

EAST HERTS COUNCIL

EXECUTIVE 8 October 2019

COUNCIL 23 October 2019

REPORT BY EXECUTIVE MEMBER FOR FINANCIAL SUSTAINABILITY

COUNCIL TAX SUPPORT SCHEME 2020/21

WARD(S) AFFECTED: ALL

**Purpose/Summary of Report**

To consider the latest available information around the current local Council Tax Support (CTS) scheme at East Herts and whether any changes to the scheme should be considered for 2020/21.

<b><u>RECOMMENDATIONS FOR EXECUTIVE</u></b>	
<b>(A)</b>	To recommend to Council that there be no changes to the scheme design for East Herts local Council Tax Support scheme for 2020/21.

**1. BACKGROUND**

1.1 The Government made provision within the Local Government Finance Bill to replace the former national Council Tax Benefit (CTB) scheme from 1st April 2013 with localised schemes for Council Tax Reduction Schemes (CTS) devised by individual local authorities (LAs). The schemes are valid for one year and must be approved by Council before 11<sup>th</sup> March immediately preceding the financial year in which it is to take effect.

- 1.2 If the Council were to choose to consider any material revisions to the scheme, this would be the subject of public consultation, which would need to be considered by both those entitled to receive support as well as the general Tax payers of East Herts.
- 1.3 Since the introduction of CTS in April 2013 various changes have been considered but the scheme has remained the same.
- 1.4 In April 2018 Overview and Scrutiny committee received a presentation on a potential new scheme for 2019/20 based on income bands. The aim was to find a scheme which would simplify the criteria for customers as well as mitigating the impact of changes in circumstances on workload and council tax collection, resulting from universal credit reassessments.
- 1.5 Members were advised that substantial modelling would need to be carried out to avoid any unintended consequences, as well as enabling full consultation with tax payers and major preceptors. Unfortunately the software modelling tool proved to be insufficiently sophisticated to enable the modelling to be progressed with sufficient confidence in the results.
- 1.6 Late in 2018/19 a further enhanced modelling tool was provided by the software supplier, and testing carried out on the data provided, however this did not produce the desired outcomes.
- 1.7 The Performance Audit and Governance Oversight committee received a report and presentation on 31 July 2019 and agreed that no further options for change need be considered for the scheme for 2020/21.

- 1.8 Consultation on the proposed scheme for 2020/21 has therefore taken place with major preceptors. They were asked to respond with any comments before the 5 September 2019, and none have been received.
- 1.9 This report therefore details the current position on Council Tax, and seeks support to continue the current scheme for 2020/21.

## **2. REPORT**

### **2.1. The origins of Council Tax Support (CTS)**

- 2.1.1. Before April 2013, the service administered Council Tax Benefit on behalf of the Government. This national scheme was specified in legislation and LA's were reimbursed by the Department of Work and Pensions (DWP) through a subsidy claim submitted annually and subject to audit.
- 2.1.2. The level of subsidy reimbursement varied dependent on whether benefit had been awarded, backdated or overpaid, but the point to note is that entitlement and subsidy were based on assessing entitlement on 100% of an individual's council tax liability, net of discounts (similar to a single person discount).
- 2.1.3. The scheme was means tested and whilst the scheme differentiated between different client groups (providing extra support for disabled groups for example) there was little differential between Elderly and Working Age clients.
- 2.1.4. Clients fell into one of two groups, "passport" and "standard claims." A passported claim was one in which the DWP had already carried out a means test and then notified us that the

customers income was at or below the minimum income level for their household composition. They would be automatically entitled to 100% of their Council Tax to be paid by Council Tax Benefit. A deduction would however be made from this entitlement where there were non dependants living in the home.

2.1.5. The second group were called 'standard claims'. These customers had their means testing done by the council and awarded Council Tax benefit in accordance with the national scheme criteria. These customers had income above the minimum requirements and would be required to pay something towards their council tax liability. A deduction would also be made from this entitlement where there were non dependants living in the home.

