



Cabinet
15 November 2016

**Report from the Strategic Director
of Resources**

Wards Affected: ALL

Council Tax Support Review

1. Summary

- 1.1. This report reviews whether changes should be considered to the provision of the localised Council Tax Support Scheme for 2017/18 and makes recommendations accordingly.

2. Recommendations

- 2.1 The following recommendations are submitted for consideration:

2.1.1 That the existing Council Tax Support scheme for Brent Council is retained for 2017/18 for the reasons set out within Section 8 of this report (Financial Implications) and not to invite Full Council to revise the Council Tax Support scheme for 2017/18.

2.1.2 Cabinet note that due to the introduction of Universal Credit additional changes may be necessary in future years if expenditure on Council Tax Support is to be kept within the agreed Council Tax budget.

3. Executive summary

- 3.1 Council Tax Support (CTS) is a local means-tested scheme that provides assistance with Council Tax liability for people on low incomes.

- 3.2 The former national Council Tax Benefit (CTB) scheme was abolished from 1st April 2013 and in its place Councils across England and Wales were required to devise their own local schemes, delivered alongside an average 10% national funding cut (13.7% in Brent) and a change from the

previous demand-led funding to a fixed grant, since rolled up within the Revenue Support Grant (RSG).

- 3.3 Brent's scheme has remained largely unchanged since that time save for some minor technical changes. A fundamental review of the current scheme was undertaken in 2015 to evaluate the scheme against its original objectives and principles; to identify any unanticipated impacts; to explore the relationship between scheme design and Council Tax collection; and to undertake a comparison with other Councils' schemes across London and nationally.
- 3.4 The review concluded that in terms of legal, financial and equitable robustness, the scheme could be considered a success. There had been no legal challenges brought against the scheme, and from a financial perspective, the scheme had met its objective of achieving a minimum saving of 10% in the first year of CTS. The other key requirements of the scheme – protecting vulnerable groups and incentivising work – had also been achieved and underpinned by key principles, and from a Diversity perspective, the impact on groups with protected characteristics had been as forecast. There was also a consideration that it was not the right time to be considering a change to a scheme that was broadly performing well and protecting the right claimants.
- 3.5 Since the last review in 2015, the CTS scheme has been delivered within the overall budgeted position. Proposed Government reforms to Tax Credits that would have resulted in reductions in Tax Credit payments for many CTS claimants and consequently led to increases in CTS awards due to the means test applied, were aborted. This has left Universal Credit (UC) roll-out as the future change most likely to impact upon levels of CTS scheme expenditure, due to the protections, albeit relatively minor, which are provided for UC claimants within the Brent CTS scheme. The reasons for this are explained in more detail in paragraph 3.8 below, and paragraph 6.4 of this report.
- 3.6 Due to the cost and risk factors associated with making fundamental changes to the scheme, revisions are primarily considered only when there is a known or anticipated change of economic / environmental conditions and / or financial risk that would make it necessary.
- 3.7 It is not considered that there are any substantially changed conditions which would require or make desirable a change to the scheme in 2017/18. The review in 2015 established that “cost neutral” changes could only minimally affect some claimants – at the expense of others – and there is no general desire for a scheme revision to save money, or conversely finances available to put into amending the scheme to be more generous.
- 3.8 The existing CTS scheme provides for a maximum CTS entitlement (rebate) of 80% of Council Tax liability where a claimant is in receipt of

certain benefits¹ including Universal Credit. Tax Credits, which are to be incorporated within Universal Credit in the future, are currently subject to a means test for CTS purposes and consequently generally result in a lower level of CTS award than the 80% referred to above for Universal Credit claimants.

- 3.9 The fundamental issue in relation to paragraph 3.8 above therefore concerns the likely timing and pace for the transition of Housing Benefit claims to Universal Credit and consequently whether to defer proceeding with any significant changes to the scheme for a further year. This is because at that time, unless prior changes have been made to the CTS scheme, an increase in CTS expenditure may occur as a consequence of Tax Credit claimants moving to Universal Credit.
- 3.10 This report reviews the existing CTS caseload and trends in caseload over the past four years and the financial implications of phased claim transfer scenarios to Universal Credit and seeks Cabinet approval to the recommendations accordingly.

