

Non-Executive Report of the: Council 23 rd January 2019	
Report of: Neville Murton – Acting Corporate Director Resources	Classification: Unrestricted
Local Council Tax Reduction Scheme 2019-2020	

Originating Officer(s)	Steve Hill – Head of Benefits Services Lee Fearon – Benefits Policy and Procedures Manager
Wards affected	All wards

Executive Summary

This report seeks full council approval for changes to the existing Local Council Tax Reduction scheme.

Since the abolition of the national Council Tax Benefit scheme, Tower Hamlets has maintained a Local Council Tax Reduction scheme which protects those on the lowest incomes in the Borough by provision of a 100% Council Tax rebate.

The Mayor in Cabinet received reports on 25th July and 31st October 2018 seeking views on proposed changes to the Local Council Tax Reduction scheme for 2019/20 together with results of the full public consultation on those changes and the recommendations for change.

For each financial year, the council is required by law to consider whether to revise its scheme or replace it with a different scheme. Any revision or replacement must be made by 11th March, prior to the new financial year.

Recommendations:

The council is recommended to change the Local Council Tax Reduction scheme for 2019/2020 and:

1. Agree the recommendation to limit the maximum disabled non dependant deduction to £4 per week.
2. Agree the recommendation to adjust the minimum level of income for self-employed under 25's to reflect age rules.
3. Agree the recommendation to enhance the support available to increase earnings and income for self-employed claimants.
4. Agree the recommendation to increase backdating provision for the scheme from 4 weeks to 52 weeks.

5. Agree the recommendation to use the same child allowances in the Local Council Tax Reduction scheme assessments as those used in Child Tax Credit, Universal Credit, Housing Benefit and the Local Council Tax Reduction assessments for pensioners and to apply this in respect of third or successive children born after April 2019.
6. To note the equalities impact assessment arising from the recommended changes to the scheme as set out in section 4 of this report.

1. REASONS FOR THE DECISIONS

1.1 Background

- 1.2 Each year the Council needs to consider whether to make changes to its local Council Tax Reduction scheme (LCTRS).
- 1.3 The national scheme, Council Tax Benefit, was abolished with effect from 1st April 2013. A national scheme for pensioners identical to Council Tax Benefit has remained in place since 2013 and Local Authorities assumed responsibility for the design and administration of a local replacement scheme for working age residents.
- 1.4 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 £500m. The funding provided by Central government is now included within the Revenue Support Grant and such the amount in respect of CTR cannot be separately identified.
- 1.5 The Council continued to operate a LCTRS for working age residents which was broadly based on Council Tax Benefit from April 2013 to March 2017. Although this protected residents, the reduction in Government Subsidy meant there was a cost to the Council estimated at between £2m and £4m per annum.
- 1.6 Due to increasing financial pressures and the need to respond to the introduction of Universal Credit, the Council decided to change its LCTRS with effect from 1st April 2017.
- 1.7 In changing the scheme in 2017, the Council ensured that residents on the lowest incomes retained 100% rebate of their Council Tax liability. Tower Hamlets remains one of only a handful of London councils who have retained this provision within their LCTRS since April 2013 and in doing so the Council has and continues to offer one of the most generous schemes in London.
- 1.8 The cost of the council's Local Council Tax Reduction scheme for 2017/18 was £24.7m; the current cost estimate for the scheme for the current financial year 2018/19 is £25.1m.

2. ALTERNATIVE OPTIONS

- 2.1 The Council can consider making any changes to its LCTRS annually from the start of the next financial year. Changes cannot be made in year.
- 2.2 Changes can only be made in relation to working age households as pensioners are protected. Any changes must be subject to a meaningful full public consultation as required by the Local Government Finance Act 1992 which stipulates that changes can only be enacted from the start of the subsequent financial year.
- 2.3 The council can decide not to make any changes to the current scheme.