2.1.6 In very simple terms entitlement was determined by comparing eligible incomes against relevant applicable amounts. When income equalled or fell below applicable amounts, the maximum entitlement was achieved. If income exceeded applicable amounts, entitlement was reduced by 20% of the excess. The applicable amounts were determined by the DWP in respect of Housing Benefit claims.

2.1.7 In more complex terms, every income and capital source had to be assessed in accordance with its type, and then determined if it was included in the assessment. Child benefit, maintenance paid to a child, PiP and DLA, war pensions etc were fully disregarded, whilst earned income was calculated after tax & NI, and 50% of pension contributions, averaged over the relevant period. Payments to certain child care providers were disregarded, whilst capital (excluding the property occupied) included savings, shares etc and if the total exceeded £16k, the customer was excluded from entitlement.

2.1.8 In very general terms the full expenditure on the scheme was reimbursed by the DWP.

## 2.2. **The impact of changes from 1<sup>st</sup> April 2013**

2.2.1. The national scheme for Council Tax Benefit ceased, and Councils had to devise their own Council Tax Reduction Schemes for working age claimants. The Government continues to specify the scheme for those of state pension age through prescribed regulations.

2.2.2. Instead of the scheme being funded through a subsidy claim based on actual expenditure, the Government moved the funding into the Revenue Support Grant (RSG) settlement, fixing it at only 90% of the subsidy paid in a previous year. RSG was the amount of grant that Government gave to Councils to support their wider service delivery, and made up one part of the income of the Council in addition to Council Tax receipts, fees and charges and an element of Business rate collection. However the move away from RSG makes this funding element less obvious.

2.2.3. Each Council had to consider how to fund 100% of the cost of the Elderly 'national' scheme and provide a Working age scheme, whilst receiving 10% less funding.

2.2.4. Pensioner claimants are protected from changes through the provision of a statutory scheme.

2.2.5. Schemes must support work incentives.

2.2.6. The DCLG Policy Statement of Intent did not give a recommended approach to be taken, but indicated the scheme should not contain features which create disincentives to find employment. The current East Herts scheme complies with this statement.

- 2.2.7. Local authorities must ensure that appropriate consideration has been given to support for other vulnerable groups, including those which may require protection under other statutory provisions including the Child Poverty Act 2010, the Disabled Persons Act 1986 and the Equality Act 2010, amongst others.
- 2.2.8. The DCLG issued Policy Statements that addressed a range of issues including the following:
- Vulnerable People and Key Local Authority Duties;
  - Taking work incentives into account;
  - Information Sharing and Powers to Tackle Fraud.
- 2.2.9. The Local Government Finance Bill stated that a Billing Authority must have regard to any guidance issued by the Secretary of State. Our current scheme has sought to address these requirements.

### **Council Tax Reduction Scheme (CTS)**

- 2.2.10. The Council initially devised a scheme which replicated the previous national scheme but limited the Council Tax liability that was used to assess entitlement to 90% for working age customers. The Government offered a one off transitional grant to Councils who would restrict the reduction to 91.5%, and accordingly the Council amended the proposal and took the one off transitional grant. The Council has maintained this position for the first 7 years of the scheme.

- 2.2.11. The cost of the scheme is reflected in the tax base, in the same way as other discounts which reduce the collectable debit.
- 2.2.12. The Government require that major preceptors (County and Police) are consulted each year, and if there is any change to the scheme a full consultation open to all tax payers in the district is required. There is no specific timescale prescribed but the period must allow for meaningful consultation.
- 2.2.13. Currently (2019/20) 76.15% of the tax base income is precepted by Herts County and Council and 10.53% by the Police, and accordingly they have a vested interest in the value of the CTS scheme as it directly impacts on their ability to raise funds. The lower the cost of the scheme, the higher the tax base on which they can precept.
- 2.2.14. Before the introduction of CTS there had been a number of years of constant case load increases, the caseload has since stabilised and reduced, alongside a growing taxbase due to new developments in the area. The impact on the cost of the scheme is demonstrated below.