Detail

4. Background

- 4.1 Council Tax Support 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.
- 4.2 Unlike the former national Council Tax Benefit scheme that was fully funded by the Department of Work and Pensions (DWP), the local Council Tax Support 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. Consequently, the financial risk arising from fluctuations in caseload and associated expenditure now rests solely with the Council.
- 4.3 The Council has a statutory duty to provide a local Council Tax Support Scheme within its area incorporating the following provisions:
- Pension credit age claimants are subject to statutory provisions determined on a national basis and that must be incorporated within each authority’s local scheme.
 - Local schemes must support work incentives.
 - Appropriate consideration must be 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.

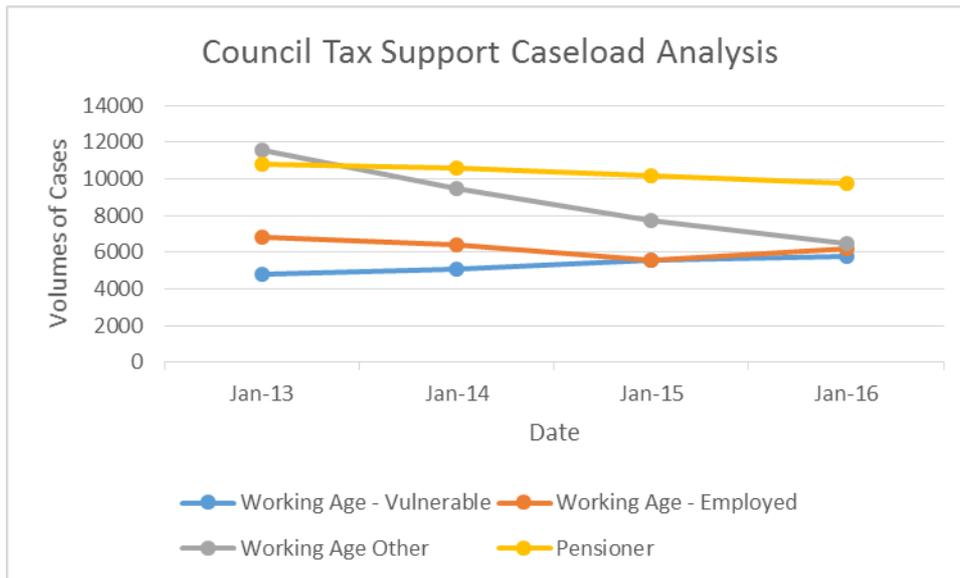
¹ Income Support, Job Seekers Allowance (Income Based) and Employment Support Allowance (Income Related).

- The Local Government Finance Act 2012 states that a Billing Authority must have regard to any guidance issued by the Secretary of State.
- 4.4. Under the Local Government Finance Act 2012, the Council must, in the following order, consult with major precepting authorities (i.e. the GLA), publish a draft scheme in such manner as it thinks fit and consult such other persons as it considers are likely to have an interest in the operation of the scheme.
- 4.5 A Billing Authority must consider whether to revise or replace its scheme with another one on an annual basis. The decision to make the scheme and amend the scheme is reserved for Full Council and cannot be delegated, though it is not necessary for a decision to retain the current scheme to go to Full Council as the current CTS scheme for this financial year will roll over on to the following financial year if no changes are made by Full Council by 31 January 2017.
- 4.6 Any revision to a scheme must be made by the Council by the 31st January immediately preceding the financial year in which it is to take effect and will require consultation arrangements to be applied. Additionally, consideration must be given to providing transitional protection where support is to be reduced or removed.
- 4.7 Brent Council determined its local Council Tax Support scheme in December 2012 and this has been broadly sustained with minor amendments over the past three years.
- 4.8 At the Cabinet meeting held in October 2015, a recommendation was agreed to further review the CTS Scheme during 2016/17 when there would perhaps be greater clarity regarding the impact of other welfare reforms on the scheme, with a view to introducing any changes agreed by Full Council from 1st April 2017. This report is therefore in compliance with that recommendation.

