

COUNCIL 03 MARCH 2021

Report title: Council Tax Support

Wards: All

Portfolio: Cabinet Member for Finance and Performance, Councillor Andrew Wilson

Report Authorised by: Bayo Dosunmu: Strategic Director for Resident Services

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REPORT SUMMARY

Council Tax Support (CTS) replaced Council Tax Benefit (CTB) from April 2013. All councils were given the option of developing their own CTS scheme or taking on board a default scheme defined by DCLG (Department for Communities and Local Government), now MHCLG (Ministry of Housing, Communities and Local Government). The council took the option of developing a local scheme in consultation with residents specifically engineered with the intention of ensuring vulnerable people were protected from changes to their Council Tax (CT) costs.

The original scheme was amended for 2018/19 to reduce costs but also ensure the drivers of fairness and sustainability upon which the scheme is founded are maintained. The revised scheme was to remain in place pending clarity from government on the completion of the migration of residents to Universal Credit (UC) and administrative funding for CTS moving forwards.

Our scheme offers protection to 13,412 households from any council tax liability as well as offering some degree of assistance to an additional 9,808 households. The cost of assisting 23,220 households with their council tax is £16.80m.

The council is legally required to make a scheme on an annual basis if it is to avoid taking on board the default scheme and for the 2021/22 scheme this must be made by 15 March 2021. Previously this date would have been 31 January 2020 however this has been pushed back as a result of recommendations made by the Ollerenshaw review.

This report recommends retaining the existing scheme for 2021/22.

It is the council's intention to consult with residents, stakeholders, and the GLA in 2021 with a view to making changes to the scheme which will provide a greater level of support to those eligible to receive CTS.

FINANCE SUMMARY

Funding for CTS was rolled into the Settlement Funding Assessment (SFA). The government has stated there has been no reduction in the allocation for CTS. However, as the amount is not specified in the SFA and core funding to Lambeth has reduced since 2013/14 this is not in fact correct and this scheme is now funded from council resources

RECOMMENDATIONS

1. To continue in 2021/22 with the current Council Tax Support Scheme as adopted by full Council for the 2020/21 financial year, subject to annual uprating and adjustments for inflation as catered for in the existing scheme.

1. CONTEXT

- 1.1 The council's Council Tax Support (CTS) scheme was developed with the intention of ensuring vulnerable residents are protected from changes to the help they receive with Council Tax (CT) costs. Those with more income would contribute more towards their CT costs and the scheme would operate within the financial envelope of the budget allocated by government. This intention was reflected in the revision to the scheme for 2018/19.
- 1.2 Pensioners continue to be protected as part of the national scheme.
- 1.3 One of the key features of the scheme protects vulnerable residents on low income from the universal reduction of 20% and therefore provides the possibility of 100% support. The protected groups are:
 - All disabled people
 - Carers
 - Families affected by the overall benefits cap
 - War widows and widowers
- 1.4 The council is required by law to maintain and manage a CTS scheme to help residents on lower incomes meet their CT costs. We chose to create our own scheme which gives us flexibility in terms of how the scheme works, and what action is taken to pass on the government's saving target, either in part or in full. In January 2018, the council agreed a CTS scheme as laid out in 1.2 and 1.3 above through cabinet and full council. This report proposes continuing that scheme for 2021/22.
- 1.5 There are now 7,256 vulnerable working age households in Lambeth that we have fully protected via the CTS scheme from any form of council tax liability. There are a further 9,808 households receiving some degree of assistance from CTS in meeting their full obligation. In addition 6,156 residents of pension age are protected from any reduction in CTS support. This makes a total of 23,220 CTS claimants that the council helps with meeting their council tax at a cost of £16.80m.
- 1.6 This expenditure is a key part of the council's Welfare Safety Net which brings together resources such as Discretionary Housing Payment, Emergency Support Scheme, and budgeting support and advice to help hard pressed residents manage debt and ensure those most in need are helped as much as possible. The Discretionary CTS Hardship scheme adds to this safety net and helps to ensure that targeted financial support is maximised for those who need it most.
- 1.7 The year on year collection rates of CTS are shown in the table below. 2013-14 to 2020-21 demonstrates that CTS collection is marginally lower than CTB collection rates. The relative stability of council tax collection for residents in receipt of either CTB/CTS indicates that, leaving aside the effects of Covid-19 on collection, there has not been a significant shift in behaviour. Households in receipt of financial assistance have maintained a collection rate of approximately 80%. This is also comparable to other London boroughs. In particular it is very positive that changes made to the scheme from April 2018 have not impacted collection negatively.

