

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

12 October 2016

Report of the Director of Finance & Transformation

Part 1- Public

Matters for Recommendation to Council

1 REVIEW OF THE COUNCIL'S LOCAL COUNCIL TAX REDUCTION SCHEME

A report requesting Members to consider findings from the consultation into options for review of the current local council tax reduction (CTR) scheme and to recommend any changes to Council, to take effect from 1 April 2017. The report provides Cabinet with detailed results from the recent council tax reduction scheme consultation process and the findings of the second stage equality impact assessment (EQIA).

Members are asked to consider the results of the consultation and the findings of the second stage equality impact assessment (EQIA) to recommend any changes to Council, to take effect from 1 April 2017.

1.1 Background

1.1.1 At the meeting of Cabinet on 20 April this year, I reported on the preparations underway to review the local Council Tax Reduction (CTR) Scheme and sought Cabinet's agreement to going out to public consultation.

1.1.2 As Cabinet may recall, the review of local schemes has been undertaken in liaison with all Kent Districts in order that there remains a 'common approach' across Kent. The objectives all districts signed up to for the review were:

- 1) Having regard to the reductions in government grant and the financial pressures we face, to make the scheme less costly (if possible) and more efficient in terms of its operation; and
- 2) To have regard to the impact such changes may have on vulnerable residents and target support to those in most need.

Members are reminded that the review of the local schemes only affects **working-age** households.

- 1.1.3 As I reported to the last meeting, the services of a specialist consultant were jointly procured by all Kent districts and major precepting authorities and the costs have been shared. A sub-group of officers from the Kent Finance Officers (KFO) has been regularly meeting to lead and coordinate the project.
- 1.1.4 Alongside the review of the schemes, in parallel with the review of the local schemes, representatives from the Kent district councils are working with the major precepting authorities (i.e. Kent County Council, Kent Police & Crime Commissioner and Kent Fire & Rescue) to formulate a new funding 'model' for assistance towards the administrative costs. This is in recognition of the fact that the operation of a scheme, as it stands or with changes, has a cost borne by each billing authority but benefited by the major preceptors through Council Tax receipts.
- 1.1.5 From the report to Cabinet on 20 April, Members endorsed the work on the review up to that point and the proposal to carry out a public consultation over options for change. Members supported the options to go to consultation, having regard to the 'first stage' Equality Impact Assessment.

1.2 The Consultation Process

- 1.2.1 To effect changes to the CTRS, the Council has a legal duty to carry out public consultation and assess the impacts of proposed changes with regards to equalities.
- 1.2.2 There is also an obligation for the Council to consult with major precepting bodies. A meeting was held in late March, in the 'option developmental' phase, between the KFO sub-group, consultant and major preceptors. At this meeting, the representatives of the major preceptors were supportive of the way forward and options being considered for public consultation.
- 1.2.3 At its meeting on 20 April, Cabinet gave delegated authority to me to finalise the consultation material in liaison with the Leader and Cabinet Member for Finance, Innovation & Property. A draft of the video and some of material was shared with Members of the Finance, Innovation & Property Advisory Board on 1 June in order to obtain feedback and make improvements prior to 'launch'.
- 1.2.4 It was agreed that the public should be consulted upon 14 potential options to adjust the existing scheme and 3 'alternative' options. As discussed at the meeting on 20 April, realistic 'alternative' options to changing the CTR Scheme are somewhat limited but the question about alternative funding arrangements still needed to be asked of the public.
- 1.2.5 An on-line questionnaire with the options agreed on 20 April was available on the Council's website from 6 June 2016 until 31 August 2016, a period of over 12 weeks. A short video explaining the need for change, background information and an initial equality impact assessment accompanied the survey on the website.

1.2.6 The documents and the video can be found at:

<http://www.tmbc.gov.uk/services/council-and-democracy/consultations/council-tax-reduction-scheme-201718-consultation>

1.2.7 In the first week a message was tweeted on the Council's Twitter account stating the consultation was taking place and how to take part. The Council has over 2,800 followers on Twitter, including all of our key stakeholders. The message was re-tweeted each week.

