

**Council**

Council Tax Support

**Wards:** All

**Report Authorised by:** Jackie Belton, Strategic Director, Corporate Resources

**Portfolio:** Councillor Imogen Walker, Deputy Leader of the Council (Finance and Resources)

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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). 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 help with Council Tax (CT) costs.

Our scheme offers protection to 16,454 households from any council tax liability as well as offering some degree of assistance to an additional 13,398 households. The cost of assisting 29,852 households with their council tax is expected to be £17.870m in 2017/18. The scheme forms an integral part of the council's Welfare Safety Net and is aligned with both our Financial Resilience strategy and Income and Debt strategy.

The council is legally required to make a decision on the scheme on an annual basis if it is to avoid taking on board the default scheme and for the 2018/19 scheme this must be made by 31 January 2018.

This report recommends changes to the scheme for 2018/19 to reduce costs but critically, maintain the drivers of fairness and sustainability upon which the scheme is founded.

**Finance summary**

Funding for CTS was rolled into the Settlement Funding Assessment (SFA) and the indicative allocation was £20.073m from 2013/14. However, as the grant has now been subsumed within core funding, it is subject to the same reductions as the rest of the 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 between 2013/14 to 2017/18 this is not in fact correct.

## Recommendations

- (1) To adopt the following amendments to the Council Tax Support scheme for 2018/19;
  - a. Increase the baseline reduction from 15.86.% to 20%
  - b. Make the baseline reduction from liability instead of entitlement
  - c. Reduce backdating to 13 weeks from 26 weeks
  - d. Reduce the capital cut off from £16,000 to £10,000
  - e. Introduce non dependent deductions in respect of all non dependents currently exempted from these deductions
  - f. To introduce a discretionary Council Tax Support Hardship scheme to help mitigate the potential impact of the amendments in (1) and therefore ensure those who cannot pay can receive extra help.

### 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. These key features are retained within the proposed changes to the scheme.

1.2 Pensioners continue to be protected as part of the scheme.

1.3 The key feature of the scheme protects vulnerable residents on low income, from changes to their help with CT costs by making them exempt from the baseline reduction. These groups are;

- All disabled people
- Carers
- Families affected by the overall benefits cap
- War widows and widowers

Lambeth's scheme remains unique in London in providing protection from a reduction in CTS to this whole group of vulnerable residents. Residents of pension age are automatically protected from any changes to the levels of CTS they receive by law. The most recent full year CTS spend and cost of protected groups is detailed below.

CTS Protected Group	Number of Households	CTS Spend (£'000)	Cost of protected characteristics (£'000)
Households affected by Benefits Cap	544	384	57
Disabled residents	5,282	3,501	555
Carers	1,009	742	114
War Widows	9	6	1
Pensioners	9,865	6,237	989
CTS non protected groups			

Working age	13,398	7,001	0
<b>Total</b>	<b>29,852</b>	<b>17,870</b>	<b>1,716</b>

- 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, giving us flexibility to decide how the scheme works, and what action is taken to pass on the government's saving either in part or in full. In 2013 the council agreed a CTS scheme as laid out in 1.1 - 1.3 above through January 2013 cabinet and full council. This report recommends retaining the protections and other features of the scheme but making changes to ensure the continued fairness and sustainability of the scheme.
- 1.5 There are now 6,589 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 13,398 households receiving some degree of assistance from CTS to meet their full obligation. In addition 9,865 residents of pension age are protected from any reduction in CTS support. This makes a total of 29,852 CTS claimants that the council helps with meeting their council tax at a cost of £17.870m.
- 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 introduction of 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 with CTS are shown in the table below, demonstrating 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 there has not been a significant shift in behaviour. Households in receipt of financial assistance have maintained a collection rate of approximately close to 80%. This is also comparable to Southwark, and indeed most other London boroughs, as the impact on collection rates have been limited.

	<b>2017-18 (CTS)*</b>	<b>2016-17 (CTS)</b>	<b>2015-16 (CTS)</b>	<b>2014-15 (CTS)</b>	<b>2013-14 (CTS)</b>	<b>2012-13 (CTB)</b>
Combined Collection Rate	95.6%	95.4%	95.2%	95.00%	94.50%	94.70%
Non CTS/CTB accounts	96.21	96.15%	96.10%	96.00%	95.70%	95.50%
CTS/CTB accounts	78.10%	77.24%	80.44%	79.93%	78.80%	81.20%

\*In year collection rates are forecast based on Q2 2017/18 outturn.

