

TONBRIDGE & MALLING BOROUGH COUNCIL
FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

08 January 2020

Report of the Director of Finance & Transformation

Part 1- Public

Matters for Recommendation to Cabinet - Council Decision

1 LOCAL COUNCIL TAX REDUCTION SCHEME 2020/21

A report setting out recommendations and reasoning for changes to the Council's Scheme from 1 April 2020.

1.1 Background

1.1.1 Since April 2013 the Council has had a mandatory duty to set an annual Local Council Tax Reduction Scheme (LCTRS). From that date, the national Council Tax Benefit scheme was abolished and each local council had to introduce a local scheme as replacement. Local Council Tax Reductions Schemes provide means tested financial assistance to households in the form of a discount on their Council Tax accounts. Initially Schemes were paid for by grant funding from Central Government. Each Council received payments based on 90% of funding from the last but one year of Council Tax Benefit, however, with changes in funding arrangements it is now unclear as to just what level of grant we are allocated.

1.1.2 In designing a Scheme, Councils are bound by some simple rules:

- Pension age households must get at least the same level of support as they would have under the previous national Council Tax Benefit scheme.
- Incentives to work must be included for working age households.
- Recognition must be given to the needs of vulnerable people.
- Councils must consult stakeholders and show due regard to responses when deciding their Schemes.

1.1.3 We are limited in design by the computer software available to calculate and administer awards of reductions. Bespoke tailoring of software carries high cost and increased risk of failure meaning the sensible way forward is to create a Scheme within the parameters available 'off the shelf' from our software provider.

1.1.4 A further consideration is that Council Tax Benefit and Housing Benefit were calculated along a similar set of rules. Both benefits were claimed together on a

single form, with assessments being made as one, i.e. a single input of data into computer software effected two outputs, awards of Council Tax Benefit and Housing Benefit. Changes in circumstances once claims were up and running could also be treated as a transaction, with two outcomes. To disrupt that synergy between Schemes would be to lose the efficiency in administration and simplicity for customers.

- 1.1.5 All things considered, Tonbridge & Malling Borough Council has so far taken the decision for its Local Council Tax Reduction Scheme to mirror that of the former Council Tax Benefit scheme, albeit reducing the maximum level of help for working age households. Some amendments to our Scheme have been made along the way, generally to keep it in alignment with the principles of Housing Benefit.
- 1.1.6 Government prescribes changes to pension age schemes each year, usually minor amendments uprating benefits and bringing schemes into compliance with legislative changes. There is no need to consult on these changes.
- 1.1.7 For 2013, the proportion of pension age households to working age was near equal. In passing on the 10% Government funding cut, the maximum award for working age households is now restricted to 80% of that which a the household would have received under Council Tax Benefit. This year, any working age household on benefits has, at minimum, £6.13 per week to pay towards council tax (example for a band C property in West Peckham).
- 1.1.8 The proportion of working age to pension age households receiving assistance has shifted. Government policies such as 'triple lock pension increases' and 'benefit freezes' have caused a reduction in pension age claims and increase in working age claims. Pension age households now constitute 40% of the caseload. The number of households getting help at the 1 December 2019 was 2700 pension age and 3395 working age. The total number has been stable for the last two years.
- 1.1.9 The collectable Council Tax sum has similarly reduced for pension age households to £613,000 from £695,000 and increased for working age households to £2,000,000 from £1,500,000. Collection rates have remained high for pension age households, while showing early signs of a drop for working age households. This would suggest that the 20% minimum payment for working age households is around the tipping point of affordability and supports the reasoning not to recommend further cuts to the Scheme. Many Councils across the country take the approach to place a greater financial burden on working age households, for example, Medway Council look for a minimum payment of 35% of council tax and the highest currently known is North Lincolnshire, charging a minimum of 50% council tax to low income households.

1.2 Why does our Scheme need to change?

Factors developing that mean it is the right time to make change

1.2.1 Universal Credit (UC)

The Government's flagship benefit within the welfare reform strategy. Although introduction has been delayed, it now affects how my Revenues & Benefits Service works. Full UC service started in the Borough in November 2018 for new claims and triggered transitions for some existing housing benefit claims. To date, the number of households moving on to UC is over 1,000 representing a fall of approximately 25% in our working age housing benefit caseload. These households still require help through Council Tax Reduction. The natural rate of transfer is likely to slow, however, the national strategy is for a transfer of residual working age housing benefit claims to UC over the next three years.

1.2.2 More people in work

Unemployment rates have fallen, now at the lowest level for many years. UC was designed to provide greater financial incentives to move into work than the legacy benefits it replaces, while freezing benefit rates of those legacy benefits has all but removed the lifestyle choice of being jobless. However, we have witnessed a corresponding growth in 'zero hours contract' employment, often associated with the types of jobs with lower levels of pay and an increase in the number of households with self-employed incomes.