1.2.8 An initial press statement was issued by our Media & Communications team to local media. This was followed up by a further statement in August reminding residents of the consultation and the closing date.

1.2.9 In the second week, postcards were sent to all working age households in receipt of council tax reduction as well as a further 2,000 named council tax payers in the Borough, selected at random. The postcards informed residents that the consultation was taking place and how to take part by using a web-link. The cards also offered further information on the subject and the option to request a paper questionnaire by making contact by telephone or email.

1.2.10 Our Customer Services officers at Kings Hill and the Tonbridge Gateway were briefed to promote the consultation and encourage responses from visiting customers throughout the consultation period.

1.2.11 Key stakeholders, such as Circle Housing Russet, other housing associations and North and West Kent Citizens Advice were directly emailed to inform them the consultation was underway.

1.2.12 During the first week of August a further 10,000 postcards were sent to named council tax payers of randomly selected households in the Borough, excluding those who had already been sent one.

1.2.13 From the beginning of August until the close of the consultation postcards promoting the consultation were included with most council tax bills issued by the Council. In addition, one or two Members personally undertook to share consultation postcards with residents in their wards.

1.3 Results of Consultation

1.3.1 The complexity of council tax reduction schemes, as well as the number and technical nature of options did not lend itself well to public consultation. Rules around consulting mean there must be sufficient information supplied to the consultee to enable an informed decision. A questionnaire would take 20 minutes at best to complete and easily twice that for someone wishing to gain a full understanding of the options, complete the 'yes/no' boxes and provide comments. Indeed we received a handful of responses from people only to say they found the consultation too complicated, with too much information to digest.

- 1.3.2 My officers dealt with several calls from residents asking questions relating to the consultation. About 30 paper questionnaires were requested, of which, 22 were returned fully or partially completed. These were recorded on the on-line survey.
- 1.3.3 In total, we received 415 responses to the on-line survey, on top of the 22 paper questionnaires.
- 1.3.4 There was also a written response from John Simmonds MBE, Deputy Leader and Cabinet Member for Finance and Procurement at Kent County Council, on their behalf. The letter is attached as **[Annex 1]**. It should be noted that the response from KCC was a 'generic' one to all district councils and not all of the points made are relevant, or indeed correct, in respect of TMBC's consultation. The Leader of the Council responded to John Simmonds making some of these points and his reply is also attached at **[Annex 1a]** for completeness.
- 1.3.5 Of the on-line responses 33% had a Council Tax Reduction recipient in the household, compared to 67% who did not. A near even number of males to females responded, 20% were pensioners and 20% had a lasting disability or health problem.
- 1.3.6 Although the level of response is somewhat disappointing when taking into account the effort put into the consultation, the number of results allows for a high degree of confidence that we have a representative view from residents of the Borough.
- 1.3.7 The results for each option, together with stand-alone financial effect, equality impact assessment and a balanced view of comments is attached at **[Annex 2]**.
- 1.3.8 The financial effect for each option is designated as 'stand-alone' because it is an estimate of the income generated or cost of the option in full if only that option were selected and applied to the working age caseload. It must only be viewed as a rough indication if multiple options were applied.
- 1.3.9 Some options such as 1, 1a and 1b are exclusive, whereas others can be combined. When options are combined, the financial effect will not be the aggregate of the individual selections due to overlapping impacts. The benefit or loss generated by the options is shared amongst the billing authority and major preceptors in the same way as council tax. Effectively, any option causing a financial change to the scheme reduces or increases the Borough's taxbase.
- 1.3.10 The full responses with all comments from the website survey can be found at: <https://www.surveymonkey.net/results/SM-6ZBKZ8GT/>

