

# COUNCIL TAX SUPPORT - A LOCALISED SCHEME TO REPLACE COUNCIL TAX BENEFIT

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<b>Cabinet Portfolio(s)</b>	Finance, Property & Business Services Social Services, Health & Housing
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<b>Papers with report</b>	Appendix A - Consultation Strategy Appendix B - Full list of options and models with financial outcomes Appendix C - Equalities Impact Assessment Appendix D - Relevant legislation, clauses and / or summaries

## **1. HEADLINE INFORMATION**

<b>Summary</b>	This report seeks Cabinet approval to consult on the Council's preferred scheme and other options that are being considered for the delivery of a local Council Tax Support scheme, with effect from 1 April 2013. This local support scheme needs to be implemented because central Government is proposing to abolish Council Tax Benefits at the end of this financial year.
<b>Contribution to our plans and strategies</b>	Achieving value for money is an important element of the Council's medium term financial plan.
<b>Financial Cost</b>	The Government has announced that funding for the localisation of support to Council Tax will be 10% lower than funding for Council Tax Benefit. This equates to an estimated gross financial pressure of £2.25m in 2013/14 and £2.30m in 2014/15. The proposed scheme for consultation would mitigate this pressure in full and prevent the need for either an equivalent cut in service budgets or an increase in Council Tax for residents of the Borough.
<b>Relevant Policy Overview Committee</b>	Corporate Services & Partnerships and Social Services, Health and Housing
<b>Ward(s) affected</b>	All

## **2. RECOMMENDATION**

**That Cabinet agree to a 12 week consultation exercise being undertaken on the basis of the proposed scheme set out in paragraph 31.**

### **Reasons for recommendation**

The Local Government Finance Bill introduced the requirement for local authorities to design and implement a local support scheme for Council Tax from 1 April 2013 to replace Council Tax Benefit, which will be abolished under the Welfare Reform Act. Councils are required to consult widely on their proposals for a local scheme.

### **Alternative options considered / risk management**

In considering the options for scheme design, the aim was to develop a simple scheme which minimises the impact across affected claimants, while protecting Council Tax payers. A possible scheme that will eliminate the shortfall and that fits with a wider range of policy considerations, is recommended as the basis for consultation and is set out at paragraph 31. However, there are considerably more variables which could be taken into account when designing a scheme and Appendix B includes a range of options for the scheme design that could also help to minimise the impact of the 10% cut in funding on the Council.

The Government are also introducing powers to amend or vary certain other Council Tax discounts and exemptions. If these powers were taken up they would impact mainly on Council Tax payers who own empty properties. If the Council decides to take up any of these powers this will be the subject to a separate report to Cabinet.

### **Risks**

1. There is a risk that the scheme may not be ready within the timescales for delivery. However, to mitigate this, the Council has a dedicated project management resource and has identified key resources for the project team.
2. The speed of implementation may lead to a sub-optimal scheme design which may fail to deliver the required contribution or be overly complicated and increase the administrative burden.
3. There remains a risk that the Government may postpone the implementation date.
4. As a result of other changes contained within the Welfare Reform Act, there is a risk that these could lead to increased migration from high-rent areas and therefore an increase in the caseload. This is difficult to predict as existing customers affected by the local housing allowance (LHA) rent changes still have transitional protection, which ends in December 2012.
5. Due to the continued economic recession, there is a risk that the number of claimants requiring support continues to rise with a consequential increase in the net cost to the Council particularly in year increases that will need to be funded.
6. The implementation of a Council Tax support scheme also coincides with significant changes and additional administrative burdens in 2013 including;