1.2.3 Technology

Opportunities to take advantage of affordable new technology has been key to maintaining a cost effective Service. With much of the Revenues & Benefits function involving high numbers of customer transactions requiring relatively low level decisions, many of the core operations are suited to integrating technology and automation. Our Digital Strategy sets out our commitment to taking services online where and when appropriate. Communication from Government Departments and HMRC has already radically changed, with thousands of notifications each year being transferred electronically and fed directly into the Council's computer systems. The development of our website, provision and focus of online services is fundamental to a financially sustainable future.

1.2.4 Social norms and environmental responsibility

Online services, information and social media is now accepted as integral to our daily home and work lives. Many Government services, such as taxing a car or claiming UC can only be accessed online. Similar demand from our customers has grown rapidly, bringing new challenges and opportunities to improve how we engage with our service users. At the same time, growth in online, paperless services has a synergy to the emergence of greater environmental responsibility in the wise use of resources.

1.3 Case study highlighting the issues above

- 1.3.1 Mrs and Mrs A live in the borough and rent their home from Clarion. Mr A lost his job working for a large employer after the business collapsed. They claimed Jobseekers Allowance from the Jobcentre and Housing Benefit together with Council Tax Reduction from the Council. They paid their Council Tax monthly by direct debit after receiving a bill to let them know how much it would be.
- 1.3.2 Eight months later, Mr A started a new job. It was full time with the opportunity to work some overtime, but the hourly rate was the minimum wage. Mr and Mrs A claimed Universal Credit which included a component to cover their rent. The Council stopped paying Housing Benefit but continued to award Council Tax Reduction, now based on how much Mr A had said he would earn. They received a new Council Tax bill to let them know how much the direct debit payment would be later that month.
- 1.3.3 Mr A worked additional hours when he could. Overtime was not always available, some months he worked as much as 10 hours and in others he did none.
- 1.3.4 Each month, Mr A's employer submitted payroll information to HMRC. The information was passed on to the Department for Work and Pensions (DWP) through the 'Real Time Information' system which then transferred monthly electronic files to the Council. The files contained precise details of how much Mr A had earned. Where there was any difference in pay from one month to the next, which there was due to the fluctuating hours he worked, the Council Tax Reduction was automatically re-assessed, generating new award letters to Mr and Mrs A and a new Council Tax bill showing the amount of the next direct debit instalment.
- 1.3.5 A further eight months later Mrs A contacted the Council. She was angry and confused at the quantity of letters that we had sent to her. Over that time she had received 10 different bills for her Council Tax, what she described as reams of incomprehensible letters and had realised that no payments had come out of their bank account even though she had a direct debit set up. She was suddenly faced with a large bill and little time to pay.
- 1.3.6 This situation occurred because the technology introduced to integrate DWP and the Council's systems automatically recalculated the Council Tax Reduction each month due to Mr A's income having changed. Owing to the statutory pre-notification period for a direct debit payment, the payment was never collected because the payment amount had changed again by the time it was due and a further bill was sent.
- 1.3.7 An arrangement was made with Mrs A to pay the outstanding balance and the Council Tax account is now manually monitored.
- 1.3.8 **There are now many accounts like this requiring manual monitoring and intervention. The numbers continue to grow.**

1.4 Proposals for change

1.4.1 The following proposals for changes to the Council's LCTRS have been formulated by officers with the assistance of a specialist consultant. As has happened in previous years, the task to review and update Schemes has been tackled with colleagues across other Kent Councils, sharing knowledge, experience and costs to gain best value from the review and arrive at some shared outcomes.

1.4.2 The objectives of our review were to form proposals that:

- Maintain the current overall level of financial assistance in the Borough i.e. not to make savings or increase spend.
- Address the challenges and opportunities outlined at paragraph 1.2
- Make our Scheme simpler to administer by our officers, simpler to understand by our customers and form a stepping stone to a future discount Scheme.

1.4.3 The proposals we considered best met the objectives were:

- To stop printing and posting award letters (decision notices) to working age households and new claims for working and pension age claims should be made online.
- To introduce a Minimum Income Floor for claimants with self-employed income after six months of starting a business or making a new claim.
- To introduce a banded discount scheme based on household income.

1.4.4 The final proposals for consultation were financially tested and modelled using our live data. Results from the modelling were used to inform an Equality Impact Assessment presented at our last Board meeting, when I advised Members that the public consultation opened on 9 September, 2019 and was to run for eight weeks, closing at midnight on 4 November.