1.4 Summary of Results

<i>Option 1: Should the Council protect the current Council Tax Reduction Scheme? (Should it continue to reduce Council Tax for eligible claimant in the way it does at the moment?)</i>					
Yes	51%	No	38%	Don't know	11%
<i>Option 1a: Do you agree with reducing the maximum level of support to 80%?</i>					
No	47%	Yes	47%	Don't know	6%
<i>Option 1b: Do you agree with reducing the maximum level of support to 75%?</i>					
No	50%	Yes	43%	Don't know	7%
<i>Option 2: Do you agree with removing the Family Premium for all new working age claims?</i> This option would align the CTRS to recently introduced housing benefit rules.					
Yes	48%	No	40%	Don't know	12%
<i>Option 3: Do you agree with reducing the period a claim can be backdated to 1 month?</i> This option would align the CTRS to recently introduced housing benefit rules.					
Yes	74%	No	20%	Don't know	6%
<i>Option 4: Do you agree with taking a minimum level of income for self-employed earners after 1 year of self-employment?</i>					
Yes	55%	NO	31%	Don't know	14%
<i>Option 5: Do you agree to reduce the period a person can be absent from Great Britain to 4 weeks?</i>					
Yes	87%	No	9%	Don't know	4%
<i>Option 6: Do you agree with the principle that the capital limit should be reduced from £16,000 to £6,000?</i>					
Yes	56%	No	37%	Don't know	7%
<i>Option 7: Do you agree with a standard non-dependant deduction?</i>					
Yes	70%	No	17%	Don't know	13%
<i>Option 8: Do you agree that child maintenance should be counted in full rather than ignored when assessing Council Tax Reduction?</i>					
Yes	59%	No	32%	Don't know	9%
<i>Option 9: Do you agree with the principle that any child benefit paid to the claimant or partner should be counted in full rather than ignored when assessing Council Tax Reduction?</i>					
Yes	61%	No	33%	Don't know	6%
<i>Option 10: Do you agree with limiting the maximum level of Council Tax Reduction payable to a Band D charge?</i>					
Yes	54%	No	33%	Don't know	13%
<i>Option 11: Do you agree with the removal of Second Adult Reduction?</i>					
Yes	57%	No	31%	Don't know	12%

<i>Option 12: Do you agree with the removal of the Work Related Activity Component in the calculation for new Employment and Support Allowance applicants? This option would align the CTRS to recently introduced housing benefit rules.</i>					
Yes	76%	No	10%	Don't know	14%
<i>Option 13: Do you agree with limiting the number of children taken into account on a claim to 2? This option would align the CTRS to the proposed change to housing benefit from 1 April. If Members were to recommend this option then the introduction should only take place if and when it occurs in the housing benefit scheme.</i>					
Yes	79%	No	17%	Don't know	4%
<i>Option 14: Do you agree with the introduction of a targeted protection scheme based on Exceptional Hardship?</i>					
Yes	74%	No	16%	Don't know	10%
<i>As an <u>alternative</u>, should the level of Council Tax be increased to support the CTRS?</i>					
No	72%	Yes	22%	Don't know	6%
<i>As an <u>alternative</u>, should savings be found by cutting other Council Services?</i>					
No	51%	Yes	38%	Don't know	11%
<i>As an <u>alternative</u>, should the Council use its reserves?</i>					
No	47%	Yes	40%	Don't know	13%
<i>If the Council were to choose these other options to make savings, what would be your order of preference?</i>					
		1st	2nd	3rd	
Increase Council Tax		23%	18%	59%	
Use reserves		42%	41%	17%	
Cut services		36%	40%	24%	

1.4.1 Members will note that:

- 51% of respondents were in favour of not changing the current scheme
- An even number of respondents agreed and disagreed to reducing maximum entitlement to 80%.
- Slightly more respondents agreed to reducing maximum entitlement to 75% than disagreed.
- Options 3,5,12 & 13 received the highest support. These are options that would effectively mirror the changes or proposed changes to housing benefit by central Government.
- Option 2, which would also align CTRS to housing benefit showed 48% support and 40% against.

- The majority of respondents did not agree to the alternative ways of funding the scheme, such as increasing council tax, cutting services or using up reserves.
- 74% of respondents agreed there should be a targeted protection scheme for exceptional hardship.