	CTS	CTB							
	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21*
Combined Collection Rate (%)	94.70	94.50	95.00	95.20	95.40	95.13	95.02	94.04	89.82
Non CTS/CTB account (%)	95.50	95.70	96.00	96.10	96.15	96.00	95.88	94.81	90.56
CTS / CTB accounts (%)	81.20	78.80	79.93	80.44	80.45	78.21	77.13	75.97	72.56

**in year collection rates are forecast based on 2020/21 Q2 Outturn.*

- 1.8 2020-21 forecast data demonstrates the effect Covid-19 has had on collection. This is due largely to our collection policy during this challenging time for residents. All recovery action on council tax accounts ceased in March 2020, first reminders have now started to be sent but CTS and Protected accounts and those that have made contact stating they have been affected by COVID have been excluded from this first round. 4,811 special arrangements have been set up where residents have said they required longer to pay. The additional award of £150 or part thereof for residents in receipt of CTS was applied to all eligible accounts in August resulting in 3,700 accounts going into credit and having the credit refunded to them.
- 1.9 We do not feel the reduction in collection for 2020-21 is due to a change in behaviour of CTS recipients but is instead due to the current Covid-19 situation and the data should not be used to suggest an ongoing pattern for collection rates.

2. PROPOSAL AND REASONS

- 2.1 It is recommended that the 2020/21 CTS scheme should be re-adopted for 2021/22. This is because the current scheme still achieves its original objectives of protecting vulnerable residents.
- 2.2 The CTS scheme is part of the overall financial resilience offer from the council and is also integral to the income and debt strategy. The CTS scheme has been reviewed in detail in the light of these strategies and it remains aligned to both. Ongoing review work will continue to link back to the Financial Resilience and Income and Debt strategies, and will be co-ordinated to ensure hard pressed residents receive the best and most complementary support possible.
- 2.3 Covid-19 continues to affect council tax payers and is likely to do so into 2021-22. Our current scheme protects the most vulnerable and remains means tested so is reactive to family and financial changes in circumstances experienced by our residents. Our discretionary CTS hardship payment policy supports those needing additional help, along with other Covid-19 support offered by the council.
- 2.4 It is intended to use the Government Hardship Support grant and Localised Council Tax Support grant funding flexibilities to offset the cost of the increase in the number of CTS applicants and to provide additional financial support to applicants.

- 2.5 Since 2015 the Income and Debt strategy has informed our approach to managing the collection of council tax debt and distinguishes between those who can't pay and those who can. We have established that residents receiving CTS broadly fall into the former category. Understanding this means that a different approach to collection and more importantly to enforcement is needed for CTS recipients. The process for CTS recipients uses soft reminders and final letters, text messaging, and free impartial debt and money management advice from our partners, Citizens Advice Merton & Lambeth.
- 2.6 We have continued to procure the service of CAML for assistance with free debt advice for residents in receipt of CTS and who are experiencing financial issues. Enforcement Agent (EA) action has been on hold due to Covid-19 for most of 2020/21. When we eventually restart the full debt collection arrangements, additional intervention letters will be sent prior to a summons being issued including the CAML flyer and SMS reminders. No agent will knock on the door of any resident in receipt of CTS or in a Protected group as per our policy. The same will apply to any resident who has contacted us stating that they have been financially affected by Covid-19.
- 2.7 Through a one council approach we have been able to move credits on rent accounts for our tenants to their council tax accounts where they are in arrears reducing debt and helping residents manage their finances better. We have an ongoing project with Housing to assist tenants in housing and council tax arrears where there is a vulnerability known to Housing but not to council tax. All of these residents are in receipt of CTS.