1.4.5 Results from the consultation have been collated and analysed. A total of 379 individual responses were received via the online survey. Although the number of responses seems low, in comparison to all other councils we have spoken to, it is the highest we have come across and a solid result. The number of responses statistically achieves a 95% confidence rate +/- 5%, a significant aim for most surveys. The response rate was undoubtedly helped by the design of the online questionnaire. Whereas colleagues in Kent included in-depth technical detail and as many as 35 questions, our consultation took a simplistic approach, aiming to solicit feedback and opinion rather than technical critique. Although we achieved a greater response, the approach itself was criticised in some of the comments from the survey. A summary of the consultation results is attached at **Annex 1**.

1.5 A closer look at our consultation results

1.5.1 Proposed change 1

1.5.2 To stop sending printed entitlement letters for working age claims - details of reductions will still be shown on the council tax bill. New applications for Council Tax Reduction will be made on-line for working and pension age households.

1.5.3 The advantages put forward for this proposal are:

- There are substantial environmental and cost benefits to not printing and posting decision letters, many thousands are issued each year. The cost saving from implementing this proposal would be approximately £10,000 per year in materials and postage alone.
- Letters will be available on request. Anyone wishing to have a paper copy posted to them will not be refused but an online version would be our preferred service.
- There is a growing demand and expectation for on-line services and documents. Council Tax accounts and transactions are already available online. Our 'Benefits' solution will be available for April 2020. Customers regularly request online statements and letters. Landlords especially have an expectation to receive notifications and run accounts with us online.
- Council Tax bills will show the level of Council Tax Reduction. Customers will be sent paper bills unless they have opted for online billing.
- Online applications for Council Tax Reduction can be used to speed up and simplify the claim process. Our claim form is 40 pages long and covers all circumstances. It will improve security, provide an audit trail and reduce the risk of lost applications with the postal service.
- Council offices provide IT access and support for customers.
- Telephone, face to face and online help and support will be available for online applications and setting up Citizens Access accounts.
- Paper applications may still be used in some circumstances.

1.5.4 The drawbacks put forward with this proposal are:

- Customers will need to spend a short time signing up to Citizens Access to get online access to letters. However, once signed up, having an account provides much more information relating to the customer's account.
- There is a risk that some customers will not have IT skills or access.

1.5.5 Results relating to proposed change 1

1.5.6 282 of 379 responses (74.4%) agreed with the proposal. The salient theme to bring to the attention of Members, drawn from responses, is the risk in disadvantaging residents who do not hold the skills or ability to access online information. However, in addition, several comments from respondents keen to point out they were of pension age, made it clear they would welcome the proposal to stop sending decision notices for working age claims to be applied to pension age claims as well. This thought was echoed in at least two of the working groups with external stakeholders. It is likely that the safeguards put in place so as not to disadvantage any working age claimant through this proposal could equally be applied to pension age claimants, protecting vulnerable households regardless of age. Equally, concerns were raised over restricting accessibility to make new claims for Council Tax Reduction. This proposal looks to introduce the online claims but not to remove existing ways. Customers will be encouraged to claim online but not restricted to only this channel.

1.5.7 Proposed change 2

1.5.8 To apply Minimum Income Levels for self-employed earners six months after making a new claim or starting a new business. The net income for a self-employed earner will be replaced with a minimum level income either after six months of making a new claim if the business is already in operation or six months of starting a new business where the net income declared from the self-employed work is below 16 x hourly rate of National Living Wage for single parents and disabled workers, or 30 x hourly rate of National Living Wage for single, or those who are members of a couple, workers. The National Living Wage will be uprated at the 1 April in line with the current rate at that time.

1.5.9 The advantages put forward for this proposal are:

- Encouraging business growth.
- Reducing the risk of fraud.
- Bringing Council Tax Reduction in line with Tax Credits and Universal Credit.

1.5.10 The drawbacks put forward for this proposal are:

- Where a working age applicant is self-employed and continues to run a business generating an income below the minimum living wage, the council will assume they earn the minimum level, risking of creating hardship.
- There is a risk of discouraging claimants to report their correct income.
- This proposal may be onerous and present some difficulty in applying consistent decisions.

1.5.11 Results relating to proposed change 2

1.5.12 309 of 379 responses (81.5%) agreed with the proposal. Most comments were positive however some expressed concerns that this could have the potential to cause hardship and there needs to be a mechanism to address this rather than a hard and fast rule. Welfare and support groups, along with other stakeholders agreed this is a sensible approach to align with UC income assessments. When consulting Northgate Public Services, provider of the Council's software used to administer Housing Benefit and Council Tax Reduction, we were informed that a notional income of this nature could only be applied for one fixed number of hours and it would only be possible to use the income after a period of 12 months, not six.