1.4.2 At paragraph 1.2.2, I reported that during the consultation meeting with major preceptors including Kent County Council, there was support for the consultation options. Members will also note that, at paragraph 1.3.3, I draw attention to a letter from John Simmonds MBE on behalf of Kent County Council. The letter raises the following views:

- KCC is disappointed that the consultation has not been set in the wider context of the challenge for local authorities, they ‘...would expect more acknowledgement of the impact on other council services and council tax payers as part of the consultation...’.
- Support for the financial need to change
- Consider reducing the maximum discount to below 80%
- A preferred move towards commonality of schemes across Kent
- Support for a minimum income floor introduced to self-employed assessments
- Synchronization to housing benefit rule changes
- Support for reducing the savings threshold, reducing the period a claim can be backdated, and removing second adult rebate.
- Consider capping awards at Band C rather than D.
- Alternatives to reviewing the CTRS were poor.

1.4.3 These views should of course be considered in the whole, however, as with any response, regard should be taken of the standpoint of the respondent. Members are also referred to paragraph 1.3.4 where I advised Members that the response from KCC was a ‘generic’ one to all districts, and not individually tailored to each council.

1.5 Objectives

1.5.1 At the outset of the consultation, two main objectives were agreed (see paragraph 1.1.2). The first of the objectives related to the cost of the scheme in the context of the ever-reducing government grants, and the second in relation to targeting support to those most in need.

- 1.5.2 The support for an Exceptional Hardship policy (option 14) was evident through the consultation which, although effectively a cost to the scheme rather than delivering a saving, would help to satisfy the second objective. The Kent Finance Officers' group had previously agreed that, were such a policy be deemed appropriate following the consultation, it would be facilitated through s13A 1a of the Local Government Finance Act 1992 – i.e. the funding is via the collection fund, and not the district council's general fund.
- 1.5.3 The potential savings that could be delivered through each of the other options (1a –13) are summarised in **[Annex 3]**. Members are advised that the savings shown against each option are based on that option being 'standalone' and relate to savings to the entire Scheme, not to TMBC. TMBC 'share' is approximately 12.7%. As an example, reducing the maximum level of support to 80% from its current level of 81.5% (option 1a) would produce a saving of circa £53k. 12.7% of this would accrue to TMBC – i.e. £6.7k. The bulk of the saving (70.8% - £37.5k) would accrue to Kent County Council.
- 1.5.4 If a combination of options is chosen to be taken forward, the modelling becomes more complex. It is not possible in this report to give Members figures from the vast range of permutations that would be possible. However, in advance of the meeting if Members wish any indicative modelling to be undertaken, they are invited to contact Andrew Rosevear who will be able to undertake the modelling in readiness for the meeting.

1.6 Kent-wide Agreement and Incentivisation

- 1.6.1 Members may recall, at the inception of the local schemes in 2013, that we had agreed (in principle) with all districts in Kent to seek to have a common 'platform' for our schemes. The major precepting authorities (Kent County Council, Kent Police and Fire & Rescue) had agreed that, if districts signed up to this common platform, and the fundamental principles/caveats underlying it, each district council would be paid a sum from an overall grant fund of £1.5m (working out at £125k per district) in order to assist with the costs of processing claims and collecting debts.
- 1.6.2 It has been recognised by the Kent Finance Officers' group that the contributions that the major precepting authorities make towards the administration of the scheme are essential. Changes to the local scheme could potentially lead to a need to collect even more council tax from individuals who may find it difficult to pay; as well as those individuals finding the resultant changes difficult to comprehend and therefore needing more assistance.
- 1.6.3 Therefore, in parallel with the review of the local schemes, representatives from the Kent district councils have been working with the major precepting authorities to formulate a new funding 'model' for assistance towards the administrative costs.

- 1.6.4 The major preceptors have made it clear that they wish to move away from a straightforward ‘fixed contribution’ model to one where there is recognition for the changes that have actually been brought in at individual district level. In addition, it is clear that there needs to be a greater recognition of the absolute caseload each district is managing, rather than just splitting any grant fund on an equal basis.
- 1.6.5 The exact details of the model are still being progressed. However, it is likely that there will continue to be a grant fund of £1.5m as previously; but in addition there will be a ‘new’ sum of circa £0.5m available to incentivise those authorities who are introducing more challenging options.
- 1.6.6 The grant fund of £1.5m will be apportioned out in a slightly different way – i.e. a fixed element plus a variable element based on caseload. The payment of this assumes the district will introduce a minimum number of changes to the scheme. Assuming TMBC was to adopt those changes, the payment would likely be circa £110k as our caseload is lower than in some other districts.
- 1.6.7 The new fund of £0.5m would come into play if changes over the minimum were adopted to recognise the additional burden in managing and processing claims.

