

**Agenda Item No:** 9.6 **Report No:** 153/15  
**Report Title:** Local Council Tax Reduction Scheme 2016/17  
**Report To:** Cabinet **Date:** 23 November 2015  
**Cabinet Member:** Councillor Bill Giles  
**Ward(s) Affected:** All  
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**Purpose of Report:**

To consider options for the local Council Tax Reduction scheme for 2016/17.

**Officers Recommendation(s):**

- 1 To recommend to Council that the following changes are made to the current Council Tax Reduction Scheme for 2016/17:-
    - 1.1. To limit the maximum amount of Council Tax Reduction to 80% of the claimant's Council Tax liability and
    - 1.2. To introduce an assumed minimum income floor for self-employed claimants
    - 1.3. To retain the current qualifying Capital savings limit at £16,000.
    - 1.4. To retain the current eight week extended payment for claimants that go into work.
  - 2 To delegate to the Assistant Director of Corporate Services in consultation with the Director of Corporate Services/S151 officer to make minor amendments to the text of the final scheme
  - 3 To agree to the adoption of an Exceptional Hardship scheme.
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## Reasons for Recommendations

- 1 The Council is under a duty to review its local Council Tax Reduction scheme each year and any changes to the scheme must be adopted by 31 January 2016, preceding the start of the new financial year. If it fails to do this the current year's scheme will remain in force.

## Information

### 2 Introduction

- 2.1 The coalition government abolished the national Council Tax Benefit scheme from April 2013 and required local authorities to develop and adopt their own scheme of financial support for **working age** claimants. This change came with a 10% reduction in funding, for the Council this amounted to c£90k.
- 2.2 To protect pensioners from any reduction in support, the government put in place a national scheme that local authorities had to adopt. Therefore, any reduction in support had to come from those of working age. The Council is only permitted to change the scheme for **working age** claimants.
- 2.3 On 10 January 2013 the Council adopted a local scheme of support for 2013/14 which, in the main followed the rules of the Council Tax Benefit scheme, as well as agreeing changes to certain council tax discounts and exemptions.

### 3 The current local scheme 2015/16

- 3.1 The current Council Tax Reduction (CTR) scheme, which was also adopted by the other East Sussex districts and boroughs, follows the principles of protecting the most vulnerable, incentivising individuals into work and takes into account and responds to the requirement of government to reduce the overall cost of the previous Council Tax Benefit scheme by 10%.
- 3.2 The local scheme has remained unchanged since 2013/14 and follows the rules of the Council Tax Benefit scheme in that it is means-tested, with the following main changes:
  - (a) Removal of second adult rebate
  - (b) A minimum award of £5.00 per week, whereby a claimant who qualifies for less than this will not receive any support
  - (c) A reasonable increase in non-dependant deductions
  - (d) An additional four week extended payment for those claimants going back into work

## **4 Options for the 2016/17 local scheme**

**4.1** A project team of senior officers from the East Sussex district and borough councils and the County Council has been looking at options for the 2016/17 scheme. A series of reports were presented to Chief Executives and Leaders outlining what options were available. Several options were rejected for a variety of reasons. They are detailed below:

### **a. Council Tax Band Cap**

The principle of this option is to only pay CTR to an agreed maximum level of Council Tax. It is primarily designed not to disadvantage applicants who live in smaller or lesser value premises. The level of banding restrictions is normally determined by each authority taking into account the typical banding levels within the area and number of premises within each band. It does, however, add a great deal of complexity and administrative burden to areas with town and parish councils.

### **b. Limitation to Dependants Allowances**

The limiting of dependant additions within the CTR calculation is one of the newer options being considered by many authorities, although it should be noted that at the current time (including 2015/16 schemes), this has not been implemented within any CTR scheme. By generally limiting the amount 'added into the calculation' for dependants, savings can be made. Within the UK the average number of dependants within a family is around 1.7. By restricting the additions to just above the average per household, the change would have no effect on an average family or applicants with no dependants but would limit the CTR payments to any family who have more than the average number of dependants.

### **c. Inclusion of Child Benefit and Child Maintenance as income**

Within all CTR schemes in East Sussex certain incomes are disregarded in full, which means that they will have no effect on any entitlement to support. Of particular interest are incomes which up until recently were counted in full as income within benefits schemes but which have subsequently been disregarded; these are Child Benefit and Child Maintenance. Twenty-two authorities nationally have decided, with the implementation of CTR, to include either, or both, incomes within the calculation. The effect has been to create a CTR scheme that closely resembles Council Tax Benefit schemes from pre-2009. The inclusion of child benefit and maintenance is likely to attract criticism due to the child poverty considerations.