3. DETAILS OF THE REPORT

3.1 Tower Hamlets current Local Council Tax Reduction Scheme

- 3.2 The Council's current LCTRS has been operating since April 2017 and is based primarily on the assessment criteria used for Council Tax Benefit. Consequently:
 - Maximum entitlement is based on 100% of Council Tax liability
 - Entitlement is based on the claimant's and partner's joint income and capital
 - Income is compared to set allowances identical to those used in the assessment of Housing Benefit
 - If total income is at or below the set allowances, maximum CTR is awarded less any non-dependant deductions
 - If total income is above the set allowances, 20% of the excess is subtracted from Council Tax liability and the remainder is awarded as CTR less any non-dependant deductions. Consequently the amount of Council Tax the resident is required to pay is the lower of either 20% of their income above the applicable allowances or the full Council Tax liability
 - Deductions from CTR are made in respect of non-dependants (adults other than the claimant and partner who live in the household)
 - The LCTRS caseload as at 31st October 2018 was 27,934 made up of 7,950 pensioners and 19,984 working age households.
- 3.3 Cabinet considered a report on possible LCTRS scheme changes in July and agreed that a full public consultation on the possible changes to the scheme be undertaken. The results of the full public consultation were reported back to Cabinet in October. The results are attached at appendix 1 of this report. The consultation received an excellent response rate, which were broadly in agreement to the proposed changes.
- 3.4 Appendix 2 of this report provides an analysis of Local Authority LCTR schemes in London. It shows the minimum Council Tax payments due from households after full LCTR is awarded (Figures shown are for 2017/18). For information, the appendix also captures councils who have advised that they

currently apply the minimum income floor and two child allowance restrictions in the assessment of LCTRS.

- 3.5 Limiting Disabled Non Dependant deductions to £4.00 per week
- 3.6 Non dependant deductions are applied based on non dependant's income. An unintended consequence of the scheme has been that some disabled non dependants attract a non dependant deduction higher than £4 per week, which is the lowest non dependant deduction. A change is therefore proposed to apply a maximum £4 deduction to disabled non dependants, regardless of their income.
- 3.7 If this change is agreed the financial impact will be cost neutral to the council as currently these households can qualify for S13A discount which effectively reduces the deduction to £4.00 per week; this in acknowledgement of any deduction higher than £4.00 was an unintended consequence of the scheme and the small numbers affected.
- 3.8 Adjusting notional income levels for self-employed claimants under 25 years
- 3.9 Notional earnings 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 notional income level. This has the advantage of enabling the Council to support and encourage residents to increase their earnings and reduce the risk of a significant loss of benefits entitlement when they migrate to Universal Credit.
- 3.10 The notional income provision 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 1 year at 1st April 2017.
- 3.11 This proposed change seeks to adjust the minimum level of income for under 25's to reflect associated national minimum age rules.
- 3.12 There are very few cases affected by this proposed change and consequently if this change is agreed the financial impact will be negligible/cost neutral to the council.
- 3.13 Enhancing support available for Self-employed claimants
- 3.14 This proposed change will ensure that the Benefits Service will work with the Enterprise Team established within "Workpath" to set up an enhanced referral process for self-employed residents affected by the MIF. Those residents referred will be able to access specialist employment support and advice provided by one of the Enterprise Teams partner organisations.
- 3.15 Following a referral from the Council's Benefits Service the Enterprise Team will initially contact the resident to establish their requirements to enable them

to tailor the support provided to the resident's individual needs and increase self-employed earnings and income.

- 3.16 A S13A discount is likely to be initially applied to help where financial assistance is considered appropriate and the referral process is undertaken. This will be reviewed periodically as progress is assessed.
- 3.17 If this change is agreed, the financial impact to the council is an administration cost which will be covered by existing resources.
- 3.18 Backdating – increase in provision from one month to 52 weeks
- 3.19 An award of Council Tax Reduction (CTR) will usually start from the week following receipt of an application and there is currently provision to backdate an award for one month if there are valid reasons for the delay in applying. However, the introduction of Universal Credit appears to have caused some confusion and the council is experiencing increasing incidents of residents who delay claiming CTR for longer than one month; consequently residents are having to pay more council tax than they can reasonably be expected to afford.
- 3.20 This change proposes increasing backdating provision from one month to 52 weeks to help to address this and ensure residents receive LCTRS they are entitled to.
- 3.21 If this change is agreed it is likely to increase the cost of the scheme, however the increase is difficult to quantify as it is entirely dependant on the number of claims made where backdating will apply. Where backdating is appropriate the increased cost to the council will be offset by the cost of recovering monies which would otherwise be unlikely or extremely difficult to recover given the claimants financial circumstances.
- 3.22 Two Child allowance restriction in the assessment of Council Tax Reduction
- 3.23 Currently the Local Council Tax Reduction scheme assessment process is not aligned with Child Tax Credit, Universal Credit, Housing Benefit and the pensioner Local Council Tax Reduction rules in respect of child allowances. Consequently to bring the LCTR scheme into line a change is proposed whereby the same two child allowance restrictions are used in the assessment of LCTR for our working age residents.
- 3.24 This proposed change is complex and appendix 3 provides a case study example to demonstrate the assessment process.
- 3.25 The number of current households that could be affected is estimated at approximately 218 losing between £1.10 and £13.38 per week with the average loss of £9.66. The cost is approximately £110k. However, given the intention of this proposal is to realign the working age LCTRS assessment process with pensioner LCTRS, Child Tax Credit, Universal Credit and Housing Benefit; these households would be protected by applying the