<b>Year</b>	<b>Cost of the CTS scheme</b>	
<b>2013/14</b>	£ 6,448,794	Actual
<b>2014/15</b>	£ 6,066,188	Actual
<b>2015/16</b>	£ 5,734,780	Actual
<b>2016/17</b>	£ 5,670,937	Actual
<b>2017/18</b>	£ 5,813,163 *	Actual
<b>2018/19</b>	£ 6,066,356 **	Actual

\* The Band D value of the 2017/18 taxbase increased by 4.39% on 2016/17,

\*\*The Band D value of the 2018/19 taxbase increased by 5.76% on 2017/18

- 2.2.15. From 14/15 the 90% grant that was included in the RSG was no longer individually identifiable. Therefore calculating the total cost of the scheme i.e. the cost of the CTS scheme versus the CTS grant given by Government is now impossible.
- 2.2.16. What is certain however is that the level of spend on CTS has continued to reduce in real terms, mitigating in part the impact of overall reductions in income to the Council.
- 2.2.17. A large proportion of customers affected by the introduction of the CTS scheme had not previously had to pay anything towards their Council Tax bill. If they had been 'passported' under the Council Tax Benefit scheme their liability would have been discharged in full by a credit transfer onto their Council Tax account. Under the new arrangements all working age customers have to pay at least 8.5% towards their bill.
- 2.2.18. It continues to be a challenge to support and educate these customers into a regular payment arrangement. We have;
- Offered flexible repayment options,
  - Given more time to pay,
  - Worked on a project with the Citizens Advice Bureau to support customers with repeated arrears,
  - Promoted other debt and advice agencies.
- 2.2.19 The in-year collection rate for working age claimants who had only the minimum 8.5% liability to pay was 67.49% in 2014/15 and 77.7% for 2018/19
- 2.2.20 The overall in-year collection rate for all working age CTS customers was 77.43% in 2014/15, and 78.61% in 2018/19. In contrast to the all tax payers in-year collection rate, which for 2014/15 was 98.2%, and 98.1% in 2018/19.

2.2.21 Many of these same customers have been affected by other welfare reforms introduced ;

- the spare room subsidy scheme
- the new Benefit CAP,
- Reviews of disability benefits etc.

Many families find that they have increasing debts with their councils and landlords for bills that were previously paid for them.

2.2.22 We make assumptions in respect of the level of non-payment of Council Tax when determining the tax base, alongside assumptions over each of the variable elements of its composition. The in-year collection for all Council Tax payers was 98.1% in 2018/19, but this was dampened by only 78.61% collected from those working age customers in receipt of CTS. Those customers who under the old scheme would have not paid anything towards their council tax (passported customers) paid only 73.7%

2.2.23 The liability not paid in-year becomes arrears on which a bad debt provision has to be established, which is a further cost to the Council. Where the outturn taxbase exceeds the estimated performance it generates a surplus on the collection fund, and conversely when the taxbase does not achieve its expected performance because of negative variations in the component elements, the collection fund would be in deficit. The Council is required to make precept payments during the year regardless of any in-year variations.

2.2.24 Consideration of any variations to the existing scheme needs to consider;

- Variations in grant funding
- The reducing cost of CTS

- The impact of other welfare benefits reforms on the ability to pay
- The cost of increasing arrears and recovery costs
- The buoyancy of the taxbase generally
- The unknown budget and finance settlements
- The roll out of Universal Credit

2.2.25 Any revision to a scheme must be made by the Council by the 11<sup>th</sup> March, immediately preceding the financial year in which it is to take effect and will require consultation with those affected. Additionally, consideration must be given to providing transitional protection where the support is to be reduced or removed. The financial impact of any decision on Council Tax Support also needs to be included when setting our budget and Council tax levels at the same time.

2.2.26 The CTS scheme for 2019/20 can be summarised as follows:

- That the CTS scheme for all working age claimants will be based on 91.5% of their council tax liability;
- All local discretions currently in place continue e.g. war pension disregards;
- All other aspects of the new Council Tax Support scheme to mirror the previous Council Tax Benefit scheme.