### **d. Inclusion of Disability Living Allowance and personal Independence Payments as income**

Certain disability benefits such as Disability Living Allowance (DLA) and Personal Independence Payments (PIP) are not currently included as

income within the calculation of Housing Benefit or CTR. It should be noted that when calculating Discretionary Housing Payments (DHP) for Housing Benefit claimants, DLA and PIP are taken into account as 'available income. Again due to the potential impact on a vulnerable group this option has been discounted.

#### **4.2 Options to be considered**

The project team has proposed that the following options are considered for inclusion in the 2016/17 scheme:

- (a)** Limiting CTR to a percentage of the Council Tax liability
- (b)** Assumption of a minimum income for self-employed claimants
- (c)** Reduction in the qualifying capital limit

#### **4.3 Limiting CTR to a percentage of Council Tax liability**

This option, if adopted, would require claimants to pay at least a certain percentage of their Council Tax irrespective of their circumstances. It is, in effect, a return to the principles of the Community Charge. It should be noted that 244 of the 336 Local Authorities have adopted some level of minimum payment, many at over 20%.

The team has modelled the effects of a 10%, 15% and 20% limit to liability. The estimated savings against the current costs of the scheme would be:

	<b>Savings</b>	<b>LDC share</b>	<b>Claimants affected</b>
10%	£ 355,000	£ 39,500	3,685
15%	£ 534,154	£ 58,750	3,685
20%	£ 715,325	£ 79,000	3,685

#### **4.4 Assumption of a minimum income for self-employed claimants**

This option, if adopted, would introduce an assumed minimum income for self-employed claimants of 35 hours times the minimum wage (currently £6.70). This is in line with the government's proposal for those claiming Universal Credit.

A grace period of 12 months from the start-up of a business would be allowed before the assumed minimum income would come into effect.

This proposal would result in savings to the cost of the scheme of £270,000 (LDC c£30,000) and would affect approximately 400 claimants.

#### **4.5 Reduction in the qualifying capital limit**

This option, if adopted, would reduce the limit that people can have in savings and still qualify for support. The current scheme has a limit of £16,000. The consultation was based on a reduction of the level of qualifying capital to £6,000.

This would result in potential savings to the cost of the scheme of c£87,000 (LDC c£9,500) and affect at least 60 claimants in the district. However the Council does not currently hold the capital details of those claimants in receipt of Jobseeker's Allowance, Income Support or Employment Support Allowance and if this proposal is adopted we would need to contact approximately 2,100 claimants to get details of their capital as well as implementing procedures to continually review the capital levels of these households. The additional administrative burden of this proposed change is likely to require an additional FTE which would be funded directly by the Council.

It is also likely that the additional administrative processes will result in very low income households not receiving any financial support for their Council Tax due to failing to supply the required information to the Council. These households will already have supplied this information to the DWP to satisfy the £16,000 qualification criteria for the welfare benefits named above, as a consequence the estimated savings may not be realised.

#### **4.6 Extended payments for claimants going into work**

When the council adopted the original scheme in 2013 it made the decision to provide an additional incentive to work by doubling the extended payment award from four weeks to eight.

Extended payments are awarded when Income Support, Employment Support Allowance, Job Seekers Allowance, Incapacity Benefit or Severe Disablement Allowance ends because the claimant or their partner starts work or increase their hours of work. To qualify for extended payments they must have been receiving one of the above benefits for at least 26 continuous weeks.

The cost to the scheme in 2014/15 was c£18,000, with the cost to the Council being c£2,000.

### **5 Exceptional Hardship Fund**

- 5.1** Whichever changes are adopted, it is proposed that a separate hardship fund is created to assist those applicants suffering exceptional hardship. Applications would be accepted where applicants have qualified for CTR but are still experiencing severe financial hardship. (Other taxpayers may also apply, however the Council would normally expect the taxpayer to apply for Council Tax Reduction in any case). As part of the process of applying for additional support, it is proposed all applicants must be

willing to provide sufficient personal information to allow officers to make the necessary decision.

- 5.2** The financing of such a fund is to be shared between the major precepting authorities in proportion to their share of the Council Tax. In Lewes's case the proposed fund would be c£39,000, which is 0.5% of the estimated cost of the scheme, with the cost to the Council being c£4,300.
- 5.3** An Exceptional Hardship scheme would mitigate the impact of any changes to the current local scheme that severely affects someone's ability to pay the tax due. A draft Exceptional Hardship policy is attached at Appendix A.