## 2. Proposal and Reasons

- 2.1 It is recommended that the CTS scheme approved in 2013 should be changed from 2018/19. This is because the current scheme whilst still achieving its original objectives of protecting vulnerable residents has become unaffordable and therefore unsustainable for the council as the gap between funding and expenditure continues to widen.
- 2.2 The changes proposed ensure that the scheme remains able to support our most vulnerable and hard-pressed residents. To achieve this, some changes are recommended which will spread the burden of savings widely, lessening the chance of any given households experiencing a sudden and substantial reduction in support. To further prevent the chances of this, we will introduce a discretionary CTS hardship fund. This fund will help those impacted by the scheme changes and who cannot pay.
- 2.3 Consultation with residents, CTS recipients, stakeholders and the Greater London Assembly took place between June and September 2017. More than 1,500 consultation responses were received. As was expected the consultation told us that broadly residents were not keen on reducing support. Overall the feedback was that the scheme should remain unchanged moving forward, which would be unsustainable for the council to do. However, there was sufficient information received to enable resident's responses to clearly shape the scheme for 2018/19 in a meaningful way. The full consultation report can be found at appendix 3/.
- 2.4 The individual proposals are outlined in the ensuing paragraphs;

### **a. Increase the baseline reduction from 15.86% to 20%**

This change simply increases the contribution each working age household is expected to contribute towards their CT costs. The change reduces the cost of the scheme by £500,000 and impacts 9,864 households. The large number of affected households means that the impact is limited for each household and so the option represents a fairer approach to sharing the burden of making the scheme more affordable.

Consultation engaged residents on three options for changing the baseline reduction. Of the three options consulted upon (20%, 25% and 30%) the proposed option of 20% attracted more than twice the level of support of 25% and more than three times the level of support of 30%. In addition opposition to the 20% proposal was 10% less than the opposition for 25% or 30%.

Residents in the protected groups remain unaffected by this change.

For a resident in band c property and not in a protected group this equates to £1.05 extra to pay in council tax each week.

### **b. Make the baseline reduction from liability instead of entitlement**

This changes where in the calculation of CTS the baseline reduction is applied. Currently CTS is calculated based on full CT liability and the baseline reduction is applied to the amount of CTS the resident is entitled to. From 2018/19 the baseline reduction will be applied to the liability and then CTS will be calculated.

This was the 3<sup>rd</sup> best supported option in consultation and both simplifies the scheme and brings it in to line with most other authorities. This change is expected to impact 4,576 households and will reduce scheme costs by £200,000. The change also will only affect those households who have a higher income than that required by their needs assessment. It will therefore not affect the least well off residents nor will it impact those in protected groups.

**c. Reduce backdating to 13 weeks from 26 weeks**

This change reduces the amount of time a claim for CTS can be backdated for. The proposed new limit is 13 weeks. Most backdating is for between one and six weeks therefore the impact of this change will be very limited. This option was the second most popular within the consultation. The council consulted on reducing the limit to four weeks to align with Housing Benefit and Universal Credit however based on responses which suggested four weeks was too little a revised limit of 13 weeks is proposed.

**d. Reduce the capital cut off from £16,000 to £10,000**

This change makes it so that residents who have £10,000 or more in capital are not entitled to CTS. Our original consultation in 2012 told us residents thought those who could contribute to their CT costs should do so. This change speaks to that. In consultation in 2017 the council proposed reducing this amount still further to £6,000. Residents told us this figure was, in their view, too low so we have listened and lifted the limit the £10,000 accordingly. This change reduces scheme costs by £100,000.

**e. Introduce non-dependant deductions in respect of all non-dependants currently exempted from these deductions**

This change brings in a contribution to household CT costs for all residents who are not dependants. Typically this would affect grown up children still living at home or other adults who are not the liable person or their partner. In the current scheme some non-dependants are exempt from contributing to household CT costs because of their or the liable person's circumstances. This change means from April 2018 these non-dependants will be expected to make a contribution equal to the minimum non-dependant deduction as defined by the scheme. Currently this is £5.71 a week. This restates the view that CT is household tax and not a personal tax and therefore all householders who can contribute should do so.

The change will reduce the costs of the scheme by £953,000 which will be met by the non-dependants themselves, not the liable person/partner. We believe this is a fair approach and that it is right that these individuals should make a contribution.

This change was the most supported change with residents according to consultation outcomes.

**f. Introduce a Discretionary CTS Hardship scheme**

This proposal creates provision for a hardship scheme to help mitigate the potential impact of the scheme changes that the council is proposing. The fund will be allocated by need and will support those who can't pay. The discretionary hardship scheme will work in a similar way to the council's current approach to discretionary housing payments and will become a key part of the council's financial resilience strategy. The Discretionary CTS hardship scheme is attached at appendix 2/.