2.2.27 In recognition of the fact that the additional Council Tax liability is more difficult to collect, a collection rate of 98.9% has been assumed.

### **2.3 Options that could be considered in redesigning a scheme**

- 2.3.1 There are a number of options that could be considered when redesigning the scheme, although all revisions would affect working age customers only, given that pensioners have to be fully protected by our scheme.
- 2.3.2 The Government continues to make changes to the Housing Benefit regulations which are not currently mirrored in the CTS regulations. This means the schemes are no longer aligned. The frequency of changes to Housing Benefit and Universal Credit schemes, make it almost impossible to mirror these in the CTS scheme, not least of which because of the difference in timing. The Housing Benefit and Universal Credit schemes are changed when needed during the year, and the CTS scheme can only be revised annually.
- 2.3.3 Consideration was been given previously to align some of the more significant differences between Housing Benefit and Council Tax support but the financial implications across the caseload have been assessed as small, and the changes would have required a full consultation exercise, to achieve only a temporary alignment, and therefore this was rejected.
- 2.3.4 The caseload for CTS indicates that the proportion of working age customers compared to pensioners is changing over time very slightly. It demonstrates a reduction in the proportion of the caseload for Elderly customers and this may be attributed to the rising of the national age threshold for becoming a pensioner. (At 1.4.19, 55% WA :45% Elderly), consequently more customers would be affected by any changes.
- 2.3.5 Last year consideration was given to an income-band scheme which appeared to offer an opportunity to simplify entitlement criteria and the treatment of income and capital.
- 2.3.6 This was driven by the imminent roll out of 'full service' Universal Credit, (impacting in East Herts from October 2018)

so there was a need to look to reduce the impact of monthly changes in universal credit on entitlement to CTS and Council tax collection.

2.3.7 Members were supportive of the approach, however subsequent testing has shown that there are unintended consequences for customers with disability premiums, and to correct for these would make the scheme overly complex and thus not achieve the desired outcomes.

2.3.8 Consideration has previously been given to each of the following changes, but each relies on the basic scheme construction remaining the same.

a) Changing the level of “minimum payment” for all working age customers

- I. The current scheme assumes that all working age customers are asked to pay at least something towards their Council Tax, and as described earlier the minimum payment is 8.5% of liability. The Council could consider making a change to that amount but in doing so, the full impact of that decision needs to be considered.
- II. If the Council chose to increase this minimum payment to say 10%, this does not mean a straight line reduction in the amount that the Council will spend out. For individuals already finding it difficult to pay at the current level, it can be seen that increasing this amount could increase their hardship levels further, especially as these customers are likely to be receiving other benefits, which have been affected by the on-going Welfare reforms.

- III. Given our latest information shows that the collection rate for those working age customers in receipt of CTS is already significantly lower than the overall rate, we would need to consider adding further amounts to our bad debt provision in respect of potential non-collection of our debts. Having done some indicative modelling, we estimate that increasing the minimum payment to 10% could result in a decrease in Council Tax spend of approximately £80k. This would be virtually wiped out by the need to increase bad debt provision.
- IV. Conversely, if we were to consider reducing the minimum amount to be paid we would need to consider where we would find the additional amount that we would need to fund Council Tax Support and the impact upon the totality of the funding for the Council and importantly, other precepting bodies too. These impact on their overall funding levels, and given we represent under 10% of the total cost of the scheme, EHC needs to consider the significant financial impact this could have on others. There would still be costs associated with administering the scheme whatever the level of award, as not everyone gets the full benefit so this would not mitigate the additional cost to the Council. On current estimates, we believe the additional burden could be around £300k.

b) Introducing a band cap (so limiting the amount that we would pay to a value of a lower property band, for example Band D)

In some Local Authorities, they have introduced a band cap where the scheme will only pay up to the equivalent of say a Band D property, even if you are in a higher banded property.