- Introduction of Universal Credit.
  - Administration of the overall benefits cap limiting the overall total income for a benefit recipient to £500 / £350 per week (families / single).
  - Social sector rent restrictions for under occupancy.
  - Local delivery of the replacement scheme for Community Care Grants and Crisis Loans.
7. In addition, all of the above changes and the introduction of a local Council Tax Support (CTS) scheme may cause confusion to some claimants and some claimants will be directly affected by other welfare reform changes and reductions in expenditure.
  8. There is also an increased likelihood and risk that all of the changes may make collection of Council Tax due difficult and lead to a reduction in current collection performance.
  9. Interested groups or parties could mount challenges in the form of appeals, ombudsman investigations, valuation tribunals (deals with Council Tax appeals) and possibly judicial reviews. There is an inherent risk that we could fail in our duty under the Equalities Act 2010 and not have or fail to demonstrate that we have paid due regard to an equalities impact / affected group. This will be mitigated by the consultation and the equalities impact assessment.
  10. There is a possibility that the changes proposed for consultation within the report are not permissible or may need to be amended slightly as the Council has not yet received all of the detailed regulations. These will not be confirmed until the Local Government Finance Bill is finally approved later in this year.
  11. With an unprecedented level of change proposed there is a risk that there may be an adverse impact on the processing performance for claimants.

### **Policy Overview Committee comments**

None at this stage

## **3. INFORMATION**

### **Background**

1. The Welfare Reform Act (WRA), which received royal assent on the 8 March 2012, abolishes both Housing Benefit and Council Tax Benefit and will be brought into force by means of commencement orders made by the Secretary of State. Housing costs will eventually be met through Universal Credit (UC). The current Housing Benefit administration will be transferred from local authorities to the Department for Work and Pensions (DWP) over a phased period currently expected to be from October 2013 to March 2017. A local Council Tax Support (CTS) scheme (note change of name from 'benefit') is to be administered by Local authorities from 1 April 2013.
2. The Local Government Finance Bill (LGFB) is the mechanism for introducing the new CTS scheme and is currently working its way through parliament. The Bill introduces a number of changes to Council Tax, introducing a local support scheme and also some technical reforms to discounts and exemptions.

3. Council Tax Benefit has previously been fully funded by the DWP; however, under the new arrangements funding will be reduced by 10%<sup>1</sup> of the total Council Tax Benefit bill. The saving required (nationally) is between £480m and £500m. Council Tax Benefit will be replaced by a locally designed 'discount' scheme (CTS) with Local authorities taking responsibility for the assessment and application of the new 'discount' (previously benefit).
4. Local authorities have the option to implement a local scheme which does not pass on this funding cut to those currently eligible for Council Tax Benefits. However, the cost of this protection would fall on the General Fund and would therefore be borne by Council Tax payers.
5. In 2011/12 Hillingdon paid out £25.9m in Council Tax Benefit this, after adjustment of overpayments (customer and technical), reduced to a net figure of £22.5m eligible entitlement. A 10% reduction based on these figures is £2.25m. However, assuming that demand for Council Tax Support will increase by about 1% per annum, the resultant gross pressure could be £2.3m in 2014/15.
6. The grant will be paid to both billing and major precepting authorities (i.e. the GLA in London), reducing each authority's Council Tax requirement and off-setting the reduction on the Council Tax base as a result of this policy. Council Tax support grant from central Government will now be applied as a discount to each billing authority's Council Tax base. Allocations will be set for the first two years following introduction and based on the Office of Budget Responsibility forecast on spending on Council Tax Benefits for 2013/14.
7. Currently approximately 21.6% of a resident's annual Council Tax bill is collected on behalf of the precepting body the Greater London Authority (GLA). All figures quoted above include the GLA precept. Therefore, the estimated pressure of £2.3m would be shared between Hillingdon and the GLA by this proportion.
8. The Government's aims with the overall Welfare Reform changes are to:
  - create the right incentives to get more people into work by ensuring work always pays;
  - protect the most vulnerable in our society, and;
  - deliver fairness to those claiming benefit and to the taxpayer.
9. The Government confirmed in the 2010 Spending Review that it will continue to support the most vulnerable whilst ensuring all sections of society who are able to do so contribute to the public sector deficit reduction.
10. The Government decided to localise Council Tax support to:
  - give local authorities a greater stake in the economic future of their local area;
  - provide local authorities with the opportunity to reform the system of support for working age claimants;
  - reinforce local control over Council Tax by enabling decisions taken locally about the provision of support with Council Tax is consistent with the driver for greater local accountability (referendums);

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<sup>1</sup> This is currently expected to be a 10% reduction of the total eligible entitlement spent in 2011/12 per LA.