- 2.5 As mentioned the CTS scheme is part of the council's Welfare Safety Net and overall financial resilience offer. It is also integral to the Income and Debt Strategy. The proposed changes to the CTS scheme have 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 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 in to 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, Advising Communities. This in turn could lead to referrals to our Financial Resilience Team, resulting in a conditional offer of support.
- 2.4 We began using this revised approach in 2015/16 and saw summonses for CTS cases reduce from 8,933 to 2,176 as a result. Summonses for 2016/17 were 3,126. Similarly, reductions in enforcement agent action went from 3,244 CTS cases to zero. Enforcement Agents (bailiffs) have not been used for any CTS recipients in 2015/16 and 2017/18. In September this year 1002 cases were referred to enforcement agents for compliance but crucially not enforcement action. This means that although these residents will receive contact from our enforcement agents no CTS recipient will receive a knock on their door. The cases are exclusively residents who are neither paying nor engaging with the council with regard to their debt. This approach is another opportunity for them to begin dialogue with the council whereby we can begin to help them either make arrangements to pay or manage any debt issues they may have.
- 2.5 As a result have helped hard pressed CTS recipients avoid a total of £2.56m in enforcement agent charges which has ensured this debt has not been added to the burden of households who may already find themselves in hardship. This in turn leaves the Council Tax team free to pursue those who can pay but won't and also reduces the need to write off debt. In addition more than 419 referrals to the Financial Resilience team have been received from Advising Communities and both payment arrangements to clear arrears as well as attachment of benefits have increased significantly. Additionally 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.

### 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 DCLG and DWP in addition to a revenue base budget in the general fund, which sits within cost centre D10521. The revenue base budget is subject to savings requirement and will have provided £0.4m in savings over 2014/15 to 2017/18. The 2018/19 budget for benefits administration will be agreed through the budget setting process, where the level of grants will be taken into account.
- 3.3 The costs of the council tax support are met through funding incorporated into the Council's Settlement Funding Assessment (SFA). Anticipated scheme costs are reflected below. In addition the CTS grant has been recalculated to show what it would be under SFA annual percentage reduction for context.

Year	Spend (£'000,000)	CTS grant amended to reflect SFA reduction (£'000,000)	Comment
2013/14	19.04	20.07	Year one actual scheme cost
2014/15	17.56	18.04	Economic recovery causes a decrease in CTS spend
2015/16	17.69	15.44	Decrease in precept percentage and 1.99% CT increase leads to increased CTS costs. CTS now a net cost to the council of £2.25m.
2016/17	17.65	14.11	3.99% increase in CT, and welfare changes will increase CTS spend. This will be offset by a reduction in caseload. Cost to the council of CTS increases to £3.54m.
2017/18*	17.87	12.97	4.99% increase in CT, and welfare changes will increase CTS spend. This will be offset by a reduction in caseload. Cost to the council of CTS increases to £4.9m.
2018/19*	16.41	12.36	4.99% proposed increase in CT. Reducing caseload and scheme changes narrow the gap between spend and assumed grant to £4.05m

\*forecast spend

- 3.4 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 current CTS scheme in 2013 and it is considered lawful.
- 4.2 The council is required to review its CTS scheme annually and must by 31 January 2018 adopt the scheme to take effect in 2018/19. The adoption of that scheme is a function reserved to full council. If the CTS scheme is to be revised or replaced the council must prior to that: (a) consult any major precepting authority which has power to issue a precept to it, (b) publish a draft of it revised scheme in such manner as it thinks fit, and (c) consult such other persons as it considers are likely to have an interest in the operation of the scheme. The council must also ensure that, if any revision to a scheme, or any replacement scheme, has the effect of reducing or removing a reduction to which any class of persons is entitled, the revision or replacement include such transitional provision relating to that reduction or removal as the authority thinks fit.
- 4.3 This report recommends additional changes to the current CTS scheme and the introduction of a hardship scheme to mitigate any potential impact those changes may bring about. Section 13A(1)(c) of the Local Government Finance Act 1992, provides the council with the power to introduce the latter scheme.
- 4.4 The abovementioned changes to the current CTS scheme have been consulted upon and Paragraph 5 and Appendix 3 of this report details the outcome. The following principles of consultation were set out in a recent High Court case. First, a consultation had to be at a time when proposals were still at a formative stage. Second, the proposer had to give sufficient reasons for any proposal to permit of intelligent consideration and response. Third, adequate time had to be given for consideration and response, and finally, the product of consultation had to be conscientiously taken into account in finalising any statutory proposals. The process of consultation had to be effective and looked at as a whole it had to be fair.
- 4.5 Further guidance on meaningful consultation was given in the decision of the Supreme Court in the case of R (on the application of Moseley) v London Borough of Haringey [2014] UKSC 56. Where there is a duty to consult imposed by statute, then in addition to a common law duty, there is an additional duty to ensure proper public participation in the local authority's decision-making process. Meaningful participation in these circumstances required that those consulted be provided with an outline of any realistic alternatives. In the absence of a specific statutory provision, reference to alternative options will be required where this is necessary in order for the consultees to express meaningful views on the proposals. The decision in the case of R (Robson) v Salford

City Council [2015] EWCA Civ 6 clarified that the requirements for a lawful consultation vary according to the particular circumstances of the proposal under consideration but the general principals of fairness must be applied.

