

## **APPENDIX 1**

**LBTH Council Tax Reduction Scheme**

**Scrutiny Challenge Session Report**



**September 2018**

## Chair's Foreword

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Ninety-seven years ago, thirty councillors from Poplar Borough Council were jailed for refusing to authorise the collection of rates for the London County Council and Metropolitan Police. They felt it was wrong that Poplar alone had to bear the burden of Poor Law Relief for the tens of thousands of local people who were out of work because of the post-war recession. Their stand ultimately forced the Coalition Government of the day to bring forward legislation equalising the value of the local rates, so that richer areas subsidised poorer ones.

To a greater or lesser degree that principle stood for the next ninety years. But in 2013, a new Coalition Government began to dismantle it. As well as dramatically cutting the Revenue Support Grant – subsidy from central Government – they “localised” the national system of Council Tax Benefit, along with a ten per cent cut in funding for local schemes. That change left local authorities facing an invidious choice between charging disabled and unemployed residents Council Tax or making further savings by cutting services.

In Tower Hamlets, councillors rightly chose to absorb the cut. In many other authorities, however, charges were introduced. Unemployed residents in those areas were forced to pay around £5 a week from their Job Seekers Allowance of £73 – a sum already regarded as too low to cover basic living costs like food, clothing and energy bills. Inevitably, hundreds of thousands of those being charged were unable to pay, and so ended up receiving a court summons. Many of those have had bailiffs sent to their door to recover the debt owed.

Faced with continuing cuts to Tower Hamlets' grant, the Mayor decided to review this authority's position in 2016. And in the autumn of that year, consultation began on the introduction of a 20 per cent Minimum Payment - £150-200 a year - for those previously exempt under our Council Tax Reduction Scheme. The public and political response was unsupportive and plans for a Minimum Payment were dropped. However, other changes were made, including a reduction in the capital limit, a reduction in the backdating period, changes to the Non Dependent Deduction charges and the introduction of the use of the Minimum Income Floor for self-employed claimants.

The last two of these were not properly described in the consultation which by law has to precede any changes to the scheme. (Indeed, they were not even fully described in the report that went to Full Council in January 2017 to approve the revised scheme.) The consequences of these changes have been very serious for hundreds of the Borough's poorest households. I have seen myself a family with two adult disabled sons suddenly hit with a bill of nearly £1,500 Council Tax. Bailiffs were sent to recover that money when they didn't pay it – adding another £400 to their debt. Self-employed claimants, like mini-cab drivers, saw their bills increase by £500 a year or more.

Those struggling to pay these new or increased bills have been invited to apply for relief under section 13A of the Local Government Finance Act 2012. However, they have been required to demonstrate financial hardship to be successful. They must give details of their family expenditure as well as their income – a 1930s-style means-test. Many were granted. But others were not. Many more simply refused to subject themselves to this indignity.

In July, the Mayor authorised a consultation on further changes to the Council Tax Reduction Scheme, including the extension of the backdating period to 52 weeks and the disregarding of Disability Living Allowance and Personal Independence Payments as income for the purposes of calculating Non Dependent Deductions. However, it proposes no change to the use of the Minimum Income Floor for self-employed claimants, so this authority would still assume they earn the equivalent of at least 35 hours a week at the National Minimum Wage. The consultation also proposes to use DWP's Two Child Limit.

This Scrutiny Challenge Session was held to examine the impact of the changes made in 2017/18 and the merits of the proposals in this consultation. Ten back bench members took part, and we were helped in this work by the expert advice of representatives from Island Advice Centre, the Legal Advice Centre (University House) and Toynbee Hall, as well as by the Lead Member for Finance, Cllr Ronald and officers from the Resources Directorate. I am grateful to everyone who gave their time and views. I hope this report and the recommendations we make will help inform this authority's final decision on the shape of our Council Tax Reduction Scheme from April 2019 onwards.

**Councillor Marc Francis**

## Summary of Recommendations

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- **Recommendation 1:** Implement the proposed extension of backdating period to 52 weeks from 1<sup>st</sup> April 2019 and the application of Section 13A relief for those claimants currently hit by the existing four-week limit
- **Recommendation 2:** Urgently provide greater clarity on whether the two child limit allowance will result in larger families affected having to pay more in future, in time to form response to consultation and any final decision by councillors whether this change should be made to LBTH's Local Council Tax Reduction scheme (LCTRS).
- **Recommendation 3:** Waive or refund fees or charges for who have been financially disadvantaged by including the Disability Living Allowance and Personal Independence Payments in income assessments undertaken when residents applied for Section 13A discount
- **Recommendation 4:** Ensure those who might be directly impacted, for example, disabled non-dependents and self-employed claimants are written to inviting their views. Other stakeholders such as local advice agencies should also be directly engaged in the consultation process.
- **Recommendation 5:** Develop and publish on its website a clear policy statement for the use of Section 13A relief from Council Tax setting out some of the circumstances in which it will or will not be granted, and how individuals and their representatives can appeal these decisions.
- **Recommendation 6:** End the use of the Minimum Income Floor (MIF) in the calculation of entitlement for Council Tax Support from 1<sup>st</sup> April 2019 onwards and base assessments on actual income, not an assumed level of income aligned to the National Minimum Wage.
- **Recommendation 7:** Undertake an assessment of whether the “ethical debt collection policy”, being promoted by Stepchange and the Money Advice Trust and implemented by the Hammersmith & Fulham, and Bristol, could be implemented in Tower Hamlets, and report back to Cabinet by 31<sup>st</sup> March 2019.

## 1. Introduction

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- 1.1 The Local Government Finance Act 2012 ended the national system of Council Tax Benefit (abolished in April 2013) and replaced it with a Local Council Tax Reduction Scheme (LCTRS). Under this legislation responsibility was passed to local authorities to administer and fund financial support around Council Tax. By law, for the entitlement of pensioners under Council Tax Benefit has had to remain in place, but local authorities have been given the power to determine a new local replacement scheme for working age residents.
- 1.2 Under council tax benefit all awards were fully funded by central Government via an annual subsidy grant predicated on the total amount of benefit awarded. However, subsidy for LCTRS awards has been frozen at the amount awarded for 2012/13 less 10% since April 2013, representing a national reduction of funding to Local Authorities of nearly £500m.
- 1.3 Each financial year the Council is required to review and consider whether to revise its existing LCTRS.
- 1.4 Initially, LBTH's scheme retained 100% support for all working-age claimants as well as pensioners. However, in 2016, a consultation was undertaken which proposed to introduce a 20% Minimum Payment as well as other changes to the LCTRS. Ultimately, councillors decided against introducing a Minimum Payment. However, other changes were made to the scheme – some of which may have caused those residents significant financial hardship.
- 1.5 A cabinet report was put forward in July 2018 to seek views on proposed changes to its Local Council Tax Reduction Scheme for 2019-2020. Cabinet agreed Option 4 of the report which agreed public consultation on the proposed changes listed below, and for officers to bring a report, setting out feedback from the consultation, back to the October Cabinet prior to a formal decision being taken.
  - Proposed changes to the deductions applied in respect of disabled non dependants with a view to applying a maximum weekly deduction of £4 for disabled non dependants
  - Proposal to retain the principle of applying the MIF for self-employed residents together with an enhanced support package and the application of Section 13A discounts to avoid hardship
  - Proposal to increase the current four week backdating provision to 52 weeks and remove the child allowance for families with more than two children (disregarding income that is not received within LCTRS).
- 1.6 It was acknowledged that Tower Hamlets Council still has one of the most generous LCTRS in London. Nevertheless, Members of Overview