## **6 Alternatives to reducing the amount of help provided by the CTRS**

The project team has also thought about other ways to address the reduction in Government grant whilst maintaining the current level of financial support provided by the CTR scheme which is currently in place. These have not been completely rejected and need consideration. The options are:

- 6.1** Increase the level of Council Tax
- 6.2** Reduce funding available for other services
- 6.3** Use Council reserves

## **7 Collection Rates, Scheme Administration and targeted intervention**

- 7.1** It is likely that there will be an impact on Council Tax collection rates if the CTR scheme is changed, with all claimants having to pay part of their Council Tax. Measures to reduce the impact are discussed below, but to give an indication of the potential financial effect, two scenarios have been modelled, based on a 0.25% and 0.75% reduction on the amount of Council Tax collectable in 2014/15:

Net collectable debit	Overall impact of an additional 0.25% loss on collection	Overall impact of an additional 0.75% loss on collection
£59,226,704	£148,070	£444,200

The impact on Lewes District Council is as follows:-

Net collectable debit	Impact on LDC of an additional 0.25% loss on collection	Impact on LDC of an additional 0.75% loss on collection
£59,226,704	£16,300	£48,900

- 7.2** To help minimise the losses on collection, experience from work undertaken within other areas where similar schemes are in operation suggest substantial pre-billing work is required to educate and support claimants in understanding the impact on them of the forthcoming changes to the scheme. It is also essential that early intervention with claimants falling into arrears is undertaken in order to ensure continued recovery of income owed. Based on similar schemes across the country it is likely that up to 2 FTEs would be required plus a further 0.5 FTE to administer the hardship fund. It is proposed that the funding for this is met by both Precepting and Billing Authorities in direct proportion to their share of the Council Tax.
- 7.3** East Sussex County Council have indicated that they would be prepared to contribute to the additional staffing costs, based on costs incurred, impact on collection rates and on overall financial impact of the adopted scheme(s). Further work will be carried out under the direction of the East Sussex Finance Officers group into the effects and mitigation measures required to minimise any fall in collection rates.

## **8 Transitional Relief**

- 8.1** Paragraph 5 (4) of Schedule 1A to the Local Finance Act 1992 requires local authorities who are revising or replacing a scheme which has the effect of reducing or removing a reduction to which any class of persons is entitled that the revision or replacement must include such transitional provision relating to that reduction or removal as the authority thinks fit.
- 8.2** This means that the authority must consider easing the financial impact on those affected by any change by, for example by only applying the change to new claimants or by limiting the impact of any change to say £5.00 per week.
- 8.3** There is no requirement to introduce such transitional relief; rather the authority must consider it.

## **9 Consultation**

- 9.1** Before making a new scheme, or before making changes to the scheme, the Council must consult with the major preceptors and other interested parties.
- 9.2** East Sussex County Council has been involved throughout in the discussions and project work of the East Sussex Collaboration Project. They have also made a written response to the consultation. East Sussex Fire Authority and the Sussex Police and Crime Commissioner have also been consulted on the proposals via the East Sussex Finance Officers group. A copy of East Sussex County Council's formal response is attached at Appendix B.
- 9.3** A public consultation was carried out on options for the 2016/17 scheme. The consultation ran from 27 July 2015 to 17 September 2015 and there were a total of 103 responses, although not every respondent answered

every question. The results from the consultation and comments received are at Appendix C.

- 9.4** Respondents to the consultation were asked to consider the proposed changes to the scheme in a broader Local Government Finance context. They were asked if the Council should choose any of the following options to help pay for the scheme
- (a)** Increase the level of Council Tax, to which 61% answered No.
  - (b)** Reduce the funding available for other services, to which 64% answered No
  - (c)** Use Council reserves, to which 51% answered No
- 9.5** In brief, 68% of the people who answered the question, 'Do you believe that every working age applicant for Council Tax Reduction should have to make a minimum payment towards their Council Tax?' answered 'Yes'.
- 9.6** 29% of those who agreed said the level of payment should be 10% of the council tax, 21% preferred 15%, whilst 46% opted for a 20% minimum payment.
- 9.7** 47% of those who answered the question about setting a minimum income for self-employed persons agreed with the proposal, 45% disagreed and 8% didn't know.
- 9.8** 49% agreed with the proposal to reduce the capital limit from £16,000 to £6,000, 43% disagreed and 8% didn't know.
- 9.9** 88% were in agreement with the proposal to establish an Exceptional Hardship fund.