- 4.6 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.
- 4.7 The public sector equality duty requires public authorities to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation
  - Advance equality of opportunity and
  - Foster good relations between those who share a protected characteristic and those who do not.
- 4.8 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.
- 4.9 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. An Equalities Impact Assessment has been prepared for the purposes of this report and this is attached at Appendix 1.

## **5 Consultation and co-production**

- 5.1 Consultation to set the council’s original scheme was undertaken in 2012/13. None has been undertaken since as the scheme has not changed. As there are significant proposed changes for 2018/19 full consultation with residents, GLA, and other stakeholders took place from June to August 2017. The full consultation report is included at appendix 3/.
- 5.2 Some 1500 responses to consultation were received giving helpful feedback for the council to consider when deciding what options to recommend for inclusion in the 2018/19 scheme. Indeed the consultation responses although not overall supportive of changing the scheme have materially shaped the recommendations in this report.

## **6 Risk management**

- 6.1 The risks associated with this decision are deemed as limited. We already know that the original scheme did what it was designed to do in terms of protecting our most vulnerable residents. Although these proposed changes will impact on many residents we have worked to try to reduce the risk of multiple impacts on individual households. This means fairness and sustainability remain baked in to the scheme. Only a very significant increase in caseload or an inability to collect the additional CT from CTS recipients is likely to cause pressure to the CTS budget.

The proposed 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 DCLG guidance around CTS is open to interpretation and case law is minimal. We believe our consultation regarding proposed changes for 2108/19 is both robust and lawful. In addition the original scheme and consultation are proven as robust as both were reviewed by CIPFA and Counsel for challenge with only positive response. Additionally Lambeth has not received a negative decision via Valuation Tribunal.

6.3 The council will take the opportunity of the scheme review each year to further 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 identified that there has been little change to the demography of the CTS caseload and the initial findings 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 proposed changes for 2018/19. CTS changes have received robust challenge at the council's EIA panel both in development and at the point of decision.

7.2 The full equalities impact assessment is available at appendix 1/.

## 8 Community safety

8.1 None.

## 9 Organisational implications

9.1 None.

## 10 Timetable for implementation

10.1

Action	By
Recommendation to retain current scheme to be considered agreed by full council	24.01.18
Software supplier notified of retention of current scheme	01.02.18
Publish 2018/19 CTS scheme	01.03.18

<b>Audit trail</b>				
<b>Consultation</b>				
<b>Name/Position</b>	<b>Lambeth cluster/division or partner</b>	<b>Date Sent</b>	<b>Date Received</b>	<b>Comments in para:</b>
Jackie Belton	Strategic Director; Corporate Resources	30/11/17	01/12/17	Throughout
Rachel Harrison, Finance	Group Manager- Strategic Finance	14/11/17	23/11/17	Throughout
Alison McKane, Legal Services	Corporate Resources:	14/11/17	15/11/17	4.1 – 4.9
Wayne Chandai, Democratic Services	Corporate Resources:	30/11/17	01/12/17	Throughout
Cllr Imogen Walker	Deputy Leader, Finance and Investment	14/11/17	30/11/17	Throughout

<b>Report history</b>	
<b>Original discussion with Cabinet Member</b>	May 2016
<b>Report deadline</b>	01/12/17
<b>Date final report sent</b>	
<b>Report no.</b>	
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	No
<b>Key decision report</b>	Yes
<b>Date first appeared on forward plan</b>	n/a
<b>Key decision reasons</b>	Expenditure, income or savings in excess of £500,000 Meets community impact test
<b>Background information</b>	Report to Cabinet - 17 December 2012 Localisation of Council Tax Support including Equalities Impact Assessment <a href="http://modern.gov.lambeth.gov.uk/documents/s52850/06.1a%20CTS%20Cabinet%20Report%20Dec%2012%20-%20Final.pdf">http://modern.gov.lambeth.gov.uk/documents/s52850/06.1a%20CTS%20Cabinet%20Report%20Dec%2012%20-%20Final.pdf</a>
<b>Appendices</b>	1/ Equalities impact assessment 2/ Discretionary CTS Hardship scheme 3/ Council Tax Support Consultation Report