This could disproportionately affect those with a requirement for a larger property as they have children, other dependants due to caring responsibilities or a disability. These groups could already have been hit by other areas of Welfare reform including the Benefit Cap and

the Spare Room subsidy limitation.

c) Introducing a minimum amount that would be paid out

Some Councils have introduced a minimum level at which they will support residents. An example is that you have to be entitled to at least £5 a week to be supported. This means someone who is currently entitled to a lower amount, would not receive it, despite the fact that we have assessed them as currently requiring support. There are no real savings in terms of administrative costs because we would still have to undertake an assessment to find out that we wouldn't award. In addition, the fact that they are currently entitled to support indicates that they are financially vulnerable and the likelihood of being able to collect that additional amount from those residents is low. Therefore the potential reduction in costs overall is minimal and outweighed by an increase in bad debt provision and recovery costs.

d) Changes around discretions for Disability, Children and other Dependants

- I. This would change the nature of the scheme overall. East Herts, when setting its original scheme was clear that all would contribute equally as the core scheme already differentiates preferentially to those with disabilities, children etc.
- II. Any complexity that is added to the way in which we calculate entitlement, will make the administration of the scheme both more complex for our officers to manage both in terms of calculation but more importantly, to explain to our residents.
- III. This would also mean that the general working age population may need to pick up an even greater share of the cost if the scheme is to remain affordable and equitable.

e) Other adjustments

There include; income tapers, non-dependent deductions, income disregards etc. but all carry the same risk to bad debt provisions, potential recovery costs and costs of administration. The more complex the scheme, the more difficult it is to comply with and customers' levels of understanding could be compromised.

## 2.4 **The impact, challenges and opportunities of Universal Credit (UC).**

- 2.4.1 Customers claiming UC who apply for Council Tax Support do not require the Council to carry out means testing on their circumstances (see 2.1.6 above) . They need only provide their UC entitlement letters (details of which can be confirmed through LA's access to the DWP systems). These claims are already means tested and have differential applicable amounts applied by the DWP, and the only income element that is needed for an award of CTS is earnings. Consideration has to be taken of any deductions being made for overpayments or recovery of advances, but these lend themselves to a simplified assessment and processing system, and could be incorporated into a discount scheme.
- 2.4.2 Universal credit full service roll out took effect in this area in October 2018. This means that customers who would previously have applied for Housing Benefit (HB) and CTS are now applying for UC and CTS. The DWP are due to pilot moving existing HB claimants on to UC from July 2019, but are only planning to do this with 10k cases nationally, before seeking government approval for further managed migration.
- 2.4.3 There is therefore no information available currently to determine when this council's existing working age HB caseload will move to UC.
- 2.4.4 There are certain groups of HB claimant that will not, in the foreseeable future migrate to UC, as they are deemed too complex. This means that in addition to the pensioner case load there will be a residual working age caseload to manage.
- 2.4.5 It has therefore been appropriate to consider if the current CTS scheme is fit for purpose now that a growing number of customers will be in receipt of UC.

- 2.5.6 The reduction in new claims for HB might seem to reduce the services workload, however as the current scheme requires the same preparation and processing to award a CTS claim as an HB one, there is no saving. Currently claims or changes in circumstances are prepared and input and both awards (HB & CTS) are processed simultaneously. Claims not requiring an HB assessment simply produce one output (CTS award) rather than two.
- 2.5.7 UC claimants have to apply to the Council for CTS entitlement. There is a common misunderstanding among claimants that it is all covered by their claim for UC. The Council therefore often only gets to engage with these customers when their Council Tax account is in arrears, and additional recovery action has to be taken. Clearly this is an additional administrative burden for the Council, and costly for the customer.
- 2.5.8 Universal Credit is reassessed monthly, and those customers who are working (nationally this is estimated at more than 40%) are likely to experience variations in the UC entitlement each month. This is attributed to salary and wages frequencies affecting the 'monthly' assessments. Each time there is a change in the UC award, their entitlement to CTS has to be reassessed. Every time the CTS is reassessed, it produces a new Council Tax Bill. These constant changes in bills and amounts due are not only confusing to the customer trying to budget, but it also resets any recovery action being taken for non-payment.
- 2.5.9 The service can expect to receive a significant increase in workload from these monthly changes. They are received electronically from the DWP using an existing process called ATLAS.
- 2.5.10 Identifying and acknowledging these challenges from UC requires any potential change to the CTS scheme to consider;

- I. The potential for automation of UC notices on live CTS claims, thus reducing the new increased workflow.

