

Appendix 2

LBTH Local Council Tax Reduction Scheme

Response to Scrutiny Challenge Session Report



November 2018

Response to the LCTRS Scrutiny challenge session recommendations

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

The intention is to support this recommendation subject to the outcome of the full public consultation.

The rationale for this is that entitlement to CTR normally commences from the start of the week following the date of claim. The council's current LCTRS contains provision to backdate entitlement for up to one month prior to the date of claim if the council feels that reasons for the delay in claiming is reasonable

However, in our experience the introduction of Universal Credit in Tower Hamlets has caused confusion in respect of what residents need to do to claim CTR and there is a risk that more residents will delay claiming which may result in them having to pay more council tax than they can reasonably afford.

Extending the backing period from one month to 52 weeks should help decrease this risk and ensure residents are not financially penalised if they delay claiming CTR.

The public consultation result was that 63.7% of respondents agreed to this proposal with 30% disagreeing.

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).

The intention is to include an income disregard in the assessment of CTR which is equal to the amount of child allowance included in the resident's Child Tax Credit or Universal Credit award.

This will align our LCTRS scheme with Housing Benefit (HB) and the LCTR provision for pensioners.

To further illustrate both the rationale for the inclusion of the two child limit and its effect on the 218 families who may be affected, it is necessary to explain that the amount of Child Tax Credit/Universal Credit a family receives is made up of an allowance for the parents and an allowance for each child. However, the child allowance is not paid for a third or subsequent child born after 3 April 2017.

The Child Premiums included in HB and LCTRS are essentially designed as an income disregard to offset the amount of Child Allowance included in the family's CTC/UC award. Consequently the HB and pensioner CTR schemes were amended from April 2017 to align with CTC/UC to the effect that a third or subsequent child born after 3 April does not attract a Child Premium. The rationale for this is that the

amount disregarded in the assessment of HB/Pensioner CTR is equal to the amount of Child Allowance the family receives.

The council did not amend its LCTRS from April 2017, this means that for families affected, the child disregard applied is greater than the amount of Child Allowance they actually get.

This will not affect families who get IS/JSA/ESA as they are “passport” to full CTR. However families who do not qualify for full CTR (usually those who are working; will get less CTR), this is due to the failure to align the Child Premium applied with the Child Allowance awarded in CTC/UC from April 2017.

The proposal for the scheme change is:

It is rational in that the amount of Child Allowance received is disregarded in the assessment of CTR

It aligns working age Local Council Tax Reduction with Housing Benefit, Universal Credit, Child Tax Credit and pensioner Council Tax Reduction.

If this change is approved:

(i) applying the change to third or successive children born after April 2019 only (and not April 2017), will protect the 218 households that would otherwise be affected were the change applied from April 2017. The 218 families with a third or subsequent child born after 3 April 2017 would have otherwise seen a reduction of between £1.10 and £13.38 per week in their LCTRS entitlement with the average loss approximately £9.66 per week; however, the proposal to apply the change from April 2019 protects these households and ensures they will not lose current entitlement.

(ii) any households having a third child after April 2019 will not incur any reduction to LCTRS as their Child Tax Credit would not change and they would not qualify for a Child Allowance in respect of the third child. Similarly Housing Benefit would remain the same as a Child Premium would not be included in their needs allowance in respect of the third child and there is no Child Allowance paid for this child.

(iii) this would reflect the public consultation results which show 55% agree with the proposed two child allowance restriction change, while 23% disagreed.

(iv) any exceptional financial needs arising from the implementation of this and indeed any of the proposed scheme changes will be met by the support available under S13A.

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

This refers to provision included in the current LCTRS whereby the level of non dependant deduction is predicated on the non dependant's total income including any disability benefits they may get.

This change proposed is to limit the level of deduction to £4.00 per week, (the lowest deduction that can be applied under the scheme) for any non dependant who is in receipt of a disability benefit. The intention is to mitigate the financial impact of deductions applied in respect of disabled non dependants.

It should also be noted that the council's Benefit Service has attempted to contact all households affected. Those households that responded have received a S13A discount, the effect of which was to offset any deduction applied in respect of disabled non deps above £4.00 per week.

However, it should be acknowledged that there may have been fees and charges applied for reasons that are not exclusively related to the level of deductions applied in respect of disabled non dependants and as such any refund or waiver will be considered in line with the council's corporate revenues collection policies.

Recommendation 4: Ensure those who might be directly impacted, for example, disabled non-dependants 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.

To help ensure the consultation is meaningful opinion was canvassed from a broad range of residents. To achieve this, the council has contacted all households with a council tax liability to invite them to take part in the consultation. The response rate from this consultation was high with 3,860 responses.

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.

S13A provision incorporates a wide discretion to discount council tax liability and is not confined to residents who are detrimentally affected by changes to the council's LCTRS.