3. FINANCE

- 3.1 The cost of the scheme falls into two discrete areas covering the scheme expenditure and scheme administration.
- 3.2 The cost of administration is linked to the costs associated with the processing of housing benefit. These costs are met by grants from MHCLG and DWP in addition to revenue top up from the general fund, which sits within cost centre D10521.
- 3.3 The 2021/22 budget for benefits administration will be agreed through the budget setting process, where the level of grants will be taken into account.
- 3.4 The costs of the council tax support are met through funding incorporated into the Council's Settlement Funding Assessment (SFA).
- 3.5 Unlike the previous CTB arrangements, the cost of the scheme arises from the discounts the council awards to residents, which in turn reduces council tax income. At the point of transition from CTB to CTS the government made a one-off transfer of resources into the council's settlement funding assessment, with a reduction of 11%, which helped to deliver national government savings, yet transferred risk to local councils. Subsequent reductions in SFA means the council is subsidising not just the protected groups but all residents who are in receipt of CTS.

4. LEGAL AND DEMOCRACY

- 4.1 The Local Government Finance Act 2012 provided for the introduction of local council tax reduction (CTS) schemes to replace council tax benefit from April 2013. The Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012 contain the mandatory elements for any local scheme and detail the scheme that must be adopted for pensioners. The Council adopted its original CTS scheme in 2013 and its current scheme in 2018 both are considered lawful.

- 4.2 The Council is under a statutory duty to review its CTS scheme annually and must by 15 March 2021 adopt the scheme to take effect in 2021/22. The Council must also undertake consultation if it proposes to revise or replace its scheme.
- 4.3 This report recommends no change to the current CTS scheme other than the application of annual uprating which ensures cost of living increases in income from state benefits do not adversely affect CTS entitlement. Since such items are already catered for within the terms of the existing scheme, there are no changes to the terms of the scheme for 2021/22, therefore all that is required is that full Council agree the scheme for its continuing adoption from 1 April 2021 for the full 2021/22 council tax year.
- 4.4 Section 149 of the Equality Act 2010 sets out the new public sector equality duty replacing the previous duties in relation to race, sex and disability and extending the duty to all the protected characteristics i.e. race, sex, disability, age, sexual orientation, religion or belief, pregnancy or maternity, marriage or civil partnership and gender reassignment.
- 4.5 The public sector equality duty requires public authorities to have due regard to the need to:
- eliminate unlawful discrimination, harassment, 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.
- 4.6 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, in particular, to: the need to remove or minimize disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; the need to take steps to meet the needs of persons who share a protected characteristic where those needs are different from the needs of persons who do not share that characteristic, and encourage those who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 4.7 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons’ disabilities.
- 4.8 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to– (a) tackle prejudice, and (b) promote understanding.
- 4.9 Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
- 4.10 Part of the duty to have “due regard” where there is disproportionate impact will be to take steps to mitigate the impact and the Council must demonstrate that this has been done, and/or justify the decision, on the basis that it is a proportionate means of achieving a legitimate aim. Accordingly, there is an expectation that a decision maker will explore other means which have less of a disproportionate impact. “Due regard” means the regard that is appropriate in all the particular circumstances in which the authority is carrying out its functions. Provided due regard is had in this way, including considering mitigation measures as described, it is for the Council to decide, taking

into account all relevant factors, how much weight to give to the equality implications of the decision.

- 4.11 The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.
- 4.12 The equality implications of this proposal is detailed in Section 7. In considering the same and all other material contained in and appended to this Report, the relevant decision-makers must bear in mind all of the parts of the public sector equality duty set out above, and the duty not to discriminate and to make reasonable adjustments. Further, the relevant decision-makers should bear in mind rights protected by the European Convention, set out in the Human Rights Act 1998.
- 4.13 There are no additional comments from Democratic Services. Comments in relation to pre-decision publication arrangements have been included in the main Revenue and Capital Budget 2021-22 report.