and Scrutiny Committee were concerned that the proposed changes do not go far enough to help all those adversely impacted by the changes in 2017/18.

1.7 Therefore a scrutiny challenge session on the proposed changes was held by Councillor Marc Francis, Overview and Scrutiny Committee Lead for Resources on 28<sup>th</sup> August 2018, to seek views from local advice agencies supporting low income households and allow fellow back bench Councillors to discuss the proposed changes and any implications it may have on residents given the fact that Tower Hamlets is one of the most deprived local authorities in England.

1.8 The scrutiny challenge session was underpinned by five core questions:

- 1) Are the proposals in the Cabinet Report the best options for residents of Tower Hamlets?
- 2) What is the financial impact of these proposals on our vulnerable residents and what support can the council offer?
- 3) Are other London councils applying the Minimum Income Floor (MIF) and is this appropriate for self-employed residents?
- 4) How are self-employed residents supported through the impact of LCTRS and how is Section 13A being implemented to support these groups?
- 5) What support is in place to mitigate the need to instigate council tax debt recovery and support those through resolving debt issues and improving financial wellbeing?

1.9 At the challenge session, Members heard from expert witnesses from three advice centres who spoke about their experiences in supporting residents in financial difficulties having to pay Council Tax.

- 1) Toynbee Hall Advice Centre – the charity reported that in the last two financial years, priority debt has risen. They also reported a rise in self-employed residents seeking help due to council tax debt.

They acknowledged Tower Hamlets commitment to maintain a Local Council tax Reduction Scheme under which maximum entitlement was based on 100% of council tax liability but their two main areas of concerns were related to the impact of the MIF for self-employed residents and the removal of child allowance for families with more than two children.

- 2) Island Advice Centre spoke about a case they had dealt with where a self-employed resident who had contacted them about being affected by the MIF, and whom they'd subsequently supported in gaining a Section 13A discount for 2017/18. In addition they raised a concern about effectiveness of using bailiffs in aiding debt recovery.

- 3) Legal Advice Centre raised a concern about using bailiffs when collecting council tax debts.
- 1.10 Members were invited to ask questions and express their concerns heard from residents and as such there are seven recommendations being put forward in the report to be considered by the Overview and Scrutiny Committee. The report and recommendations will be presented to Cabinet in October, as the Committee's contribution to the wider consultation on the proposals prior to a decision at January Full Council.
- 1.10 At the scrutiny challenge session, Members and representatives from the advice services welcomed the proposed extension of the backdating period to 52 weeks to increase the support available for many claimants by Universal Credit as a very positive step which should be implemented from 1<sup>st</sup> April 2019. In addition, Members also wanted to see Section 13A relief considered for those claimants currently hit by the existing four-week limit.
- 1.11 Members was unclear whether the proposed use of the Two Child limit in the allowance would result in larger families affected having to pay more in future. Officers were requested to provide greater clarity on that in time to inform the response to the consultation and any final decision by councillors whether this change should be made to LBTH's LCTR scheme (subsequently provided and included in paragraph 3.1.5(4)).
- 1.12 Members heard evidence of the adverse impact of the inclusion of Disability Living Allowance and Personal Independence Payment (PIP) in the income assessments for non-dependents, and as such, strongly support the proposal to change the LCTR scheme to apply the lowest deduction of £4.00 in respect of these non-dependants from April 2019. Currently the council has written to all households affected to confirm the expenditure incurred due to the non dependents disability and has applied a Section 13A discount to all those who responded. Members welcomed this move but recommended that all claimants who have been adversely affected by this charge should have that bill and any costs, including bailiff fees, waived and any monies paid should be refunded.

**RECOMMENDATION 1:** Implement the proposed extension of backdating period to 52 weeks from 1<sup>st</sup> April 2019 and the application of Section 13A relief for those claimants currently hit by the existing four-week limit.

**RECOMMENDATION 2:** Urgently provide greater clarity on whether the two child limit allowance will result in larger families affected having to pay more in future, in time to form response to consultation and any final decision by councillors whether this change should be made to LBTH's LCTR scheme.

**RECOMMENDATION 3:** Waive or refund fees or charges for who have been financially disadvantaged by including the Disability Living Allowance and Personal Independence Payments in income assessments undertaken when residents applied for Section 13A discount.

1.13 Members that attended the challenge session were:

<b>Name</b>	<b>Ward</b>
<b>Cllr Marc Francis</b>	Bow East Ward
<b>Cllr Sufia Alam</b>	Poplar Ward
<b>Cllr Kahar Chowdhury</b>	Lansbury Ward
<b>Cllr Ehtasham Haque</b>	Blackwall and Cubitt Town Ward
<b>Cllr Tarik Khan</b>	St Peter's Ward
<b>Cllr James King</b>	Limehouse Ward
<b>Cllr Puru Miah</b>	Mile End Ward
<b>Cllr Gabriela Salva-Macallan</b>	St Peter's Ward
<b>Cllr Eve McQuillan</b>	Bethnal Green Ward
<b>Cllr Kyrsten Perry</b>	Canary Wharf Ward
<b>Cllr Candida Ronald</b>	Blackwall and Cubitt Town Ward, Cabinet Member for Resources and the Voluntary Sector

1.14 The challenge session was supported by;

<b>Susie Quinn &amp; Vicky Allen</b>	Strategy Policy and Performance Officers
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1.15 The panel received evidence from members of the Executive, a range of officers and experts including;

**London Borough of Tower Hamlets:**

<b>Zena Cooke</b>	Director of Resources
<b>Steve Hill</b>	Head of Benefits Services and Grants
<b>Lee Fearon</b>	Central Benefits Officer