5.0 The Existing Brent Council CTS Scheme

- 5.1 The Brent Council local scheme was determined by Full Council and became effective from 1st April 2013 having been preceded by extensive consultation. The provisions relating to CTS pensioner claims are prescribed by the Government and have to be included within the local scheme determined by the Council. The Brent Council scheme incorporates six key principles and two key features which are set out in Appendix A to this report.
- 5.2 Immediately prior to the introduction of the local CTS scheme in Brent, there were 35,792 live Council Tax Benefit claims. By April 2016, this had reduced to 28,238. A representation of the changes in CTS caseload is shown below in Chart 1 – CTS Caseload by Claim Type below.

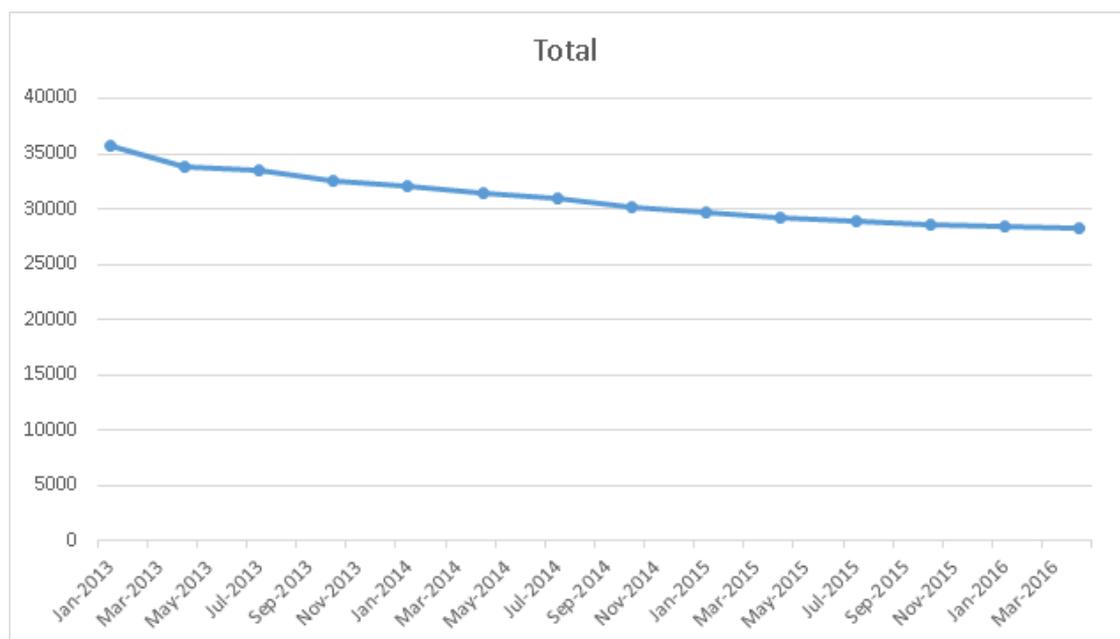
Chart 1 – CTS Caseload by Claim Type



5.3 Approximately 3,200 of the total reduction in claims of 7,554 occurred as an immediate consequence of the changeover from CTB to CTS in April 2013 to reduce expenditure to within the level of grant funding as set out in paragraph 3.1 of this report. Interestingly, an analysis of the caseload since 2013, has indicated a reduction of 1,240 has occurred for pension credit age claims alone which are unaffected by the introduction of the localised arrangements for working age claimants.