1.7 Legal Implications

- 1.7.1 The legislative framework for council tax reduction schemes is contained within the Local Government Finance Act 2012.
- 1.7.2 The Council has a statutory duty to consult on a proposed scheme. Case-law has determined the guiding principles for fair consultation, which we have followed.
- 1.7.3 Regard was made to the rules around consultation laid out through the Supreme Court Ruling in the case of R (on the application of Moseley) v London Borough of Haringey (2014) and in particular, the need to set out alternative choices within the consultation.

1.8 Financial and Value for Money Considerations

- 1.8.1 The cost of awards made under CTRS impact on the declared taxbase and thereby the council tax yield. If the cost of awards were to be reduced, this would mean that the Council’s taxbase could increase and overall council tax income could increase. Any increase to council tax income is shared through the Collection Fund with major preceptors.
- 1.8.2 The costs of undertaking the consultation, including cost of support from the consultant, amounted to £6,000. This was within budget.
- 1.8.3 As outlined in paragraph 1.6, a new model is being formulated with major preceptors to assist with the costs of administrating the scheme.

1.9 Risk Assessment

- 1.9.1 The reduction scheme could be open to challenge if it were considered that we had not consulted properly those who have an interest in the operation of the scheme. However, I believe that our 12 week consultation process has been robust.
- 1.9.2 As Members are aware, some of the options consulted upon were intended to align Council Tax Reduction with the administration of Housing Benefit. During the meeting, taking into account the consultation responses and the Equality Impact Assessment, Cabinet will determine whether to recommend that these 'alignments' are made.
- 1.9.3 Within this context, it is worth noting that, at the present time, the following changes have yet to be made within the Housing Benefit scheme but regulations are expected before the 1st April 2017:
- The limitation of dependents additions to two dependants where a third or subsequent child is born on or after 1st April 2017 (HB and Tax Credits are due to be changed from April 2017); and
 - The removal of the Work Related Activity Component for all new Employment and Support Allowance applicants on or after 1st April 2017

In the unlikely event that these changes are not effected by Central Government by 1st April 2017, Members could resolve to amend the Council Tax Reduction Scheme from April 2018 (should this be an option Members wish to pursue).

1.10 Equality Impact Assessment

- 1.10.1 Decision-makers are reminded of the requirement under the Public Sector Equality Duty (s149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups.
- 1.10.2 The decisions recommended through this paper directly impact on end users. The impact has been analysed and varies between groups of people. Claimant data is based on the lead applicant so the actual impacts will also depend on household composition. Households may consist of single claimants or those with partners. Where there is a partner present, any protected characteristic of the partner has not been included in the impact assessment.
- 1.10.3 Options 1a and 1b were amongst the least popular options with consultation respondents overall, and with respondents with disabilities and males. However, option 1a was more preferable to female respondents than some of the other options. Option 1a was less popular with those aged 35-54. Option 1b was less popular with those aged 25-34 and those aged over 45. Whilst these options

would apply a standard percentage reduction to all existing claimants, who would lose 21 pence per week, on average, people with disabilities would lose 24 pence per week and carers would lose 26 pence per week, on average. As these options would apply a blanket reduction to existing claimants, regardless of their circumstances, the exceptional hardship scheme would be required to mitigate against any potential impacts.