<b>Ellie Kershaw</b>	Tackling Poverty Programme Manager
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1.16 **External Speakers:**

<b>Sam Crosby</b>	Toynbee Hall Advice Centre
<b>Muzammel Hussen</b>	Legal Advice Centre
<b>Jo Ellis</b>	Island Advice Centre

## **2. National and Regional Context**

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- 2.1 In April 2013, Council Tax Benefit (CTB) was replaced with Council Tax Support (CTS). CTB was not a benefit as such, but gave low income households a discount on the amount of council tax they had to pay, often to nothing.
- 2.2 The change marked a historic move from a nationally devised system to one of 326 different local schemes in England. Alongside this restructuring, the money provided by central government to fund CTS was cut by 10%. Each local authority is now responsible for devising its own scheme within the reduced budget. They are also responsible for any shortfall or surplus in the CTS budget.
- 2.3 Government ministers argue that the change from CTB to CTS is designed to:
- increase local authorities' financial autonomy;
  - give local authorities a greater financial stake in the economic future of their area;
  - Save £410 million in a year across England.
- 2.4 Apart from one major requirement – that pensioners receive the same amount as they did in 2011-12 – councils have near full autonomy to create and amend the new local schemes. They have been advised to devise schemes that encourage work and protect the vulnerable, but defining the vulnerable is at the discretion of each local authority.
- 2.5 The New Policy Institute, commissioned by the Joseph Rowntree Foundation has analysed changes to council tax support, and the findings are presented in 2.6-2.8 below<sup>1</sup>:

### **2.6 How have councils changed the support available?**

- 2.6.1 From April 2013, local authorities across England were given the power to devise their own systems of Council Tax Support (CTS) for working-age adults. It replaced the national system of the Council Tax Benefit (CTB) which ensured that the poorest households did not have to pay council tax.
- 2.6.2 In the first year of CTS the funding available from central government was 10% less than that available under the former system of CTB (which central government funded in full). This central government funding for CTS has now been combined with the general grant that local authorities receive and is subject to the same cuts.
- 2.6.3 Each year the local authority decides how CTS should work in their area. Now in its fifth year, 264 (of 326) councils require everyone to pay at least some council tax regardless of income, five more than last

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<sup>1</sup> Council Tax Update 2017/18 – New Policy Institute

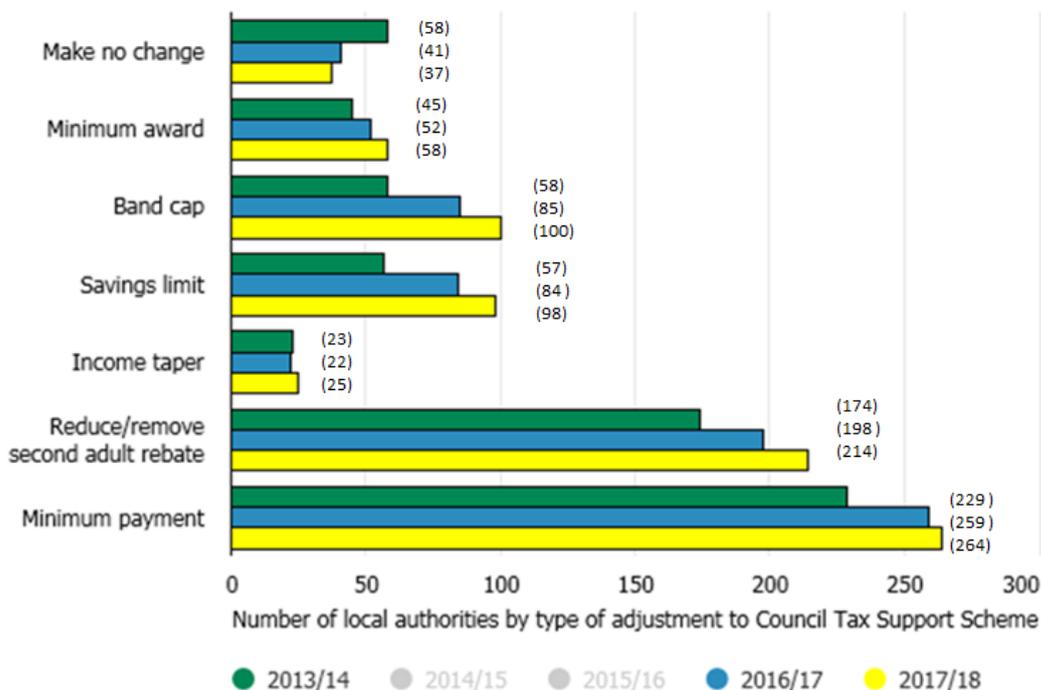
year and 30 more than in April 2013. This approach is akin to the minimum contribution required of all households regardless of their income under the Community Charge or “Poll Tax” in the early-1990s.

## 2.7 Changes over the past five years

2.7.1 From April 2017, only 37 councils (out of 326) are continuing to provide the levels of support available under the former Council Tax Benefit system, down from 58 in April 2013. Seventy four councils changed their schemes in April 2017, which is a slight increase compared to the 66 councils who changed their scheme in April 2016 and an increase from the 50 who changed their scheme in April 2015.

2.7.2 The most common change that local authorities have made from the former CTB system has been to introduce a “minimum payment” which requires everyone to pay at least some council tax regardless of income. From April 2017, 264 schemes include a minimum payment, up from 259 in April 2016, and 229 in April 2013. Along with a minimum payment, councils can make other changes to CTS.

2.7.3 The graph below shows the number of councils that have introduced a particular change. Some local authorities introduced more than one new measure (for example reducing the second adult rebate and introducing a band cap), so councils may be counted more than once.



2.7.4 New Policy Institute analysis found that:

- 214 councils have reduced or removed the second adult rebate (the benefit homeowners not on a low income are entitled to if they share their home with someone on a low income), 16 more than the previous year, April 2016, and 40 more than April 2013.