- give local authorities a significant degree of control over how a 10 per cent reduction on the current Council Tax Benefit cost is achieved, and;
- give local authorities a financial stake in the provision of support for Council Tax and create a stronger incentive for councils to get people back into work.

11. This report looks at options as to how to deal with the financial pressure of £2.3m in designing a local CTS scheme.

## Issues

12. The Government has stated that councils will not be permitted to reduce Council Tax support for pensioners. This will be achieved by retaining default national rules for pensioners, with eligibility and rates defined in broadly similar regulations as those for Council Tax Benefit.

13. The Government has also said that Local authorities are expected to maintain an appropriate level of support for other 'vulnerable groups' that have not yet been clearly defined. However, the Government's response to the consultation 'Localising support for Council Tax in England', which was published in December 2011 refers to local authorities' responsibility towards vulnerable groups under various acts including;

- Child Poverty Act 2010;
- Disabled Persons (Services, Consultation and Representation) Act 1986
- Chronically Sick and Disabled Persons Act 1970, and
- Housing Act 1996.

14. The consultation response states that the Department for Communities and Local Government (DCLG) will work closely with Local authorities and representative groups to ensure that Local authorities understand their existing obligations. Final detail of this is yet to emerge.

15. The Government is expected to issue guidance to Local authorities, which will set out general principles on supporting work incentives.

16. The Council has 25,226 Housing Benefit and Council Tax Benefit claimants of which, approximately 21,698 are claims for Council Tax Benefit. It is important to note that claimants will have to claim their housing support costs at the DWP, as part of their overall benefits under Universal Credit. This may be confusing for the customer locally, as they will have to make a separate claim for CTS with their LA.

17. The Government wishes to reduce the need for people to have to repeatedly provide the same information to various public sector bodies and has made amendments to the LGFB, which were laid before parliament on the 17 May 2012.

18. Data sharing between the billing authority and the DWP and between other billing authorities will be an important way to reduce inconvenience to claimants, reduce complexity and minimise the administrative costs of the scheme.

19. The existing Council Tax Benefit scheme has been developed and refined over a number of years but is ultimately built upon the 'means tested' premise. Most non-working customers are currently eligible for full Council Tax Benefit even if they are working age. This means that they currently do not make any contribution to their Council Tax bill, as

their entire liability is met by benefits. Clearly if the Council introduces a requirement for this client group to make a contribution towards their Council Tax liability there is a risk it may lead to collection issues.

20. The Government is working with local government associations to look at how Local authorities can use the existing components of Council Tax Benefit in the design and administration of a local scheme. DCLG issued a statement of intent and guidance on 17 May 2012, which included their prescribed default scheme, which may be readily adapted by any local authority. The default scheme is broadly the existing Council Tax Benefit scheme and, if adopted or imposed by the Secretary of State, would mean the authority has to meet the 10% shortfall in funding.
21. It is the Government's intention that there will be a legal requirement to consult on the local scheme with the precepting authority and the public. Further information on this is included in Appendix A of this report.
22. The Local Government Finance Bill, which provides for local support schemes, is currently making its way through Parliament. Whilst significant detail, in the form of Statements of Intent, required to deliver a local scheme has been received by Local authorities, formal statute will not be laid until later in the year.
23. If the Council intends to introduce a local scheme it must make a decision on its design by 31 January 2013. Paragraph 34 sets out a draft timetable of key activities, which must be completed before the scheme is implemented.
24. Under Council Tax Benefit, guidance, good practice manuals and case law briefings are issued on a regular basis by the DWP. Under CTS this will all be the responsibility of the LA.
25. The Council's IT system for revenues and benefits delivery is provided by Northgate Information Systems (NIS), they provide systems for over 160 Local authorities. NIS have provided Local authorities with a position statement, which gives assurance they will have developed a tool, which will allow individual Local authorities to adjust the parameters for means testing under Council Tax Benefit for the development and implementation of a new local scheme within the necessary timescale.