change to third or successive children born after April 2019 (and not April 2017). Consequently to ensure these households are protected the proposal is to introduce this change from April 2019.

- 3.26 It is not possible to quantify or forecast the number of households who will have a third child from April 2019 onwards, however the effect of the change will be that households with a third or successive child born from April 2019 will not see any change to their current LCTRS entitlement on the birth of an additional child. The case example at appendix 3 demonstrates this.
- 3.27 If this proposed change to the scheme is agreed and is applied to households who have a third or successive child from April 2019, as existing cases will be protected and new cases from April 2019 will continue to receive the same LCTRS as they receive currently, the change will be cost neutral to the scheme.
- 3.28 It is important to note that any exceptional financial needs arising from the implementation of this and any of the proposed scheme changes will be met by the support available under S13A.

4. EQUALITIES IMPLICATIONS

- 4.1 The Local Council Tax reduction scheme was subject to a full equality analysis when the changes were introduced from April 2017.
- 4.2 The changes that are proposed to the existing scheme contained within this report do not adversely impact service users.
- 4.3 The change proposed that reduces non dependant deductions for disabled non dependants to the minimum £4 weekly deduction will have a positive impact on disabled residents who were previously subject to a higher deduction due to their income levels.
- 4.4 Adjusting the minimum income levels to reflect the levels set for under 25's will have a positive impact on younger self-employed residents.
- 4.5 Enhancing the support provided to self-employed residents to maximise their income and earnings from self-employment will have a neutral impact on target groups. This support will be available to all households.
- 4.6 Increasing the backdating provision from one month to 52 weeks will have a neutral impact on target groups and will apply to any household that can demonstrate good reason for failing to make their claim earlier.
- 4.7 The proposals to align the Local Council Tax Reduction assessment process for working age households with more than two children with the assessment process used for Child Tax Credit, Universal Credit, Housing Benefit and the pensioner Local Council Tax Reduction, could impact on approximately 218 households. An analysis of these cases has been undertaken. It should be

noted that diversity monitoring information has only been provided by residents on 59% of all LCTRS claims.

- 4.8 The number of current households affected by the two child restriction assessment is proportionately very low, estimated at 218 from a caseload of 27,934 of which 19,984 are working age.
- 4.9 Analysis of the 218 households shows that 54% of households are from Asian/Bangladeshi background however it should be noted that 39% have not supplied any diversity information. This would suggest that while mitigated by the small number of cases affected, this change may adversely impact on Asian/Bangladesh households. However, the proposal is to introduce and apply this change to households with a third or successive child born after April 2019 and if accepted, these households will have their LCTRS entitlement protected. The council will monitor the impact of this change and any exceptional financial needs arising from the implementation of this change will be met by S13A support.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 This report acknowledges the financial pressures on the council and the need to set the best affordable Local Council Tax Reduction scheme.

LCTR scheme costs since 2012/13

The table below shows the annual cost of the council's LCTR scheme from 2012/13 which was the last year of the national Council Tax Benefit scheme. LCTRS came in from April 2014.

Year	LCTR Scheme cost	Notes
2012/13	£29.4 m	Last year of national CTB scheme
2013/14	£29.1m	First year of LCTRS
2014/15	£27.9m	
2015/16	£26.8m	
2016/17	£26.3m	
2017/18	£24.7m	
2018/19	£25.1m	Current forecast

- 5.2 The proposed changes to the scheme have been subject to a full public consultation with every household in the borough contacted by post or via email and a high response rate has been received.