- 100 councils have introduced a band cap which involves limiting the amount of benefit received in higher value properties to the amount provided to those in lower value properties, 15 more than the previous year and 41 than in April 2013. The most common band cap applied is D.
- 98 councils have lowered the maximum savings limit (the savings limit over which one is no longer eligible for Council Tax Benefit), 14 more than the previous year and 41 more than in April 2013. Most reduced the threshold to £6,000.
- 58 councils have introduced a minimum CTS entitlement, 13 more than in April 2013. A minimum CTS entitlement of £5 per week would mean that claimants entitled to less than this would receive nothing.
- 25 councils increased the income taper (the amount by which support is withdrawn as income increases) from the CTB rate of 20p per £1.19 councils increased the taper whilst 3 have lowered it

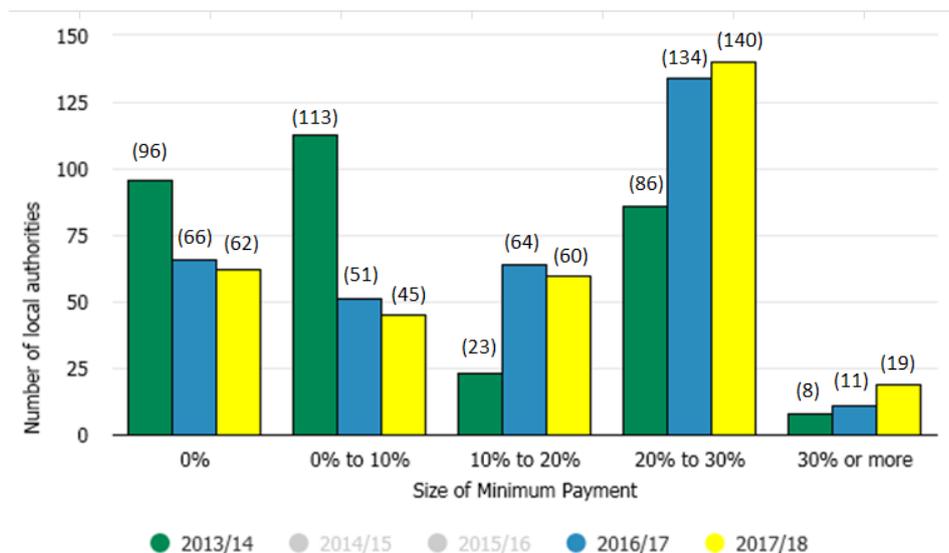
## **2.8 The range of minimum payments**

2.8.1 Analysis undertaken by the New Policy Institute indicates that the most common change that local authorities made from the former CTB system was to introduce a “minimum payment” which requires all households to pay at least some council tax regardless of income.

2.8.2 From April 2014, 245 schemes included a minimum payment, 16 more than in April 2013. From April 2015, this number increased to 250, from April 2016 it reached 259 and from April 2017 it has reached 264.

2.8.3 A minimum payment can be administered in a range of ways. Most local authorities with a minimum payment require all residents to pay a proportion of their council tax, and they are only entitled to council tax support for the remaining share. For example, a resident must pay 20% of their council tax liability but can apply for council tax support to help pay for the remaining 80%.

2.8.4 The size of this minimum payment varies by area; in 50 councils it is less than 10% of council tax liability and 140 councils it is from 20% up to 29%. Whilst for 19 councils it is 30% or more.



2.8.5 The graph above shows the number of councils by the level of minimum payment. It shows that:

- There has been a steady decline in the number of councils with smaller minimum payments levels (of 10% or less); from 113 in April 2013 to 45 in April 2017.
- The number of councils with a minimum payment of between 10% and 20% has fallen slightly to 60 in April 2017, four fewer than last year but up from 23 in April 2013.
- 20% to 30% is the most common minimum payment, with 140 councils choosing this level in April 2017, six more than the previous year and up from 86 in April 2013.
- The largest increase in April 2017 was among councils setting a minimum payment at 30% or above. Currently, 19 councils had a minimum payment of 30% or over, up from 11 the previous year and 8 in April 2013.
- In London, however, while the picture is equally mixed, there is a tendency for more generous schemes.

### 3. Tower Hamlets Council Tax Support Scheme

#### 3.1 Minimum Council Tax payments across London

3.1.1 In changing the scheme in 2017, the council ensured that residents on the lowest incomes continue to receive 100% rebate of their council tax liability. Tower Hamlets is one of only eight London councils who have retained 100% support within their LCTRS since April 2013 and in doing so the Council continues to offer one of the most generous schemes in London. In 2017/18 19,321 residents received 100% rebate (based on a caseload of 27,890).

3.1.2 The table below sets out the latest information available for 2018/19 LCTR schemes regarding minimum council tax contributions, residents who receive full LCTRS were expected to pay as a percentage of their council tax liability in each of 33 London boroughs.

<b>Local Authority</b>	<b>Minimum Council Tax Payment (%)</b>
Camden	0%
City of London	0%
Hammersmith & Fulham	0%
Kensington & Chelsea	0%
Kingston Upon Thames	0%
Merton	0%
<b>Tower Hamlets</b>	<b>0%</b>
Westminster	0%
Hounslow	8.5%
Islington	8.5%
Croydon	15%
Greenwich	15%
Hackney	17%
Havering	15%
Lambeth	15%
Richmond Upon Thames	15%
Southwark	15%
Sutton	18%
Haringey	20%
Bexley	20%
Brent	20%
Newham	20%
Redbridge	20%
Waltham Forest	24%
Bromley	25%
Ealing	25%
Enfield	27%
Harrow	30%
Wandsworth	30%
Lewisham	33%

**Note**<sup>2</sup>– Richmond has just begun consulting on dropping its charges and reinstating 100% support for all claimants. Haringey is currently consulting on reinstating 100% support for families with children (as well as disabled people who are already exempt from its Minimum Payment.)

3.1.3 Members at the scrutiny challenge session were pleased to support the intention to retain up to 100 per cent support under the council's LCTR scheme, which means this authority, continues to have one of the most generous schemes in London.

<sup>2</sup> Data obtained by FOI request by Chair of Grants Scrutiny sub-committee

## **3.2 Current Council Tax Reduction Scheme**

3.2.1 From April 2013 to March 2017 Tower Hamlets Council maintained a scheme for working age residents broadly similar to CTB. However, as the funding available from the Government has reduced every year it was decided to change the scheme from April 2017.

3.2.2 The council wanted to ensure its financially vulnerable residents were protected and as such the new scheme retains many of the features of the previous scheme:

- It is based on 100% of council tax liability;
- Entitlement is assessed on the applicant's income and circumstances;
- Deductions are applied for non-dependants (adults other than the applicant/partner who live in the household).

3.2.3 Following a full public consultation in October 2016, the following changes were made to the scheme in April 2017:

- The maximum amount of capital/savings allowed is £6,000.
- The amount of non-dependant deduction is based on the non-dependants total income;
- A minimum earnings floor equal to 35 hours at the national minimum wage is applied to applicants of residents who have been self-employed for over 1 year.
- Entitlement can be backdated for up to 1 month
- Entitlement will only normally be awarded during a period the resident is abroad if the absence is not expected to exceed 4 weeks.

3.2.4 The council now needs to consider whether to make changes to the current scheme which if agreed will need to be implemented before January 2019. As in 2017, these changes are subjected to full public consultation which is planned to take place in September and October 2018.