5.4 The overall trend in CTS caseload is shown in Chart 2 below.

Chart 2 – Trend in CTS Caseload



5.5 The Brent Council scheme was entirely financed within the CTS grant during the first year of operation (i.e. 2013/14). However, the position for subsequent years cannot be quantified as the fixed grant for Council Tax

Support received in year 1 was “rolled-up” within the overall Revenue Support Grant settlement.

6.0 Review of the current CTS scheme

6.1 The current scheme’s original objectives were to design a robust scheme that would:

- Achieve the required savings;
- Withstand legal challenge;
- Be able to run for at least two years;
- Be fair and equitable;
- Protect the most vulnerable.

6.2 The scheme was fundamentally reviewed during 2015/16 with the outcome that no changes were recommended to the scheme for 2016/17, on the basis that the scheme was meeting its objectives, not exceeding financial targets; and that without further financial investment, only minimal changes were possible to certain groups at the expense of other cohorts. The content of that report is attached at Appendix B to this report for reference.

6.3 Across the country from April 2016, only 41 councils (out of 326) are continuing to provide the levels of support available under the former Council Tax Benefit system, down from 58 in April 2013. Appendix C lists the names of the Authorities concerned together with their rankings for levels of deprivation and the majority political party. The most common change that local authorities have made from the former CTB system has been to introduce a “minimum payment” which requires everyone to pay at least some council tax regardless of income. From April 2016, 259 schemes include a minimum payment, up from 250 in April 2015, 245 in April 2014 and 229 in April 2013. This is consistent with the Brent Council CTS scheme that seeks a minimum 20% contribution rate to Council Tax unless the claimant is otherwise protected under the terms of the scheme.

6.4 The greatest potential impact upon the future level of Brent CTS expenditure arises from Universal Credit (UC) roll-out. This is because the existing Brent CTS scheme provides for a maximum CTS entitlement of 80% of Council Tax liability where a claimant is in receipt of certain benefits² including Universal Credit. Tax Credits, which are to be incorporated within Universal Credit in the future, are currently subject to a means test for CTS purposes and consequently generally result in a lower level of CTS award than the 80% referred to above for Universal Credit claimants. Consequently, when recipients of Working Tax Credit transfer to Universal Credit, they will, under the current CTS scheme arrangements, become eligible for the maximum 80% CTS entitlement rather than the lower level of award that they would currently get as a consequence of the means test applied. The pace and timing of UC roll out is set by the Government and is currently available only to single

² Income Support, Job Seekers Allowance (Income Based) and Employment Support Allowance (Income Related).

jobseekers making new claims in Brent although it includes couples and families in some other parts of the country.

- 6.5 The Universal Credit full Digital Service which has been piloted in a small number of areas is being rolled-out across more Job Centre areas before a national roll-out of the full service begins. Phases 1 and 2 of the national roll-out are taking place between May and December 2016 although Brent Council is not included in this initial phase.
- 6.6 The full Universal Credit Digital Service will be open to all new claims from all claimant types; this will also include anyone who is currently on existing benefits or Tax Credits and has a change of circumstance that would naturally trigger a new claim to UC, meaning the entire household affected would move to the full service.
- 6.7 The government expects the national roll-out to the full Digital Service to be completed in September 2018. Once the process has been completed, the government will then begin migrating all remaining existing benefit claimants to the full UC service, this part of the process is intended to be completed by March 2022. Locally, the DWP has indicated that at least six months' notice will be given to any changes in the pace and scope of migration.
- 6.8 The potential impact of claimants transferring to Universal Credit has been subjected to financial modelling and is evaluated in Section 8 of this report. (Financial Implications).

7.0 Risks and Issues

- 7.1 General risks and issues have been identified in relation to the recommendation to retain the existing CTS scheme provisions for 2017/18 and these are detailed in Appendix D to this report.