1.5.13 The proposal is designed to address the growing trend of claims with low levels of self-employed income by assuming a notional minimum income level and to align the notional levels with those used in UC assessments. The DWP now operates a flexible system, agreeing individually with each claimant how many hours could be worked per week based on household circumstances, for example, if the claimant has a seven year old child they may agree the expectation is to work 25 hours per week due to child care. A similar rule could be operated within the Council's Scheme, making use of our discretionary Exceptional Hardship Scheme.

1.5.14 Proposed change 3

1.5.15 To introduce the banded discount scheme shown at **Annex 2**

1.5.16 The advantages put forward for this proposal are:

- It provides a simpler scheme, easier to understand for our customers.
- It will prevent significant increases in administration costs as more claims move to Universal Credit.
- It will prevent households receiving multiple Council Tax bills and changes to instalments due to minor income fluctuations.
- Households in receipt of 'passport' benefits (Income Support, Employment & Support Allowance and Jobseekers Allowance) will continue to get an 80% reduction (less any non-dependant deductions).
- The bands are based on a calculation of hours multiplied by the National Living Wage (age 25 and over) rate, currently £8.21 per hour. The rate can be updated on the 1 April each year to the rate at that time.
- Additional support will be provided for households with disabilities, caring duties and those in work.
- It forms a stepping stone to a much simplified future scheme.

1.5.17 The drawbacks put forward for this proposal are:

1.5.18 Although the aim of the scheme is to continue with a similar overall level of support across the Borough, the redistribution will cause some winners and losers. The Exceptional Hardship Payment Scheme will remain in place and be available for those suffering exceptional hardship. Payments may be used as a transition from old to new rates.

1.5.19 Results relating to proposed change 3

1.5.20 325 of 379 responses (85.8%) agreed with the proposal. There were few comments directly relating to this proposal. Of those that were, they were generally positive.

1.5.21 Proposed change A

Increase council tax to meet the rising costs of the service.

1.5.22 84 of 379 responses (22.4%) agreed with the proposal. This would prove an unpopular decision as reflected in the comments. It would fail to provide a long term sustainable solution and the financial burden would fall entirely on the Council rather than shared with other preceptors.

1.5.23 Proposed change B

Reduce funding to other services we provide.

1.5.24 115 of 379 responses (30.3%) agreed with the proposal. This would require annual budget slicing from Services to a point where there is nothing left to take. It does not provide for a sustainable solution. Comments are generally confused over the services supplied by the Council and Kent County Council however there are specific suggestions as to which services or salaries to cut.

1.5.25 Proposed change C

Use the limited reserves we have.

1.5.26 244 of 379 responses (64.4%) agreed with the proposal. Although this obviously does not provide a sustainable solution to the ongoing issues it is worth highlighting a comment 'use council reserves to generate more income'.

1.6 Consultation with Major Preceptors

1.6.1 The Council has a statutory duty to consult on proposed changes with our major preceptors. Emails and reminders were sent to contacts at KCC, KFRS and KPCC. A limited response initially came back from KCC to say 'I will get back to you but we are likely to be supportive of this simplification as it must significantly reduce the amount of times claims have to be recalculated which in turn aids stability of tax receipts.' No further update was received.

1.7 Legal Implications

- 1.7.1 The Council's Local Council Tax Reduction Scheme must be agreed by Full Council prior to introduction. The proposals are within the legal parameters set for scheme designs. A public consultation has taken place in line with public consultation guidance.

1.8 Financial and Value for Money Considerations

- 1.8.1 Proposals will generate efficiency and cost savings through reducing and preventing costs and administration.

1.9 Risk Assessment

- 1.9.1 There is a risk that some households may face hardship due to financial changes. The changes have been financially modelled in detail and analysed before being put forward as proposals. The Council's Exceptional Hardship Payment Scheme will safeguard households at risk.

1.10 Equality Impact Assessment

- 1.10.1 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper directly impact on end users. The impact has been analysed and does not vary between groups of people. The results of this analysis are set out at **Annex 3**.

1.11 Recommendations

- 1.11.1 Members are asked to **RECOMMEND** to Cabinet that the proposed changes set out below should be written into the Tonbridge and Malling Borough Council Local Council Tax Reduction Scheme 2020/21 :

- 1) Proposed change 1 - Paragraph 1.5.1
 - To stop posting decision letters to working age LCTRS claimants
 - To stop posting decision letters to pension age LCTRS claimants
 - To introduce online applications as the primary method to make a claim for LCTRS for pension and working age claimants
- 2) Proposed change 2 - Paragraph 1.5.7

- To introduce a minimum income floor for self-employed income after 1 year of making a new claim or starting a business, at a rate of 35 hours per week x national minimum wage
- 3) Proposed change 3 - Paragraph 1.5.14
- To introduce a banded discount scheme utilising thresholds as set out in Annex 2 to the report.

Background papers:

contact: Andrew Rosevear

Nil

Sharon Shelton
Director of Finance & Transformation