3.2.5 This consultation will focus on 4 main questions

1. Limit the maximum non-dependant deduction applied in respect of any person who gets disability benefits i.e. Disability Living Allowance, Personal Independent Payments, Attendance Allowance or Employment and Support Allowance to £4.00 per week.
2. Adjust the assumed level of minimum income for Self Employed claimants to reflect their age. Currently the council assumes an equivalent of 35 hours per week at the National Minimum Wage,

(£7.83 per hour, £274.05 per week) in the assessment of Council Tax Reduction for residents who have been self-employed for more than one year and who state they earn less than this amount. The Council wants to link this more closely with minimum wage rules and instead of applying a blanket 35 hours at £7.83 per hour the hourly rate will be based on the claimant's age as follows:

Age	Hourly Earnings	Weekly Earning (Based on 35 hours per week)
25 and over	£7.83	£274.05
21-24	£7.38	£258.30
18-20	£5.90	£206.50
Under 18	£4.20	£174.00

3. Allow entitlement to be backdated for up to 52 weeks.
4. Change the Child Allowances included in the local scheme to reflect those used in the assessment of Child Tax Credit and Universal Credit and Housing Benefit. The Child Allowance included in the assessment of LCTRS in effect discounts the amount awarded for each child in a residents Child Tax Credit or Universal Credit award. The effect of this change ensures that the child allowance discount in the assessment of LCTRS aligns with the amount of Child Allowance paid in Universal Credit or Child Tax Credit.

3.2.6 Following the Councils Code of Practice and legal advice, this process will last a total of 7 weeks starting from 3<sup>rd</sup> September 2018. It will be a much narrower consultation as compared to the consultation that took place in 2016 and will be co-ordinated by the Communications team. A report on outcomes is to be presented to the October 2018 Cabinet meeting.

3.2.7 Members who attended the scrutiny challenge session were aware of concerns raised about the 2016 consultation and argued that this consultation process must reach a wider audience and target hard to reach people. They wanted an assurance that groups directly affected for example, disabled non-dependents, self-employed single mothers and those that have health concerns who are least likely to be able to reach the MIF threshold of 35 hours should be invited to take part in the consultation. Members also gave feedback that the letter used in the 2016 consultation process was not well written and had links that could not be accessed. This was noted by officers and letters have been amended and written in plain English.

**RECOMMENDATION 4:** Ensure those who might be directly impacted, for example, disabled non-dependents and self-employed single mothers and those who have health concerns, are written to inviting their views. Other stakeholders such as local advice agencies

should also be directly engaged in the consultation process.

### **3.3 Council Tax Reduction Scheme in the poverty context**

- 3.3.1 Tower Hamlets latest poverty profile illustrates that according to HM Revenue and Customs (HMRC) it is the 10th most deprived local authority in England, in terms of its average deprivation score. However, while deprivation remains widespread in Tower Hamlets, the borough now contains fewer of the most highly deprived areas in England than before.
- 3.3.2 Tower Hamlets also has the highest rate of child poverty in the county and according to the *HMRC's children in low income families local measure*<sup>3</sup> 18,875 children in Tower Hamlets were living below the national poverty line in 2015; this represents 31% of the children in the Borough, the highest rate in Great Britain. However, HMRC poverty rates take no account of the housing costs families pay, so understate poverty levels. Indeed 35,900 children in Tower Hamlets live in families that rely on Housing Benefit to pay their rent; this represents 58% of children, the highest rate in Great Britain (2016).
- 3.3.3 Poverty rates vary considerably by ethnic group. National estimates suggest that the Bangladeshi population has the highest rate of poverty across all groups, more than twice as high as the rate for the White population (50 vs. 19 per cent, UK). Other ethnic groups with high poverty rates include those from Pakistani, Black and Other BME groups (40-46 per cent). These national trends are also evident in Tower Hamlets with Bangladeshi residents being far more likely than other groups to live in low income households. In 2011, research for the Council found that 78 per cent of Bangladeshi residents lived in households receiving CTB, compared with 33 per cent of other (non-Bangladeshi) residents.
- 3.3.4 In view of this and other poverty measures, the council has previously decided it would be unfair to follow the lead of many other councils which have moved away from a scheme based on 100% council tax liability as this would mean that most households will have to make a minimum payment towards council tax regardless of their income and circumstances. Instead, Tower Hamlets LCTRS retains 100% provision, which means the lowest income households qualify for a full reduction under the scheme and do not have to pay any council tax.
- 3.3.5 Consequently currently, 69% of households entitled to LCTRS receive a 100% reduction, equating to 19,030 households against a total LCTRS caseload of 27,697.

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<sup>3</sup> <https://www.gov.uk/government/statistics/personal-tax-credits-children-in-low-income-families-local-measure-2015-snapshot-as-at-31-august-2015>

### **3.4 Section 13A of The Local Government Finance Act 1992 - Discretionary Council Tax reduction**

3.4.1 The LCTRS scheme references discretionary provision available under Section 13A of The Local Government Finance Act 1992, to discount council tax liability where there is evidence of hardship.

3.4.2 Every council taxpayer is entitled to make an application for a discretionary council tax reduction. This discretionary reduction will only be granted to council taxpayers in exceptional circumstances and will normally be for a short term period (12months). An application for a further award can be made and there will be a review of the application and what actions have been taken since the last award.

3.4.3 Since April 2017, Section 13A has been used to help those experiencing hardship caused by the LCTRS changes. To date, 498 council tax payers have been supported, costing a total of £210,000.

	Self-Employed MIF		Disabled Non-Dep	
2017/18	78	£56.1k	194	£33.6k
2018/19	66	£32.3k	160	£32.3k

3.4.4 Members heard from representatives from advice centres in the borough about their experiences of dealing the Council's LCTRS. Island Advice Centre spoke about a case they had dealt with where the client was affected by the MIF. Through their intervention, they had been able to support their client to apply for a Section 13A discount which was successfully awarded. Advisers said that it is common that residents generally delay seeking advice about issues relating to paying Council Tax and other priority bills. In addition the Advisers said that the majority of affected residents were not aware of Section 13A, and had they known, they may have been more likely to seek support earlier. Members and Advisers at the session felt communicating this support more widely would make the process of seeking support less stressful. Advisers reported that some residents who had received support in the last year had become ineligible when re-applying in the second year, and they felt that the process of awarding by the Council was opaque. They pointed out that other councils have published their processes and guidance when applying under Section 13A on their websites and felt that Officers should look into this as a way of promoting this support to residents in a more open and transparent way.