5.3 Best value - Self-employed Notional earnings (Minimum Income Floor)

From its introduction in April 2017, the Minimum Income Floor provision (MIF) means instead of actual earnings Council Tax Reduction is assessed on notional earnings equivalent to 35 hours at national minimum wage for residents who:

- have been self-employed for longer than 12 months and
- are earning below the notional earnings rate

The rationale for inclusion of notional earnings is as follows:

- align Local Council Tax Reduction assessment with Universal Credit. Full Universal Credit, (UC) has been introduced in Tower Hamlets and includes an equivalent minimum income floor applicable to self-employed earnings following 12 months self-employment.
- it provides the council with an opportunity to engage with self-employed residents earning less than the national minimum wage to ascertain what help or advice can be provided to help them develop their self-employed business and to increase their income or reduce costs.
- to partly offset the government's funding reductions to the LCTRS that were previously fully absorbed by the Council.

5.4 Cost of the self-employed MIF (notional earnings) scheme provision

Due 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	

When considering the best affordable LCTR scheme it is worth noting that the scheme costs would increase by an estimated £1.6m were the self-employed MIF provisions to be excluded from the LCTR scheme.

- 5.5 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%.
- 5.6 The main risk to the scheme is to ensure the Council has an agreed scheme for LCTRS approved by full Council before 11th March 2019 and that it is in place by the beginning of the financial year 2019/2020; that the scheme is written and approved by Legal and any changes to the LCTRS Benefits ICT system are delivered.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 Following comprehensive consultation this report sets out the proposed changes to the current Local Council Tax Reduction Scheme (LCTRS), while acknowledging current financial pressures on the Council and the need to put in place an affordable LCTRS.
- 6.2 With the on streaming of Universal Credit the current forecasted cost of the LCTRS in 2018/19 is estimated at £25.1m, as per para1.8.
- 6.3 The limiting of the maximum disabled non dependant deduction, as set out in para 3.7, is not likely not to increase the financial burden on the Council's General Fund budget.
- 6.4 While introducing adjustments to the minimum level of income for the self-employed under 25's to reflect age rules is anticipated to have a negligible impact on scheme costs due to the small number of under 25 self-employed cases; the report does acknowledge that the notional earnings for self-employed claimants (minimum income floor) would cost an estimated £1.6m in the event that the council were to decide to end the use of notional earnings for self-employed.
- 6.5 Enhancing support for self-employed claimants will require the Council to work in collaboration with other agencies, to in essence provide a tailor made service supporting the individual residents needs and increase self-employed earnings and income. The administration cost that the council will incur to achieve these better outcomes will be absorbed by existing financial resources.
- 6.6 The backdating increase in provision from one month to 52 weeks increases the resident's potential to maximise LCTRS entitlement. The impact of this change is set out between para 3.19 - 3.21 potentially this will increase the need for the Councils bad debt provision to be increased as the Council seeks to recover funds from claimants that are in challenging financial circumstances.

7. COMMENTS OF LEGAL SERVICES

- 7.1 The Council has the legal obligation to publish a scheme detailing the availability of Council Tax reduction should it so wish to make available a reduction.
- 7.2 The Council has the legal power to make the proposed amendments to the previously published scheme
- 7.3 The Council has the legal duty to consult with its residents before introducing or amending a published scheme. This has occurred.

- 7.4 The amendments proposed in this paper could have an appreciable effect on persons who have a protected characteristic for the purposes of the Equality Act 2010. However, the Council has taken appropriate steps to consider what the effects might be and to take such considerations into account whilst this decision is at a formative stage.
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Linked Reports, Appendices and Background Documents

Linked Reports

- **Cabinet Report – 25th July 2018 – Local Council Tax Reduction Scheme**
<http://democracy.towerhamlets.gov.uk/documents/g8858/Public%20reports%20pack%2025th-Jul-2018%2017.30%20Cabinet.pdf?T=10>
- **Cabinet Report – 31st October 2018 – Local Council Tax Reduction Scheme 2019/20**
<http://democracy.towerhamlets.gov.uk/documents/g8860/Public%20reports%20pack%2031st-Oct-2018%2016.00%20Cabinet.pdf?T=10>
- **LBTH Council Tax Reduction Scheme: A Scrutiny Challenge Report**

Appendices

- Appendix 1 - LCTRS consultation responses 2018
- Appendix 2 – London Boroughs LCTRS 2017/18 – minimum Council Tax payment
- Appendix 3 - Two child allowance restriction assessment in LCTRS

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

None

Officer contact details for documents:

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