### **Possible Scheme Design Options and Impacts**

26. This report sets different options and elements of a proposed / possible scheme that has been designed to meet the funding shortfall. Officers have reviewed various parameters that could be adjusted within the constraints set out by the Government. These include:
  - pensioners should be no worse off;
  - local authorities should also consider ensuring support for other vulnerable groups, and;
  - local schemes should support work incentives and avoid disincentives to work.
27. The proposed principles of a local Hillingdon scheme for consultation include :
  - everyone will be liable to pay something (excluding protected groups)
  - making work pay
  - restrictions on maximum support

- simplified backdating arrangements
- expectation that other adult occupiers within the household will contribute
- simplified administration arrangements

28. There are a number of options that have been identified and explored as part of the process and could be incorporated into a new scheme, such as:

a. Restriction of Maximum support:

The most significant option is to restrict the maximum level of support. The options model compares the cost of support at 80% 85% and 90%. This report proposes a maximum support of 80%, as the savings would equate to the 10% cut in funding. However, the percentage could be set higher or lower than this as modelled in Appendix B Option 1.

b. Capping payments by Band:

Restrict support on larger properties by applying a cap at Band D. Claims would be worked out using a maximum liability of band D currently £1,419.65. Customers in all higher bands (E, F, G and H) could still apply but their eligibility would be based on a Band D liability and proportionally reduced. The impact of this option at different bands is modelled in Appendix B Option 2.

c. Re alignment of working age capital restrictions:

Make claimants pay more towards their Council Tax if they have savings by reducing the thresholds down from the existing maximum and minimum of £16,000 / £6,000. The impact of this change is modelled in Appendix B Option 3

d. Remove Second Adult Rebate:

Do not provide a Second Adult Rebate scheme; currently this scheme is awarded if the claimant is not entitled to Council Tax Benefit in their own right. They can be awarded up to 25% benefit if they have a second adult residing with them who is on a low income, as a form of compensation for losing single person discount. This option offers potential savings of £40,000 per annum impacting upon 153 claimants. Other options are considered in Appendix B – Option 4.

e. Applying a minimum award for working claimants:

Applying a minimum award of 50p, £1 or £2; if after assessment the claimant's weekly 'award' is less than the set minimum rate then they would receive no CTS support. The impact of this option is considered in Appendix B –Option 5.

f. Increase the excess income withdrawal:

All working customers to contribute more by increasing the excess income taper from 20% to 30% – this is the amount of money the claimant is expected to contribute from any excess income they have above their or their family's assessed needs. The impact of this option is modelled in Appendix B –Option 6

g. Reduce or remove working tax credits income disregards:

Those elements of earned income that are not included in the calculation of Council Tax Benefit. The impact of this option is modelled in Appendix B –option 7.

h. Child benefit disregarded:

Remove the child benefit disregard and include this, or a proportion of this, as income in the assessment. The impact of this option is modelled in Appendix B –option 8.

f. Non working claimants contribution:

Non-working claimants make a minimum contribution towards their Council Tax bill.

This could be a flat rate of £3.55 per week could be used as this is equivalent to the 2012/13 attachment of benefit (AOB) rate used to recover Council Tax arrears by the DWP. The impact of this option is modelled in Appendix B – Option 9.

g. All claimants with non-dependents:

There is currently the need to means test every occupant in the household and ensure that everyone in the household contributed to the Council Tax. To simplify this process we could implement a £5 flat rate for all non dependents who resides with the claimant to contribute to the claimants council tax liability. The impact of this option is modelled in Appendix B –Option 10.

29. From the review of all the possible options, a proposed scheme has been developed. However, taking account of the financial risk to the Council, the impact on all residents and the impact on claimants, the proposal is for the initial scheme to be in place for a two year period, during which time the scheme would be reviewed and revised, taking account of experience and system developments.