**RECOMMENDATION 5:** Develop and publish on its website a clear policy statement for the use of Section 13A relief from Council Tax setting out some of the circumstances in which it will or will not be granted, and how individuals and their representatives can appeal

these decisions.

### **3.5 Minimum Income Floor (MIF) and Self Employed Residents**

- 3.5.1 A MIF equivalent to 35 hours at National Living Wage is applied to claimants who have been self-employed for 12 months or more and have declared earnings below the MIF level.

Officers argued that a benefit of using the MIF for self-employed people allows the Council to support and encourage resident to increase their earnings and reduce the risk of a significant loss of benefit when they migrate to Universal Credit as it will negatively affect the level of both the Housing Cost element, (formerly Housing Benefit) and Living Cost element, (formerly Tax Credits).

- 3.5.2 The MIF was applied from 1 April 2017 for claimants who had completed 12 months self-employment at this date and from the date on which 12 months self-employment is completed for claimants who had worked less than one year at 1 April 2017. This mirrors the assessment criteria applied in Universal Credit (UC) which is currently being implemented in Tower Hamlets.

- 3.5.3 The table below shows the number of self-employed residents in receipt of LCTRS in relation to the introduction of the MIF over the last two financial years. In March 2017 the numbers reflect self-employed residents prior to the introduction of the MIF and April 2017 shows the numbers after the introduction of the MIF. Thereafter the decrease is due to a combination of both caseload churn and the length of self-employment extending beyond the 12 month threshold triggering the MIF. In July 2018 there are an additional 49 residents in receipt of LCTRS who are now in receipt of Universal Credit.

<b>Pre-MIF</b>	<b>Post-MIF</b>		
<b>March 2017</b>	<b>April 2017</b>	<b>March 2018</b>	<b>July 2018</b>
2,544	834	586	523

Table 1: self-employed and the introduction of the minimum income floor

- 3.5.4 Since April 2017 the Council has used Section 13A of The Local Government Finance Act 1992 – Discretionary Council Tax reduction in respect of self-employed residents affected by the MIF and families with disabled non dependants.

- 3.5.5 Support for self-employed residents affected by the Minimum Income Floor (MIF)

Members heard from Officers about the processes they had put in place to offer support and help for self-employed residents affected by the MIF.

**Stage One** - once initial contact with the Benefits Team has been made, officers will contact the resident requesting the following information:

- Completion of a personal financial statement
- Latest bank statements
- Latest self-employed accounts
- Contact details

The Benefits Team will then contact the Council Tax Team to arrange any recovery action to be suspended pending resident response.

**Stage Two** - In cases where the resident does not respond the following the process is in place:

- If the Benefits Service does not hear from the resident within two weeks a reminder is issued. The reminder advises that unless a response is received within two weeks it will be assumed he/she does not wish to take up the offer of help and advice.
- However, if no response has been received within the two week period, the resident is written to a second time. This letter advises that as a response has not been received it is assumed he/she does not want to pursue the offer of help but if they remain interested they should contact the service within 7 days.
- Finally, if the resident does not contact the service within 7 days a third letter is sent explaining that as he/she has not responded within 7 days we assume he/she does not wish to take up of the help on offer and is liable to pay the council tax as indicated on the latest demand issued. Council Tax team is advised to resume recovery action.

**Stage Three** - In cases where the resident provides the information requested the following support is provided:

- The resident is contacted to arrange a date, time and venue for interview.
- At the interview the Benefits Service will try to establish if any help or advice can be provided in respect of budgeting and ways in which to improve their business. This includes signposting to other services as required.
- Following the interview the Benefits Service will consider whether to apply a discretionary reduction in council tax for a temporary period in accordance with Section 13A of the Local Government Finance Act 1992 and the service will write to notify the resident of the outcome. The resident is advised to make contact should they disagree with the outcome.
- If a reduction is awarded the council tax team are notified of the amount and a revised council tax demand is issued to the resident following application of the reduction.
- The reduction is reviewed as the reduction period is due to expire and the resident is contacted to see whether their

circumstances have improved, or whether the reduction needs to continue.

- 3.5.6 Members heard that whilst there were 2,544 self-employed residents who were originally affected by the MIF, only 217 (8.5%) had initially contacted the council to apply for Section 13A support. Of those 217, just over half (112) responded and attended interviews set up to establish the support required. This represents 4.5% of the residents affected. Although the council's Benefit Service has attempted to contact the remaining 105 residents on at least three occasions, they have failed to respond. Further engagement is on-going to maximise the opportunity for self-employed respondents to seek support.
- 3.6.7 To date 75 self-employed residents affected by the MIF have been awarded a Section 13A discount.
- 3.5.8 At the session, Members reported feedback from some residents in Tower Hamlets who had felt it was difficult to access MIF relief and to take steps aimed at increasing their earnings. They felt it might be unrealistic to expect some residents, especially those with health problems or who are lone parents, to achieve this.
- 3.5.9 In addition Members were concerned that the Council was requesting personal financial information statements when assessing need. They felt that this could be seen by residents as being intrusive and stop people applying or re-attending the second interview. It is also not a legal requirement but council policy and requested if this could this be reviewed.
- 3.5.10 Members were concerned that the result of using the MIF in the calculation of entitlement for council tax support was that approximately 2,000 households had seen significantly higher council tax bills than they would have expected had the MIF not been applied.
- 3.5.11 Officers outlined the rationale for using personal financial information when calculating CTR. This approach is taken as part of the council's duty to safeguard tax payer money, ascertain whether there is evidence of hardship, prepare residents for what will happen should they be placed onto Universal Credit, and ensure that the discretionary power to apply a Section 13A discount is applied fairly and consistently. In addition, DWP has recently requested that the council's Benefit Service should undertake a full evidence check on the earnings declared by self-employed residents for Housing Benefit purposes.
- 3.5.12 Whilst Members understood the advantage of identifying those self-employed claimants who would be hit by the switch to Universal Credit, they were not persuaded it is necessary to reduce their entitlement to Council Tax Support in order to help them increase their hours/earnings. Members also noted this is not being done by other local authorities. Consequently Members felt the level of Council Tax

Reduction should be based on their actual income, not an assumed level of income aligned to the National Minimum Wage.

**RECOMMENDATION 6:** End the use of MIF in the calculation of entitlement for Council Tax Support from 1<sup>st</sup> April 2019 onwards and base on residents actual income, rather than an assumed level of income aligned to the National Minimum Wage

### **3.6 Local Council Tax Reduction Scheme - Costs**

3.6.1 Nationally, it is reported that in the fifth year of local LCTRS, 2million families have been adversely affected by the change from Council Tax Benefit (CTB). On average these families will have had to pay £191 additional Council Tax in 2017/18 in comparison to what they would have paid under CTB. The most common financial impact of CTS changes on claimants in 2017/18 was an additional £150 to £200 per year to pay in council tax than they would have under CTS. The number of CTS claimants paying £200 or more has increased to 825,000.