8. Financial Implications

- 8.1 The Council Tax Base set in January 2016, included provision for 18,634 Band D equivalent homes where the level of Council Tax payable was anticipated to be reduced due to CTS entitlement during 2016/17. Based upon the Band D Council Tax set for 2016/17 of £1,377.24, this number of Band D equivalent properties equates to £25.7m and accounts for both the Brent Council and GLA share of CTS expenditure.
- 8.2 CTS awarded for 2015/16 was £25.3m and has reduced to a forecast level of £25.2m for 2016/17. This is within the £25.7m provided for within the Council Tax Base set for 2016/17 and referred to in paragraph 8.1 above.

- 8.3 The introduction of Universal Credit will tend to increase CTS awards, for the reasons set out at paragraph 6.4 although it is difficult to predict this with accuracy as changes in the caseload arising from local and national factors may impact upon it. However, based upon current CTS claim information, new CTS claims for 2017/18 are forecast to average 718 per month of which the claimant or their partner would be expected to receive Working Tax Credit (WTC) in 15% of them (i.e. 108 cases per month). On the basis that the WTC cases concerned instead receive Universal Credit under the current phased introduction arrangements, this would equate to additional CTS expenditure of £0.1m for 2017/18.
- 8.4 In the event of a 10% increase in the expected volume of new CTS claims for 2017/18 where the claimant receives Universal Credit instead of Working Tax Credit (i.e. 118 claims), additional CTS expenditure would equate to £0.11m. Conversely, a 10% reduction in such claims (i.e. 97 claims), would equate to additional CTS expenditure of £0.09m.
- 8.5 Once universal credit has been fully phased in (currently scheduled to be completed by 2022) the full cost of CTS awards based upon the existing caseload is currently expected to be in the region of £26.2m. However, modelling the costs of policy changes that will not be fully implemented for at least two years is necessarily subject to a number of uncertainties, and this latter figure should be regarded as no more than a guideline at this stage.

9.0 Legal Implications

- 9.1 The Local Government Finance Act 2012 (“LGFA 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 31st 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.
- 9.2 As this report’s recommendations propose the retention of the existing scheme for 2017/18 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 31st January 2017, the CTS scheme for 2017/18 will be the same as the current CTS scheme in 2016/17 subject to any amendments to prescribed rates (e.g. for persons of pension credit age) that are made by central Government.
- 9.3 If changes are proposed to the scheme, the Local Government Finance Act 2012 states that the Council must consult with the GLA, which is a precepting authority, when preparing or amending 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.

9.4 An independent review of Council Tax Reduction Schemes was provided for within Section 12 of the LGFA 2012 by the Secretary of State within three years of that Act coming into effect. The review was intended to consider effectiveness, efficiency, fairness and transparency and the impact of schemes on the localism agenda, and was to then make recommendations as to whether such schemes should be brought within Universal Credit. The independent review of Council Tax Support Schemes was completed in March 2016 and concluded that it should not be moved into Universal Credit at this time. Whilst a central government response to the recommendations of the review has not yet been published, the report stated that “no-one has prepared for such a move, which would be complex and disruptive to both central and local government at a critical phase in the Universal Credit timetable. It was also believed that it would cause unnecessary financial risk to councils and bring confusion and disruption to CTS recipients”.

9.5 Public Sector Equality Duty

9.5.1 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.

9.5.2 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.

9.6 Other duties

9.6.1 In addition to the Public Sector Equality Duty, the Department for Communities and Local Government has advised that the following should also be taken into account when considering a local CTS 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.

9.6.2 Each of the above factors was given “due regard” when the existing CTS scheme was designed. Consultation findings and any adverse impact identified were considered in terms of mitigation and considered within the scheme subsequently determined.

9.7 Diversity Implications

The diversity implications arising from the recommendations contained within this report are set out within Appendix B. As the report recommendations propose the retention of the existing scheme, the implications arising are as identified when the scheme was originally determined in 2012 and further confirmed through the fundamental review undertaken in 2015.

Background Papers

Appendix A – Key Principles and Features of Existing CTS Scheme

Appendix B – Report on CTS Scheme Review 2015/16

Appendix C – Local Authorities that have retained the provisions of the former CTB Scheme

Appendix D – Risks and Issues

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