As such the council's LCTRS policy sets out holistic considerations for the application of discretion which can be adapted to set out specific considerations in respect of residents who are detrimentally affected by the changes to LCTRS. It is intended to adapt the policy to set the provision in respect of self-employed residents affected by notional earnings and publish the policy accordingly.

Recommendation 6: End the use of the Minimum Income Floor (MIF) in the calculation of entitlement for Council Tax Support from 1st April 2019 onwards and base assessments on actual income, not an assumed level of income aligned to the National Minimum Wage

The rationale for the inclusion of the Minimum Income Floor in respect of residents who have been self-employed for more than one year is well documented.

However, it should be noted that were this recommendation adopted this would mean the cost of the scheme increasing by an estimated £1.6m per year. This figure could increase as it will be subject to caseload churn and in year changes to claimant's circumstances; the annual cost to the council arising from the self-employed notional earnings is extremely difficult to estimate.

The most accurate method of doing so is to compare the self-employed caseload and total annual LCTR awarded to self-employed residents at 31 March 2017 (immediately prior to the inclusion of notional earnings) and the caseload and annual LCTR subsequent to April 2017 as represented in the table below:

Date	Total LCTRS entitlement	Self-employed Claim totals
March 2017	£2,085,183.36	2,511
June 2017	£460,011.24	758
Estimated annual cost of excluding notional earnings	£1,625,172.12	

The council must consider the best affordable LCTR scheme.

In considering this recommendation it should be noted that:

An analysis of all self-employed cases that were affected by the introduction of notional earnings (MIF) from April 2017 has been undertaken. This shows that Council Tax collection rates for these self-employed cases is 96% with the Borough average of 97.5%.

Support for self-employed cases provided by the council ensures that households who demonstrate they experience financial difficulties as a consequence of notional earnings (MIF) being applied, qualify for S13A discounts.

The aim of using notional earnings for self-employed households is to prepare our self-employed residents and to work with them to avoid the substantial negative financial impacts of Universal Credit. To demonstrate this, three actual case studies are provided below (the weekly Benefit losses in the three UC cases that follow are £104.71, £84.18 and £118.08 respectively).

Universal Credit self-employed real life case examples demonstrating the weekly loss in entitlement

Case Study 1

Couple with 2 children.

Net SE Earnings £168.29 per week

Pre UC

Legacy Benefits (Weekly)

Child Tax Credit £117.50

Working Tax Credit £61.13

Housing Benefit £311.40

Total £490.03.

Effect of MIF in UC Monthly UC £1669.72

Convert to weekly £385.32.

So: Total Weekly Legacy Benefits £490.03, less

Weekly UC £385.32

Weekly loss in Benefits £104.71

Case Study 2

Single person.

Net SE Earnings £114.63 per week

Pre UC

Legacy Benefits (Weekly)

Working Tax Credit £52.22

Housing Benefit £57.58

Total £109.80.

Effect of MIF in UC

Monthly UC £111.00

Convert to weekly £25.62.

So: Total Weekly Legacy Benefits £109.80 less

Weekly UC £25.62

Weekly loss in Benefits £84.18

Case Study 3

Couple with 2 children.

Net SE Earnings £121.01 per week

Pre UC

Legacy Benefits (Weekly)

Child Tax Credit	£117.50
Working Tax Credit	£91.95
Housing Benefit	<u>£114.52</u>
Total	£323.97
Effect of MIF in UC	
Monthly UC	£892.17
Convert to weekly	£205.89.
So: Total Weekly Legacy Benefits	£323.97, less
Weekly UC	<u>£205.89</u>
Weekly loss in Benefits	£118.08

In summary, in LCTRS we mirror provision included in Universal Credit which is currently being rolled-out in Tower Hamlets and those self-employed residents affected risk losing a substantial amounts of their weekly benefit entitlement when they migrate to Universal Credit unless they take steps to increase their earnings. This is because under Universal Credit the MIF will be used to assess the amount they will get in respect of both living costs and housing costs.

Mindful of this, the support afforded to residents who contact the council due to impact of the MIF on their CTR entitlement is proposed to be enhanced and includes a referral to the Workpath Enterprise Team who will assess the residents specific employment needs and refer them to one of their partner organisations who are equipped to provide specialist business support.

This process will be monitored and an initial S13A discount will also be considered to allow the resident time to access the business support provision. Any further application of the S13A discount will be predicated on the level of financial hardship experienced and the progress and engagement with the business support process.

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 31st March 2019.

The council has adopted the Citizens Advice Bureau ethical debt collection provision.

Other Comments on the report

Para 1.9. It is worth noting that of the three specific issues raised by the Advice Agencies, two were in respect of bailiffs and so were not directly related to LCTRS and the other concerned a resident affected by the MIF who, the Advice Agency confirmed had successfully accessed a S13A discount.

The representative from Island Advice specifically mentioned that colleagues representing clients outside of the borough were impressed with the pragmatism of the relationship between the council and advice practitioners in Tower Hamlets.