## **Financial Appraisal**

- 10** The Scheme is a discount scheme rather than a benefit scheme. Entitlement to Council Tax Reduction is applied to council tax accounts as a discount. This has the effect of reducing the Council Tax Base. The grant funding for local council tax support is contained within the Revenue Support Grant (RSG) and retained Business Rates and is distributed to County, Fire, Police and the Borough.
- 10.1** For the first year of the scheme (2013/14), the previous Council Tax Benefit grant was transferred to the Department for Communities and Local Government (DCLG) and became part of their 'Department Expenditure Limit' which meant it was fixed for the Spending Review period. The transferred grant was reduced by 10%, c£830k for Lewes District Council, so that the Treasury guaranteed their savings target.
- 10.2** For 2013/14 Transitional Grant funding of £100million was made available by the Government to authorities whose support schemes



limited the financial impact on applicants. The East Sussex area claimed some £1.136m grant funding for 2013/14. Transitional funding has not been made available since.

- 10.3** The then Secretary of State for Communities and Local Government stated in 2014 that the funding for the Scheme is protected in the RSG and within the Localisation of Business Rates arrangements. However, it is not possible to identify any specific amount of grant funding within these funding streams and in practice the allocation to councils has and continues to reduce.
- 10.4** Expenditure on the CTR scheme in 2016/17 is expected to be c£7.55m (compared to c£8.1 in 2012/13); £3.88m on working age and £3.67m on pension age claimants. The Council's share of this cost is c£830k (11%).
- 10.5** Due to changes in baselines it is difficult to estimate the net cost to the Council of running the existing scheme compared to the implementation in April 2013. If, however, it was assumed that the Government grant that the Council received to support this scheme, c£834,000, has reduced at the same rate as the Revenue Support Grant, estimated to be in the region of 28%, the additional cost to the Council is c£233,000 if the scheme remains unaltered.
- 10.6** The two changes to the current scheme recommended in this report will reduce that overall cost to the Council by approximately c£109,000.

## Legal Implications

- 11** The legal implications are explained within the body of the report:
  - 11.1** Para 1 above— statutory duty to review scheme annually and make any revision no later than 31 January in each financial year
  - 11.2** Para 8.1 above – in the event that any revision to a scheme has the effect of reducing or removing a reduction to which any class of persons is entitled, the revision “must include such transitional provision relating to that reduction or removal as the authority thinks fit”.
  - 11.3** Para 9.1 above – statutory duty to consult major precepting authorities and other persons considered likely to have an interest. There is also a statutory obligation upon the Council to publish its draft scheme, which includes any draft revised scheme, in such manner as it thinks fit, before it proceeds to *make* its scheme.
  - 11.4** The law gives the Council discretion to determine the detail of its scheme, but legislation sets out those matters which are to be included in any scheme. Any scheme must state the classes of person who are to be entitled to a reduction, the reduction to which persons in each class are to be entitled, the procedure by which a person may apply for a

reduction, the procedure by which a person can make an appeal (Local Government Finance Act 1992 as amended by Local Government Finance Act 2012)

## **Risk Management Implications**

- 12** A risk assessment has been carried out and identified the following risks and mitigations.

### **12.1 Risk**

Whilst the recommended changes to the scheme purport to reduce the cost of the scheme, this is not guaranteed until the money is actually collected from the Council Tax payer. As many of these households will be only low or very low incomes the collection procedures need to be robust and timely.

#### **Mitigation**

East Sussex County Council have indicated that they would be prepared to contribute to any additional staffing costs required to collect the additional debt.

### **12.2 Risk**

Drawing up local scheme regulations is a relatively new service area for the Council. Nationally a number of schemes have been subjected to legal challenges. The financial consequences of drafting the scheme incorrectly could be considerable.

#### **Mitigation**

The scheme regulations for the districts and boroughs in East Sussex are drafted by an external organisation, who are doing the same for a number of Local Authorities across the country. The scheme is also peer reviewed by representatives from each of the councils and subject to final scrutiny by independent lawyers who are expert in this field.

### **12.3 Risk**

The estimated savings generated through the recommended changes assume the current level of activity and behaviour of the existing claimant caseload. There are many other welfare reforms that are due to be implemented at a national level and it is difficult to assess the likely impact on the CTR scheme caseload. The scheme cannot, in law, be changed within the financial year so, consequently, the planned savings may not materialise.

#### **Mitigation**

The East Sussex County Finance Officers group will regularly monitor the impact of any changes to the current CTR scheme with a view to make adjustments for the 2017/18 scheme if necessary.

## **Equality Screening**

**13**

An Equality Assessment report (Appendix D) has been carried out on the options recommended for the 2016/17 scheme.

## **Background Papers**

**14**

### **Appendices**

Appendix A – Exceptional Hardship Policy

Appendix B – East Sussex County Council response to the consultation

Appendix C – Consultation results and comments

Appendix D – Equality Analysis report