3.6.2 In Tower Hamlets, the cost of the current LCTRS scheme for 2017-2018 was approximately £24.7m with £17.3m supporting working age households and £7.4m supporting pensioner households.

3.6.2 With regard to council tax income collection for self-employed residents, the collection rate was 95.9%, compared to the borough average collection rate of 97.5%. This analysis is based on all self-employed cases in receipt of LCTRS prior to the scheme change in April 2017 (2,500 cases).

### **3.7 Local Council Tax Reduction Scheme – Arrears and Debt Recovery**

3.7.1 As reported in 3.6.2 above, council tax collection rate in Tower Hamlets was 97.5% in 2016/17, comparable with the average collection rate in London according to benchmarking collected by London Councils.

3.7.2 Council tax arrears arise when a resident falls behind with their council tax payments. The way that missed payments are pursued varies from council to council. In March 2018, Tower Hamlets Council signed up to the Citizens Advice and Local Government Association council tax protocol<sup>4</sup> national initiative. The protocol offers practical steps aimed at preventing people from getting into arrears and advises on procedures for ensuring that enforcement agents act within the law and their guidelines when collection becomes necessary. It also sets out a best

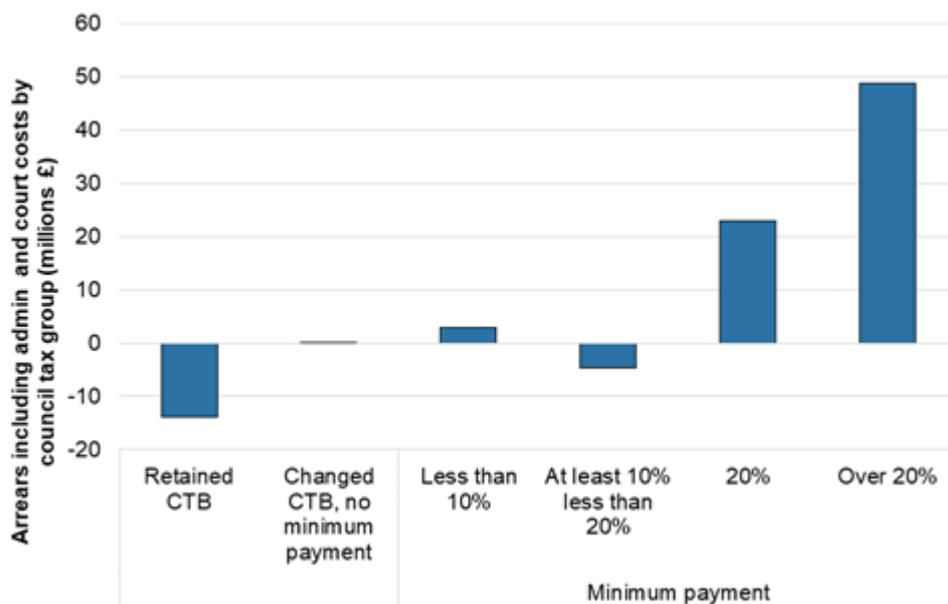
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[https://www.towerhamlets.gov.uk/News\\_events/News/2018/March\\_2018/Mayor\\_Biggs\\_backs\\_Citizens\\_Advice\\_guidelines\\_to\\_stop\\_residents\\_getting\\_into\\_Council\\_Tax\\_arrears.aspx](https://www.towerhamlets.gov.uk/News_events/News/2018/March_2018/Mayor_Biggs_backs_Citizens_Advice_guidelines_to_stop_residents_getting_into_Council_Tax_arrears.aspx)

practice standard for how collection processes can work well, with more early intervention to assist people struggling with payments, helping prevent further charges, alleviating stress and reducing both collection costs and demand on local public services.

3.7.3 National statistics show that in 2016-17, local authorities would have collected £26.8bn in council tax if everyone liable for council tax paid in full. Within this context, a small percentage point increase in uncollected tax represents a large sum. The graph below shows the level of arrears in, and takes into account the change in the council tax bases between the years to calculate the additional amounts of uncollected taxes in 2016-17 compared with 2012-13 the last year of CTB.<sup>[2]</sup>



3.7.4 At the challenge session, Officers briefly outlined the steps that the council takes when residents have failed to pay their council tax, for whatever reason. Officers stressed their commitment to supporting residents who were unable to pay because of lack of funds, at the pre-recovery of arrears stage and at the debt recovery stage. Officers explained the steps made to engage with residents in Council Tax debt.

#### Pre-recovery of arrears

3.7.5 The legal protocol for pre-court recovery is shown below. In Tower Hamlets this protocol is adhered to with additional steps in terms of timing and discretionary reinstatement of instalments.

- 1) *Demand instalment becomes due* – a reminder issued – if not paid, a summons is issued. In Tower Hamlets, on live accounts, a

<sup>[2]</sup> Council Tax Update 2017/18 – New Policy Institute <https://www.npi.org.uk/publications/council-tax/key-changes-council-tax-support-201718/>

- summons is issued where residents are behind by two instalments, i.e. the reminder was not paid and the following monthly instalment
- 2) *A Reminder is Paid* - on further default a "2nd Reminder" is issued - if the 2nd Reminder is not paid, summons is issued where 2 instalments are behind, i.e. the reminder was not paid and the following monthly instalment)
  - 3) *2nd Reminder Paid* – on further default – ‘Cancellation/Final Notice’ issued ending instalments & tax to year end due. At this stage residents have the opportunity to pay the overdue instalment and set a direct debit and instalments are reinstated. If the account is not rectified, paid or the direct debit set a summons is issued, the following month.

### Debt recovery

3.7.8 Legally, it is only on the granting of a Liability Order that the Council can take further enforcement steps. This may include the use of Enforcement Agents and attachments to benefits along with other powers detailed on our web site. An attachment of benefits is where after a Liability Order is granted in favour of the council by the Magistrate; the council can request the Department for Social Security / Department for Works and Pensions to make deductions from the following benefits: Jobseeker's Allowance (JSA); Income Support (IS); Employment Support Allowance (ESA); Pension Credit Guaranteed Credit (PCGC) and for some of the benefits which have been replaced by Universal Credit (UC). The attachment of benefit can only happen if the person whose name appears on the Council Tax bill is in receipt of one of the above benefits. However, attachments will only be made by the DWP where a prior attachment is not in place for another debt, be it water rates, benefit overpayment or a prior Council Tax order. The Department for Work and Pensions will pay the deduction over to the council on a monthly basis until the debt is cleared. The rate for council tax deductions is currently £3.70 per week.

