

	Resources and Public Realm Scrutiny Committee 12 September 2019
	Report from Strategic Director Customer and Digital Services
Proposals and Public Consultation on new Council Tax Support scheme for 2020/21	

Wards Affected:	All
Key or Non-Key Decision:	Non Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	<ul style="list-style-type: none"> • Appendix A – details of other London Councils' current CTS schemes and plans for 2020 • Appendix B – Principles governing new CTS scheme design, with pros and cons • Appendix C – Proposed new CTS scheme • Appendix D – Draft Communications plan • Local Welfare Assistance Scheme Review 2020/21 • Link to CTS consultation webpage: www.brent.gov.uk/ctsconsultation
Background Papers:	None
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1.0 Summary

- 1.1 Over recent months, the Council's Local Council Tax Support¹ (CTS) scheme has been reviewed, by officers working in conjunction with a Member Working Group, and

¹ In legislation, the scheme is referred to as a Council Tax Reduction Scheme (CTRS). Council Tax Support (CTS) is the name given to Brent's current local scheme.

a new draft scheme developed, intended to take effect from 1 April 2020. The proposed change requires a public consultation.

1.2 This report summarises the proposed scheme which has been developed and which is currently subject to public and stakeholder consultation until 10 October 2019. It also sets out the reasons why it is necessary to change the scheme.

1.3 The proposed scheme has two key elements:

(1) a banded discount element based on the claimant's net earned income (with DWP and HMRC benefits disregarded); and

(2) revised deductions to entitlement in respect of other adults (non-dependants) living in the claimant's property (particularly those non-dependants with significant earnings).

1.4 The proposed scheme also contains a number of other features and rules which are outlined in this report and its appendices.

2.0 Recommendation

2.1 Scrutiny Committee is asked to provide feedback and comments on the proposals to feed into the wider public and stakeholder consultation.

3.0 Detail

Background and drivers for review

3.1 There are a number of factors driving the proposal to review the CTS scheme for 2020/21:

- To design a scheme which is fit for future needs - in particular how residents in receipt of Universal Credit (UC) are treated
- To address any elements of the current scheme which are unsustainable or undesirable in the long-term (primarily these relate to the assessment of claimants on UC and the criteria for exemption)
- To streamline administrative processes, and reduce complexity for claimants
- The Council is committed to maintaining the current level of funding for CTS, so any changes to the scheme must be cost neutral to Brent.
- To ensure that the financial support available is going to those residents who are least able to pay council tax because they are struggling with poverty, and reviewing the scheme provides an opportunity to evaluate this and recalibrate specific levels of support if appropriate

Brent's current CTS scheme

- 3.2 The current scheme is modelled on the former national Council Tax Benefit (CTB) scheme, with a number of variations. The most significant variation to CTB is the requirement that all claimants are required to pay a minimum 20% of their Council Tax liability (unless they are protected due to being in receipt of certain qualifying benefits, mainly those related to disability). The scheme has worked well since its introduction in 2013, presenting no major issues and not having been subject to any legal challenges
- 3.3 Brent's current scheme has a significant advantage both for residents, and administratively, in that its structural similarity to the HB scheme means that claimants can claim both HB and CTS at the same time, making only one joint claim and only needing to provide information and supporting evidence once. However, this advantage will diminish over time as working-age HB claims transfer to UC.
- 3.4 The scheme is also able to very accurately reflect and differentiate between claimants' individual circumstances, providing nuanced and equitable assessments. However, this nuance is achieved by the scheme being very detailed and complex, both for officers to administer and for claimants to understand. Whilst the scheme takes account of individual circumstances, the minimum 20% liability payment represents a larger proportion of available income to those with the lowest income.