30. The proposed scheme is designed to be as simple as possible, whilst trying to achieve a scheme which absorbs the 'new' pressure and aligns to the governments overall intentions, whilst protecting vulnerable groups. Those vulnerable groups are as follows:

- Pensioners – the Government has prescribed the rules for assessing Council Tax support for pensioners, which is largely the existing Council Tax Benefit scheme.
- Claimants in receipt of a disability premium – the Council can prescribe that this vulnerable group of claimants is no worse off by using the default scheme, which is largely the existing Council Tax Benefit scheme.
- Similarly those entitled to War Widows pensions and war disabilities pensions will be protected from the proposed changes.

31. Proposed scheme for consultation:

- To restrict the maximum amount of support to all non-vulnerable to 80% (Pensioners would be unaffected). It is estimated that this would reduce expenditure by £2.26m, would affect 13,230 claimants and the average cost per claimant would be £4.38 per week (currently most Council Tax Benefit claimants pay no Council Tax).
- To remove Second Adult Rebate from people below pensionable age. Residents can currently claim Second Adult Rebate based on the income of any other adult in the household to compensate them for the loss of 25% Single Persons Discount. The estimated reduction in expenditure is £28k. It would affect 82 claimants and the average cost to claimants would be £6.55 per week.
- Introduce new capital restrictions to be aligned to the pensioner arrangements i.e. the capital limit will be £16k over which no support would be granted and between £10k and £16k support will be reduced to £1 for every £500 of capital savings. This would cost £6k but aligns with work incentives.
- Backdating will be restricted to 3 months, to align to the current pensioner arrangement.



- In total, it is estimated that this proposed scheme could reduce current expenditure by £2.3m.

## Staffing

32. Our Housing Benefit staff are fully briefed on the known changes so far and all processing staff will be cross-trained to support a full administration of Council Tax liabilities and be able to process any reduction applied for.
33. The DWP has stated that staff will not be subject to TUPE as a result of the Housing Benefit changes. This means that the Council will most likely have to reduce staffing through redundancy.

## Timetable for Implementation

34. The table below sets out the Council's proposed timetable for implementation.

Activity	Start date	End Date
Equality Impact Assessment		July 2012
July Cabinet		26 July 2012
Consultation Period	6 August 2012	26 October 2012
Analysis of Consultation Responses	29 October 2012	16 November 2012
Scheme to Cabinet for Approval		20 December 2012
Full Council		17 January 2013
Implementation Date		1 April 2013

## FINANCIAL IMPLICATIONS

35. The replacement of Council Tax Benefit with CTS will effectively reduce the Council Tax base and therefore the yield for any given level of Council Tax. If the Government reduces the funding for the CTS by 10% and the Council adopts a CTS scheme broadly similar to the existing Council Tax Benefit scheme the cost will be approximately £2.25m in 2013/14, potentially rising to £2.30m in 2014/15. Part of this will fall on the GLA so the net impact on Hillingdon will be about £1.76m with effect from 2013/14.
36. The £2.25m funding gap is based on the assumption that the government applies a consistent 10% reduction to the existing Council Tax Benefit funding across the country. The Government has announced its intention to apply a damping adjustment to some allocations to limit the impact on the worst affected authorities by redistributing some of the funding from the least affected. On present calculations it appears unlikely that Hillingdon's allocation will be affected by this adjustment so an assumption of a 10% reduction remains the best estimate.
37. Hillingdon's CTS scheme is designed to pass on the costs to claimants, by restricting eligibility and/or individual entitlement as outlined in the report, with the aim of reducing the net pressure on the Council.
38. If costs are passed on this might affect Council Tax collection rates which would have a further impact on the Council Tax yield, although this is unlikely to be significant.