There is currently limited automation for the processing of UC changes. At the moment only cancellations and minor changes of details like contact information are allowed to update automatically. Full analysis of the functionality for updating income changes is programmed for testing in the coming months, so these are currently being manually processed.

However our software supplier advises (March 2019) *“Since we developed the functionality, ...we are aware of various issues related to the data that comes from DWP”*.

- II. Mitigations for changes in UC entitlements to revise council tax liability, and thus avoid resetting recovery action.

This could be achieved if the CTS scheme set bands of entitlement, or fixed periods in which changes in income would not result in a change in entitlement, within the scope of a set range.

These options have the potential to be very expensive.

- III. The costs of changing the scheme.

The software supplier is estimating a cost in the region of £25k for each Council moving towards a banded CTS scheme. Herts County Council has already declined to contribute to any costs associated with changing the scheme, despite being the biggest preceptor for Council Tax.

Any changes to the scheme require full and meaningful consultation with all taxpayers in the district and there are significant costs associated with this level of consultation.

### **2.5.11 What others are doing:**

- Some councils have moved to a banded scheme, but they still require substantial means testing of each claim.
- St Albans are with a different software supplier and are introducing a banded scheme for UC claimants only from April 2019, which will run alongside a scheme similar to our existing scheme for all other claimants. This is an interesting option which rather than dealing in % entitlements, specifies how much the customer will pay towards their Council Tax. This means customers on the same income pay the same towards their council tax, regardless of the size of the property they occupy. This also provides a scheme for customers to transition into when migrated from HB.
- Other councils are considering various options but anecdotally are awaiting more information around migration before changing current schemes.

### **2.5.12 Current position:**

The current CTS scheme works and protects the most vulnerable customers by the use of applicable amounts and income disregards. However the challenges introduced by UC need to be considered. Work has been carried out over a period of time on developing a banded scheme for all working age claimants. This has included modelling of current claimants into a banded scheme, to assess the impact and identify any unintended consequences.

- As it is not currently possible to have a separate scheme for just UC cases, all current working age claimants would have to be included. After testing the data it is clear that the intended simplicity of a banded scheme would be compromised as the need to differentiate between all the many and varied disability premiums and incomes would require too many bands for each category of household, to ensure sufficient protection for these groups.
- In addition there would be all the costs of changing the scheme but no savings in administration, or increased simplicity for the customer.

### **2.5.13 Conclusion**

The number of UC cases is still quite low and accordingly the number of monthly changes, whilst increasing is not yet an issue.

It is proposed that a two stage approach be adopted for the future.

- Firstly, instead of looking to change the current scheme in the short term, that efforts instead be directed at the software supplier to design and introduce reliable and accurate automation of UC change notices.
- Secondly, once actual caseload migration is timetabled, consideration of a banded scheme or a discount scheme is revisited. At this time the majority of cases will convert to UC, and will have the means testing carried out by the DWP, thus offering opportunity for administrative savings.
- This will remove the current challenge around protecting the needs of those with disability incomes as this will be incorporated in the DWP assessment of UC entitlement.

- Members will also be able to review the original principles of the scheme, including that all WA customers pay 8.5% of their liability.
- This approach should ensure that costs associated with the change of schemes will be matched by efficiencies achievable in the administration processes.

2.5.14 The current scheme can be viewed at

<https://www.eastherts.gov.uk/article/34928/Council-Tax-Support>

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