The impact of Universal Credit on CTS

- 3.5 The current CTS scheme needs to be changed for three reasons linked to the rollout of UC: -
 - 3.5.1 Firstly, as Brent's CTS scheme is currently comprised, all claimants in receipt of UC receive a "maximum" (i.e. in most cases 80%) rebate regardless of whether they are receiving UC due to them being unemployed or being in work. (The scheme was designed in this way because when it was written in 2012, many of the details of how UC would work were unknown.)
 - 3.5.2 The current Brent CTS scheme, therefore, is slightly more generous to working claimants on UC than similar working claimants on the corresponding "legacy benefit" (Working Tax Credit). This difference is relatively marginal both in terms of impact on the individual, and the effect on the overall cost of the scheme has to date been outweighed by the savings from a reducing caseload. However, with the full rollout of UC now under way in the borough, CTS net expenditure from 2020/21 is forecast to increase, due to the increasing number of claimants on UC, by approximately £250K per year. (A total additional cost of over £1M by the time UC is fully rolled out.) This would result in fewer people being able to receive support in the longer term owing to this inequality between the two systems.
 - 3.5.3 Secondly, it is not sufficient to change the current approach to UC claimants merely to mirror the means-test currently applied to Working Tax Credit (WTC) recipients. This is because, unlike WTC, UC entitlement is recalculated every month based on the claimant's fluctuating earnings, therefore any CTS scheme

directly linked to the amount of UC received, will potentially produce a change in the claimant's CTS entitlement each month, also prompting a recalculation of their net Council Tax liability, the issuing of a new bill, and revised monthly instalment amounts spread across the remaining months of the year.

3.5.4 Given the large number of changes in earnings caused by zero hours' contracts, overtime payments etc, it is clearly undesirable for both claimants and for Council Tax collection that the claimant is billed up to 12 times in the year for differing amounts.

3.5.5 Finally, as the migration of cases from Housing Benefit increases, retaining the current CTS scheme – which mirrors the HB scheme – makes less sense both administratively and from a customer perspective. Having a more complex scheme, with multiple factors involved in its calculation, makes sense when calculating Housing Benefit worth up to £442.42 per week (£23,069 per annum), and when assessing two different benefits (HB and CTS) based on the same information, but makes much less sense when deployed in order to calculate only a CTS entitlement of £26.98 per week (£1406.98 per annum²).

3.6 The review of the scheme therefore provides an opportunity to simplify the scheme for reasons of both administrative and customer understanding.

Other Councils' CTS schemes

3.7 A significant number of other authorities are also reviewing their CTS schemes, for reasons similar to Brent; Appendix A provides details of other London Councils' current CTS schemes and, where known, their proposed schemes for 2020/21.

3.8 Of these, three already have a banded scheme, though these Councils are very dissimilar to Brent (Barnet, Bexley and Sutton).

3.9 Six other authorities (out of 13 who responded to our queries) have confirmed they are changing their scheme for 2020/21. All of these are looking at a banded scheme, with four of them definitely taking this route. There are also several examples of banded schemes around the country, and there is a distinct trend of authorities towards this model.

4.0 Proposed scheme design

4.1 In order to apply a structured approach to the scheme review, 12 key principles were established against which to underpin and evaluate any proposed scheme against. These are listed in Appendix B (along with an evaluation of the proposed scheme against each of the principles).

4.2 The key feature of the revised scheme is the replacement of individual means tests to a discount award based on banded income levels, which are proposed in the draft scheme as follows:

² Council Tax Band C charge is £1406.98 per annum; more CTS claimants live in Band C properties than any other Council Tax band

Table 1: Proposed banded discount scheme

Weekly income ³	CTS award (% of net liability)
£0 - £80	100%
£81 - £110	80%
£111- £150	50%
£151 - £250	30%

- 4.3 It will be seen that the highest level of discount is 100%, compared to 80% for most claimants (and 100% for exempt / protected claimants), under the current scheme. Claimants facing the burden of challenging circumstances, such as disabled residents, carers and war widows, will continue to be supported by the scheme, with the majority receiving a 100% discount.
- 4.4 The other key element of the proposed scheme is the simplification of non-dependant charges (reductions from a claimant's maximum potential entitlement based on the status of other adults living in the household). There are currently five bands of non-dependant charges which are proposed to be reduced to three, as shown below:

Table 2: Current and proposed non-dependant charges

Working Age – Non Dependant Weekly Income	Current deduction for CTS per week	Proposed deduction per week
Non Dep aged 18 or over – IS, ESA(IR)	Nil	£4.00
Non Dep aged 18 or over – Not Working	£6.60	
Non Dep aged 18 or over – JSA(IB), UC	£6.60	
Earning £0.00 - £182.99	£6.60	£8.00
Earning £183.00 - £315.99	£13.10	£20.00
Earning £316.00 - £393.99	£16.50	
Earning £394.00+	£19.80	

- 4.5 There are also a significant number of households where no charge is currently made because the *claimant* is exempt, regardless of the income of the non-dependant. With the removal of the exempt category, these non-dependants will also be charged in line with the proposed amounts above. However, as already noted, the majority of

³ DWP and HMRC benefits will be disregarded

currently-exempt claimants, such as disabled residents, carers and war widows, will continue to receive a 100% discount.

4.6 The main implications of these changes for claimants and non-dependants are shown in paragraph 5.1 below.

4.7 Other key features of the scheme which should be noted include: -

- All earnings from the claimant and any partner's remunerative work is included in the calculation of the claimant's CTS entitlement (see below for calculation).
- All income from DWP / HMRC benefits is ignored for the purpose of the CTS calculation.
- Any capital or savings held by the claimant or partner will be disregarded if it totals less than £6000. Claimants and partners with more than £6000 capital will not be entitled to CTS. This feature is retained from the current scheme and this amount is also the capital limit within the UC scheme.
- Claimants will only be required to provide evidence of their earned income, and in many cases not even this, as earnings and capital information will be taken from their Universal Credit claim where possible.
- The UC claim date will be accepted as the date of claim for CTS, and / or claims will automatically be backdated to an earlier date within the same financial year if the claimant's circumstances have not changed between the earlier date and the date of making their claim, to avoid claimants missing out on entitlement due to ignorance of the need to claim CTS separately from UC.
- Claimants will only be required to inform the Council of changes to their income or the occupants of the household
- Retrospective changes in circumstances will result in a debit or credit to the claimant's CTAX account in all circumstances, thereby increasing or reducing the amount of Council Tax due.

4.8 There will also be scope to further reduce individual Council Tax liability on a case by case basis under s13A of the Local Government Finance Act (LGFA) 1992:-

- If a Council Taxpayer is experiencing exceptional and extenuating circumstances they may apply for a Council Tax reduction under Section 13A of the LGFA. Each application is considered on its own merits.
- Examples where applications may be considered could include properties affected by natural disasters such as fire, flood or storm that were beyond the control of the occupier, or where the Authority considers that a CTS claimant requires further assistance towards their Council Tax liability and is facing exceptional hardship or extraordinary circumstances

- 4.9 As will be appreciated, the proposed changes will result in the claiming process being considerably simplified, hopefully providing increased understanding of the scheme for claimants.
- 4.10 A full summary of the proposed scheme is provided in Appendix C. This document is also available on the Council's website as part of the public consultation.

5.0 Impacts on claimants and non-dependants

5.1 Below is a summary of the main impacts of the proposed scheme.

- Generally, claimants with larger incomes still receive less entitlement and will be expected to pay more Council Tax than those on lower incomes
- However, currently exempt claimants will retain their 100% discount under the new scheme (subject to any non-dependant charges)
- Also, "passported" claimants (IS, JSA etc) currently receiving 80% will now receive 100% (subject to any non-dependant charges)
- Most working claimants have relatively marginal increases or decreases (subject to any non-dependant charges); 52% of claimants will have a change of entitlement of less than + / - £4.00 per week, with 72% having a change of + / - £6.00 per week
- The net effects of discounts increasing from 80% to 100%, coupled with higher non-dependant charges, leave a net marginal impact in many cases
- The lowest non-dependant charges would be £4.00 per week and the highest £20.00 (currently zero / £6.60 and £19.80 respectively)

