-age claimants. Equally the administrative benefits of processing HB and CTS jointly will reduce (for working-age claimants).

5.1.6 Concurrently, the HB administration grant will reduce and will ultimately only support the administration of pensioner claims, with CTS attracting a modest grant inadequate to support the administration of a complex scheme. It may therefore be necessary to change to a scheme which is simpler to administer, possibly one more akin to a Council Tax discount.

5.1.7 The adoption of a simpler scheme would almost inevitably result in a cruder mechanism to establish entitlement and therefore more “cliff edges” in entitlement and a scheme which is less “fair” for claimants.

5.1.8 The current Revenues contract with Capita ends on 30 April 2019 and an options appraisal for future service delivery is being presented to Cabinet imminently. Although the two functions are not co-dependant, it will be sensible to review the CTS scheme composition and its delivery bearing in mind the decisions taken regarding future Council Tax collection, and the timing of these two major changes.

5.1.9 Two further key considerations for any scheme review are: whether the authority wishes to find financial savings by adopting a less generous scheme; or conversely, if there is a political desire to make the scheme more generous. Either of these considerations would clearly have a significant effect on the nature of any revised scheme.

5.1.10 It should also be noted that whenever the scheme is changed, a public consultation of up to 12 weeks will be necessary during the preceding year. If the scheme were to be changed for 2019/20, it should be noted that the pre-election (purdah) period for the Local Elections in May 2018, plus any post-election considerations, is likely to put additional pressure on the timetable for the scheme review.

5.1.11 Project costs for reviewing and changing the CTS scheme are estimated

at £90K, taking account of project resources, consultation, legal advice, financial modelling, software changes etc.

5.1.12 In order to devise and implement a new scheme whilst minimising risk, a minimum 18-month lead-in time is recommended, although implementation could be achieved within 12 months with the acceptance of greater risk.

5.2 As will be seen from the above, the future situation is subject to a large number of variables, and to wider financial and political imperatives, which will be kept under regular review with regard to the potential timing of any future scheme changes.

## **6.0 Financial Implications**

6.1 The introduction of UC will tend to increase CTS awards, as set out in section 4, although it is difficult to predict this with complete accuracy as changes in the caseload arising from local and national factors may impact upon it.

6.2 The underlying trend in caseload reduction is currently anticipated to continue over the next 12 months, contributing to an increased Council Tax net yield which therefore mitigates against the additional cost of UC. Financial modelling has been conducted based upon average volumes of new claims received per month during 2016/17 and the proportion of those for which Tax Credits were in payment. This showed that the increase in CTS expenditure would be significantly outweighed by the expected caseload reduction, which re-enforces the recommendation to retain the existing scheme for 2018/19.

## **7.0 Legal Implications**

7.1 The Local Government Finance Act 2012 requires that for each financial year, the Council must consider whether to revise its Council Tax Support scheme or replace it with another scheme and that such decisions need to be made by 31<sup>st</sup> January in the financial year preceding that for which the revision or replacement scheme is to take effect. Only Full Council has the power to make or amend a Council Tax Support Scheme as set out in section 67(2)(a)(aa) of the Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012). However, as this report's recommendations propose the retention of the existing scheme for 2017/8 and not to revise the CTS scheme for the next financial year, this matter can be considered by Cabinet. The default position is that if the CTS scheme is not revised or changed by Full Council by 31<sup>st</sup> January 2018, the CTS scheme for 2018/19 will be the same as the current CTS scheme in 2017/18 subject to any amendments to prescribed rates (e.g. for persons of pension credit age) that are made by central Government.

7.2 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.

7.3 The above-mentioned legislation was referred to and considered in the report to Full Council on 10<sup>th</sup> December 2012 when Full Council decided to make and approve the proposed local Council Tax Support scheme for 2013/14 and when Full Council amended the scheme for 2014/15 and 2015/6. The CTS Scheme was not changed for the 2016/17 or 2017/18 financial years. As it is proposed that the scheme will not be changed for 2018/19, the legal implications regarding the above-mentioned legislation as set out in the report to the Full Council meeting of 10<sup>th</sup> December 2012 will not be repeated in this report.

#### 7.4 Public Sector Equality Duty

7.4.1 Under the Equality Act 2010, the Council has a duty to have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics covered by the Equality Duty are as follows:

Age, disability, gender reassignment, marriage and civil partnership (but only in respect of eliminating unlawful discrimination), pregnancy and maternity, race (including ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex and sexual orientation.

7.4.2 The public sector equality duty, as set out in section 149 of the Equalities Act 2010, 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.

7.4.3 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.

7.4.4 The public sector equality duty is not to achieve the objectives or take the steps set out in section 149 of the Equality Act 2010. The duty on the

Council is to bring these important objectives relating to discrimination into consideration when carrying out its public functions (in this case, reviewing and considering whether to retain the existing localised scheme for Council Tax Support within Brent).

7.4.5 The phrase “due regard” means the regard that is appropriate in all the particular circumstances in which the Council is carrying out its functions. There must be a proper regard for the goals set out in section 149 of the 2010 Act. At the same time, when Cabinet Members make their decision, they must also pay regard to countervailing factors which it is proper and reasonable for them to consider. Budgetary pressures and economic and practical factors will often be important. The weight to be placed on the countervailing factors in the decision making process will be for Cabinet Members to decide when making their decision.

## **8.0 Diversity Implications**

8.1 A decision to retain the current CTS scheme in 2018/19 would have no adverse implications on claimants. It is thought that a maximum of an additional 1,338 claimants would be slightly better off due to the treatment of UC under the current CTS scheme. Modelling indicates that the recipients of this advantage would be spread across the caseload proportionately to the representation of protected characteristics within Brent’s demographic. Any future changes to the CTS scheme will be subject to a full Equality Analysis.

## **9.0 Staffing and Accommodation Implications**

9.1 None in respect of the decision to retain the current scheme into 2018/19. However there will be a requirement to identify and allocate resources to any scheme review whenever this is scheduled to take place. These will be determined and costed through the project scoping process when a decision is taken to commence a review.

## **Background Papers**

Appendix A – Overview of the current Brent Council CTS Scheme

### **Contact Officers**

David Oates

Head of Service (Benefits and Customer Services)

[David.Oates@brent.gov.uk](mailto:David.Oates@brent.gov.uk)

Tel: 0208 937 1931

*ALTHEA LODERICK*

Strategic Director of Resources