3.7.9 The Council's enforcement team take the following addition steps to benefit our residents that are not required by regulation.

- 1) Issuing at least one SMS/email reminder, before issuing the first postal reminder - to prompt engagement.
- 2) E-reminders are sent approximately 9-12 days after an instalment is overdue and after a further seven days paper reminders are issued.
- 3) With the summons and all post court enforcement notices debt advisory service information is included to sign post residents to both national and local partner advice agencies, such as the Citizens Advice Bureau, Toynbee Hall and Island Advice. We also pre-warn on costs of enforcement action and encourage residents to engagement with us.
- 4) Issuing a 'Warning Notice' not required by regulation advising of the powers held under a liability order – prior to use of post court enforcement action. This is done to prompt engagement and to

encourage contact and to agree payment. This notification clearly warns of costs of enforcement officer action.

- 5) A check is made, on cases with the council tax reduction in payment within the debt year prior to passing cases to an agent and attachments made where appropriate. Where attachments are not made, a letter is issued to advise why and encouraging the resident to call us and agree a payment plan. Again enforcement action costs are detailed. SMS/emails are issued again to prompt engagement.
- 6) Where discretionary payment plans are agreed once a Liability Order application is made, if payment is late the Council issue a further reminder and then a cancellation notice, to allow payment to be made and prevent further enforcement. Attachments are made where appropriate on default and failed plans are checked before passing to an Enforcement Agent.

3.7.10 The table below illustrates cycle of recovery reminders and number of reminders sent so far this financial year. Email and SMS reminders are only issued if the council holds this information.

Instalment Due Date	E-reminder date	Number of e-reminders issued (email and SMS)	Legal reminder date (letter)	Number issued	Summons date	Liability Order Hearing date
01/04/2018	09/04/2018	2,385 + 6,954 = 9,339	16/04/2018	9,634	08/05/2018	31/05/2018
01/05/2018	09/05/2018	1,052 + 3,478 = 4,530	16/05/2018	3,120	12/06/2018	05/07/2018
01/06/2018	08/06/2018	838 + 3,189 = 4,027	15/06/2018	6,817	10/07/2018	02/08/2018
01/07/2018	09/07/2018	868 + 2,817 = 3,685	16/07/2018	5,192	14/08/2018	06/09/2018
01/08/2018	09/08/2018	745 + 2,583 = 3,328	16/08/2018	3,981	11/09/2018	04/10/2018

Please note the above figures relate to Reminder 1, Reminder 2 and Cancellation Notices only.

3.7.11 The council's arrears procedures for are as available via the council website:

[https://www.towerhamlets.gov.uk/ignl/council\\_and\\_democracy/council\\_tax/What\\_happens\\_if\\_I\\_dont\\_pay.a.spx](https://www.towerhamlets.gov.uk/ignl/council_and_democracy/council_tax/What_happens_if_I_dont_pay.a.spx)

3.7.12 At all stages in the arrears and recovery process, residents are encouraged to contact the Council and agree a payment plan, being prompted to do so more than once and advised of the consequences of not doing so. On the whole agents are only instructed where attachments are not appropriate or cannot be made and where a resident has not contacted the Council, despite messages or notices being issued, to agree a payment plan or have subsequently failed to pay an agreed plan. Officers regularly assist residents with payment, sign post residents to organisations such as the Citizens Advice Bureau and put the enforcement process on hold to allow those agencies to work with the residents and the council to agree an affordable payment plan.

3.7.13 Nevertheless, Members were concerned that the application of debt recovery costs incurred by residents was causing increased financial

hardship on residents who were already struggling to pay. They were also concerned that the use of bailiffs to recover outstanding sums, including from council tax support claimants may not always be happening “as a last resort”.

- 3.7.14 Councillor Marc Francis spoke about the Ethical Debt Collections Policy which aims to see the end of using bailiffs for council tax debt. Advocates argue the main benefit is avoiding increased hardship for residents and greater expense for the council, especially where there are unintentional consequences such as paying Council Tax at the expense of another priority bill such as rent, as this can lead to eviction.

**RECOMMENDATION 7:** The Mayor should undertake an assessment of the “ethical debt collection policy”, being promoted by the Stepchange debt charity and the Money Advice Service and implemented by the Hammersmith & Fulham and Bristol and report back to Cabinet by 31st March 2019 whether it will be implemented by LBTH.

## Glossary

Attachments	Attachment of benefits order: Money can be taken from benefit (for example Income Support, Job Seeker's Allowance, Employment Support Allowance or Pension Credit) and passed to the council.
Council Tax Protocol	A revised collection of council tax arrears good practice protocol agreed by Citizens Advice, June 2017 and Local Government Association, June 2017 <a href="https://www.citizensadvice.org.uk/Global/CitizensAdvice/campaigns/Council%20Tax/Citizens%20Advice%20Council%20Tax%20Protocol%202017.pdf">https://www.citizensadvice.org.uk/Global/CitizensAdvice/campaigns/Council%20Tax/Citizens%20Advice%20Council%20Tax%20Protocol%202017.pdf</a>
CTR LCTRS	Council Tax Reduction / Local Council Tax Reduction Scheme. A scheme which can help you to pay your council tax if you have a low income. If you are entitled to a CTR, your council tax bill is reduced.
CTS CTB	Council Tax Scheme formerly known as Council Tax Benefit.
DLA	Disability Living Allowance - money for people who have extra care needs or mobility needs (difficulty getting around) as a result of a disability.
MIF	Minimum Income Floor. For Universal Credit purposes, if a person is in gainful self-employment in an assessment period, and their earned income (i.e. their gross profits along with any employed earnings) in that assessment period amounts to less than their individual earnings threshold (the minimum income floor, MIF), they are treated as having earned income equal to the MIF. The MIF only applies to claimants who are placed in the all-work related requirements group (or who would be disregarding the operation of the MIF). Those who are in the no work related activity group, the work focused interview group or the work preparation group are not be subject to the MIF. The amount of the MIF is, very broadly, equivalent to the national minimum wage for each hour that the claimant is expected to work. For most people that will be 35 hours a week.
PIP	Personal Independence Payment - a benefit that helps with the extra costs of a long-term health condition or disability for people aged 16 to 64. It's gradually replacing Disability Living Allowance (DLA).
Section 13A	Section 13A of the Local Government Finance Act 1992 provides the council with a discretionary power to discount the amount of council tax that is payable to us on a case by case basis or to specify a specific class where several council tax payers may fall into a group due to similar circumstances.