6.0 Consultation

- 6.1 The Council is required to consult with the GLA, and to conduct a public consultation, over its proposed scheme.
- 6.2 The Council is following best practice by undertaking a 12-week consultation, between 19 July and 10 October. Planned consultation activities include: -
- Questionnaire on Council website promoted via email / SMS messages, including when residents claim benefit or have a change of circumstances
 - Stakeholder forums to obtain feedback and input from voluntary sector and community organisations, and faith groups
 - Social media
 - JCDecaux boards
 - Press releases and articles
 - Use of Brent Connects and other established forums
 - Brent Magazine / Your Brent and other targeted publicity
- 6.3 The questionnaire seeks resident and stakeholder feedback in three areas, namely: -

1. Whether the key principles guiding the scheme are the right ones
2. Whether the proposed scheme meets the key principles
3. Any other comments (freeform responses)

6.4 Appendix C contains the draft communications plan. Information about the scheme, and the public consultation, is available on the Council's website at www.brent.gov.uk/ctsconsultation.

6.5 The emerging findings from the public consultation are as follows:-

- General approval for the scheme principles;
- General agreement that the proposed scheme will meet the principles via the approach of the banded discount scheme, and the disregarding of DWP / HMRC benefits; and that it will be more streamlined and simpler to understand;
- There are more mixed responses concerning –
 - Whether the balance between treatment of in-work and unemployed claimants is right
 - Whether the scheme can “incentivise work”
 - Whether the non-dependant charges are reasonable (though the principle of other adults contributing is generally accepted and is already a feature of other national welfare benefits and the current CTS scheme)

6.6 At a stakeholder event for voluntary sector partners on 28 August, the scheme principles and design met with broad approval, though a large number of comments were made, concerning non-dependant charges in particular.

6.7 All comments and feedback received is being considered and any potential changes to the proposed scheme design will be discussed in more detail with the Member-level working group which has been involved in the design of the scheme to date.

7.0 Financial Implications

7.1 It has been agreed via CMT and PCG that the scheme change should be cost-neutral in overall expenditure.

8.0 Legal Implications

Consultation

8.1 The Local Government Finance Act 2012 states that the Council must consult with the GLA, which is a precepting authority, when amending a Council Tax Reduction Scheme and that thereafter, the Council must publish a draft amended 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.

- 8.2 The four basic requirements of consultation are set out in the case of *R v Brent LBC ex parte Gunning (1986) 84 LGR 168*:
- (i) consultation must be at a time when proposals are at a formative stage;
 - (ii) the proposer must give sufficient reasons for any proposal to permit intelligent consideration and response;
 - (iii) adequate time must be given for consideration and response;
 - (iv) the product of consultation must be taken conscientiously taken into account in finalising any proposals.
- 8.3 In the 2014 Supreme Court case of *R (on the application of Moseley) v London Borough of Haringey*, the Court confirmed in its judgment that the demands of fairness in the consultation process are likely to be greater when an authority proposes to deprive someone of an existing benefit than when considering a potential future benefit and that fairness may require that interested persons should be consulted not only on the preferred option but also on discarded options. In that specific case, the Supreme Court ruled that Haringey Council's consultation process regarding its Council Tax Reduction scheme was unlawful as it failed to outline alternative options and methods of dealing with the shortfall and cuts to funding.

9.0 Diversity Implications

- 9.1 The draft Council Tax Support scheme is being reviewed for its effect on groups with protected characteristics under the Equality Act, and a detailed draft Equalities Assessment will be produced and presented as part of the public consultation documentation shortly.

Report sign off:

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