- 1.10.4 The options which relate to aligning the scheme with housing benefit and pension age regulations (options 2, 3, 5, 12, 13) were amongst the most popular options with consultation respondents overall, and with respondents with disabilities, males, females, with the exception of option 2. As these options would apply to new claimants from 2017, it is not possible to predict who may apply and what the impacts will be. There is likely to be differential impact on female claimants and some working age groups should family premium be removed, which was amongst the least supported options in the consultation results and claimant data shows that 82% of current claimants who receive family premium are female.
- 1.10.5 In addition to family premium, a number of other options could affect female claimants and some working age groups, particularly those with children, disproportionately. The majority of consultation respondents overall supported including child maintenance (option 8) and child benefit (option 9) as income. Over 50% of male and female respondents and respondents with a disability, also supported these options. 94% of current claimants who receive child maintenance and 82% of current claimants who receive child benefit are female.
- 1.10.6 The majority of consultation respondents supported the remaining options (4, 6, 7, 10, 11). Of these options, option 4 would affect females (75% of claimants) more than males and those aged 35-44 (36%) more than other age groups, and would lose their full entitlement under this criteria. Option 6 would affect males (60% of claimants) more than females and those aged 45-64 (84%) more than other age groups, and would lose their full entitlement under this criteria. Option 10 would affect those aged 35-64 who would lose more per week, on average than other age groups. Option 11 would affect those aged 45-64 only as there are no claimants aged 44 or under in this category.
- 1.10.7 Option 7 would affect claimants with disabilities (41%) who would lose more per week (£19.01, on average) than people without disabilities (£12.96, on average). Option 7 would also affect carers (23%) who would lose more per week (£18.96, on average) than non-carers (£14.39, on average). Claimants aged 45-54 (48%) would lose more per week (£15.85, on average) than other age groups. Whilst this option was more popular with consultation respondents than other options, it may be necessary to consider possible exemptions for non-dependants with disabilities or who are carers.
- 1.10.8 The potential impacts need to be considered against the potential savings to the Council and the criteria for the exceptional hardship scheme will need to be considered in order to alleviate any disproportionate impacts of any options

introduced. Further detail about the potential impacts will be available to Members prior to the meeting.

1.11 Policy Considerations

1.11.1 Equalities/Diversity;

1.11.2 Communications

1.12 Summary

1.12.1 At the outset of this process, in liaison with the other Kent district councils and major precepting authorities, two key objectives were set in reviewing the local CTR Scheme.

1.12.2 The consultation on potential changes to the Scheme was undertaken for 12 weeks, giving opportunity for all residents to participate.

1.12.3 We received 415 responses to the on-line survey, plus 22 'hard copy' paper questionnaires. We also received a detailed response from Kent County Council as a statutory consultee. We did not receive specific responses from the other statutory consultees (Kent Police & Crime Commissioner and Kent Fire & Rescue), although as reported in paragraph 1.2.2, support had been expressed with regard to the process and options prior to the launch of the consultation.

1.12.4 Approximately one third of the respondents received council tax support, with the other two thirds not receiving any support.

1.12.5 Whilst all Kent districts went out to consultation with similar options around the same time, each district council is a sovereign body, and therefore decisions made by each council could vary. Whilst we hope to retain some 'commonality of approach' across Kent, there is no guarantee of this and it is likely that there will be some variations across the county.

1.12.6 Cabinet is asked to consider all of the information contained within this report (and any supplementary information issued as advised in paragraph 1.10) and make appropriate recommendations to Full Council about how the Scheme should be amended from 1 April 2017.

1.12.7 Once Cabinet has made its recommendation, the Scheme will be prepared and presented to Full Council at its meeting on 1 November 2016. If an Exceptional Hardship Policy is recommended as part of the Scheme, this will also be presented to Full Council.

1.13 Recommendations

1.13.1 Cabinet is asked to **NOTE** the potential impacts on people with disabilities, carers, women and working age groups and the following measures to mitigate these:

- 1) Continuing to treat people with disabilities and carers more favourably by disregarding some incomes, thereby giving them a higher entitlement to council tax support:
- 2) Continuing to make allowances for childcare costs, in line with the national scheme;
- 3) A further review of the scheme within three years from 1 April 2017 to identify any longer-term measures needed to mitigate any ongoing impacts.

1.13.2 Having considered the above, the full consultation results (including the response from the statutory consultee, Kent County Council) and Equality Impact Assessment, Cabinet is asked to **RECOMMEND** to Council what options, if any, should be included in the Council's Council Tax Reduction Scheme from 1 April 2017 or other appropriate time.

Background papers:

Consultation Survey full results

<https://www.surveymonkey.net/results/SM-6ZBKZ8GT/>

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