5. CONSULTATION AND CO-PRODUCTION

- 5.1 Consultation to set the scheme was undertaken in 2012/13 and again in 2017/18 to amend the scheme. As there are no proposed changes to the scheme for 2021/22 a repeat consultation is not required. Consultation is only warranted if the current adopted scheme is to be revised or replaced. The scheme may be amended in the future to take in to account long term financial effects of Covid-19, UC migration, welfare reform, and also council budget requirements. This will require a consultation with residents, GLA, and other stakeholders at the appropriate time.

6. RISK MANAGEMENT

- 6.1 The risks associated with this decision are deemed as minimal. We already know that the scheme does what it has been designed to do in terms of protecting our most vulnerable residents. Only a very significant increase in caseload is likely to cause pressure to the CTS budget. Covid-19 has led to an increase in caseload of approximately 400. The addition of the discretionary fund alongside the broader Financial Resilience and Income and Debt strategies mean the council is well positioned to mitigate the risks posed by those who cannot pay. Work with the council's revenue collection team continues to ensure collection of CT is maximised and that help and support is available for residents in receipt of CTS.
- 6.2 The risks that sit around the scheme as opposed the decision per se, appear limited although the MHCLG guidance around CTS is open to interpretation and case law is limited. We believe our consultation and original scheme are robust as both were reviewed by CIPFA and Counsel for challenge with only positive response. We believe the same of our 2016/17 consultation and revised scheme. Additionally, Lambeth has not received a negative decision via Valuation Tribunal.
- 6.3 The council will take the opportunity to continuously review the scheme where required to consider any technical amendments necessitated by emerging case law to ensure we mitigate against future risk.

7. EQUALITIES IMPACT ASSESSMENT

7.1 A recent review of the initial equalities impact assessment prepared in 2012 identified that there has been little change to the demography of the CTS and the initial findings in that assessment still apply, in that the abolition of council tax benefits impacts all working age, low income groups, similarly. This view has been reaffirmed through the equalities impact assessment for the changes made to the 2018/19 scheme. CTS changes have received robust challenge at the council's EIA panel both in development and at the point of decision. The scheme remains subject to continuous review to ensure any emerging equalities issues can be addressed at the earliest opportunity.

8. COMMUNITY SAFETY

8.1 None for the purpose of this report.

9. ORGANISATIONAL IMPLICATIONS

Environmental

9.1 None for the purpose of this report.

Health

9.2 None for the purpose of this report.

Corporate Parenting

9.3 None for the purpose of this report.

Staffing and accommodation

9.4 None for the purpose of this report.

Responsible Procurement

9.5 None for the purpose of this report.

10. TIMETABLE FOR IMPLEMENTATION

Action	By
Recommendation to retain current scheme to be considered agreed by full council	03/03/2021
Software supplier notified of retention of current scheme	04/03/2021
Publish 2021/22 CTS scheme	04/03/2021

AUDIT TRAIL

Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Bayo Dosunmu, Strategic Director	Residents Services	13/01/2021	14/01/2021	
Hamant Bharadia, Assistant Director	Strategic Finance	16/11/2020	12/01/2021	Throughout
Alison McKane, Director legal and Governance	Legal and Governance	16/11/2020	17/11/2020	4 and 7
Christian Scade, Deputy Democratic Services Manager	Legal and Governance	16/11/2020	20/11/2020	Throughout
Cllr Andrew Wilson	Cabinet member for Finance and Performance	23/11/2020		

REPORT HISTORY

Original discussion with Cabinet Member	March 2020
Report deadline	27.01.21
Date final report sent	28.01.21
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	Yes
Date first appeared on forward plan	26.05.20
Key decision reasons	1. Will amend Community Plan Outcomes Framework or Budget and Policy Framework.
Background information	<ol style="list-style-type: none"> Report to Cabinet - 17 December 2012 Localisation of Council Tax Support including Equalities Impact Assessment Report to Council - 24 January 2018 Council Tax Support
Appendices	<ul style="list-style-type: none"> None