39. Current assumptions are that the funding will be fixed in advance for the year. This means that the Council will bear the risk of claims being different to budgeted levels in-year. It is not clear how funding will be determined in the medium term but unless future funding is linked to demand levels the Council will also bear the risk of changes in the numbers of claims due to economic conditions, demographics etc. In theory fixed-funding could also benefit the Council if claims reduce, but this is unlikely in the short term and current assumptions are for an annual increase of around 2%. With no additional funding this would create a further cost pressure for Hillingdon of about £449k a year.
40. The Council currently receives about £2.3m administration grant from the Department for Work and Pensions. This covers the administration of both the Housing Benefit and Council Tax Benefit scheme. In discussion with practitioner groups the DCLG has now recognised that administering a separate local Council Tax scheme will require approximately 75% of the resource currently deployed on Housing Benefit and Council Tax Benefit within local authorities. The CLG is currently undertaking a new burdens assessment with a representative sample of 32 Local authorities to assess the implications more fully.
41. In respect of transitional costs, new burdens funding of £84k has been received in 2012/13 to cover the cost of implementing the new Council Tax Scheme.

#### **4. EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

##### **Equality Impact Assessment**

In order to assess the equality impacts of any proposed Council Tax scheme an Equality Impact Assessment has been completed and this is attached at Appendix C.

The current caseload consists of the following customer groups

Pensioners	34%	of caseload
Disabled customers	4%	of caseload
Child in household	42%	of caseload
Working Age	20%	of caseload.

76% of the existing customer caseload receives full entitlement to Council Tax benefit. This means they currently do not have to budget for their annual Council Tax bill.

The Equality Impact Assessment will be revised following and scheme design changes as a result of the consultation process.

Maximising collection of Council Tax helps to maximise the provision of support and services for the Council's most vulnerable service users.

Customers with vulnerabilities or difficulties paying are offered support including extended payment arrangements and income benefit maximisation. In addition a full review of the Council's collection and recovery policies will be undertaken as part of the implementation of the local scheme.

Within Council Tax regulations a number of exemptions and discounts are available and offered for people with disabilities and severe mental impairment.

## **Consultation**

It is the Government's intention that there will be a legal requirement to consult on the local scheme with the precepting authority and the public. Given the impact on the borough's residents any consultation will need to be accessible and proportionate.

This report sets out a consultation strategy for approval and is detailed in Appendix B. The Council will ensure that a high quality, co-ordinated consultation, which provides both online and offline opportunities to engage is carried out.

The consultation will engage with internal and external stakeholders, the third sector, Council Tax payers, Council Tax Benefit recipients and welfare rights group. This list is not exhaustive. The Council will also engage with a number of established forums representing claimants in the affected groups.

The Council has a community engagement framework, which sets a minimum time frame for consultation of 12 weeks.

The Council will also consult with the GLA on the broad options to consider for the new scheme design in order to meet the savings required.

## **5. CORPORATE IMPLICATIONS**

### **Corporate Finance**

This is a corporate finance report and the implications are detailed within the financial implications above.

### **Legal**

As stated in the report, the Local Government Finance Bill is currently progressing through the House of Lords, having already been passed by the House of Commons. The Report accurately reflects the current provisions of the Bill which is expected to become law until later in the year.

In order for Hillingdon to meet the deadline of 1 April 2013 for introducing its own Council Tax Support Scheme, it needs to commence the consultation process without delay. The Borough Solicitor advises that the Consultation Strategy (Appendix A) complies with the legal requirements relating to consultation: Proposals should be consulted upon as widely as possible and the consultation to take place at a time when proposals are at a formative stage, giving consultees sufficient time to give an informed response. Further, the Council must then consider the outcome of the consultation before making its final decision on the Council Tax Support Scheme.

With regard to the Council's duties under the Equality Act 2010, the Equalities Impact Assessment highlights the potentially adverse effects that the current proposals may have on Borough residents. Depending on the outcome of the consultation, it may be necessary for the Council to conduct a further Equalities Impact Assessment before Cabinet makes its final decision.

Further, more detailed legal advice will, of course, be provided to Cabinet when it considers the Scheme that it wishes to implement for Hillingdon at its meeting in December 2012.

## **6. BACKGROUND PAPERS**

NIL