

Subject: Council Tax Support System – Draft Scheme
Date of Meeting: 12th July 2012
Report of: Director of Finance
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Ward(s) affected: All

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Council Procedure Rule 19, Access to Information Rule 5 and Section 100B(4) of the 1972 Local Government Act as amended (items not to be considered unless the agenda is open to inspection at least five days in advance of the meeting) are that, due to the tight timescale for implementation, there have been ongoing initial consultations in order to understand, consider and address as many issues as possible in drafting the proposed Scheme.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Government has decided that there will no longer be a national Council Tax Benefits system from 1 April 2013. Instead the council needs to introduce its own local Council Tax Support system. The planning process for this new system commenced with a report to Cabinet on 14th April 2012. The council needs to consider a wide range of policy and financial issues in the design of the new system. There are important links to wider welfare reforms at a national level and existing council policies such as the Child Poverty Strategy, Housing Strategy, work on Financial Advice and Inclusion, Customer Access and Digital Inclusion. It also has a significant bearing on the council's corporate plan objective of reducing inequality.
- 1.2 The timelines set by the Government to develop and implement a new system are very challenging and there are a number of constraints on the choices available to the council which are outside the council's control. This report sets out the council's draft Council Tax Support Scheme referred to as the draft Brighton & Hove Council Tax Low Income Discount Scheme or "draft Scheme" which has been designed after initial consultation and careful consideration of the likely effects of the various options.
- 1.3 The council will receive at least 10% less funding from central government to fund the new Council Tax Support system. The proposed Scheme for Brighton & Hove only passes on part of that reduction to affected households in the city and the council will need to bridge the funding gap within its overall budget planning.
- 1.4 Following this decision the council will then formally consult on the draft Scheme and how it will be administered and develop proposals to provide information,

advice and support to affected households. The results of the consultation and the final proposals will be reported to Policy & Resources Committee on 11th October 2012 and the final decision will be taken at Full Council on 25th October.

2. RECOMMENDATIONS:

- 2.1 That the Government's Statement of Intent be noted.
- 2.2 That the feedback from the consultation with Major Precepting Authorities be noted.
- 2.3 That the feedback from the initial consultation with other stakeholders be noted.
- 2.4 That the Transition Principles and Scheme Principles be agreed as the basis for the draft Scheme as set out in paragraph 3.7
- 2.5 That the draft Brighton & Hove Council Tax Low Income Discount Scheme (the "draft Scheme") as set out in paragraph 3.8 be agreed
- 2.6 That the draft Scheme be published and formal consultation and next steps undertaken as set out in paragraph 3.11 to 3.18
- 2.7 That the key issues to be raised in response to the government's consultation on funding arrangements, as set out in paragraph 3.19, be agreed.
- 2.8 That the Director of Finance be authorised to (a) settle the final draft of the Scheme for publication, the detailed arrangements for formal consultation, and the response to the government's consultation on funding arrangements and (b) take any other steps considered necessary for progressing the proposed Scheme.
- 2.9 That the final proposed Scheme be brought back to Policy & Resources Committee and Full Council in October 2012.

3 RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Currently Council Tax Benefits is a national system for low income households. You may get Council Tax Benefit if you pay Council Tax and your income and capital (savings and investments) are below a certain level. You may apply whether you rent or own your home, or live rent-free. You could qualify if you are out of work, or in work and earning a wage. Individuals apply for Council Tax Benefits through a single application process for Housing & Council Tax Benefits. If you are eligible for council tax benefits you will receive a reduction in your council tax bill and the council receives grant to pay for this.
- 3.2 As part of the Comprehensive Spending Review the government announced plans to introduce a localised system of council tax support from 1 April 2013 and that expenditure would be reduced by 10% from that date. Rather than receiving a benefit payment, eligible households will receive a discounted council tax bill. Details of the policy intentions behind the Government's decision were included in the April Cabinet report.

Statement of Intent

3.3 The legislation to enable localised council tax support schemes is currently passing through Parliament. In May 2012 the government issued a consultation document on the funding arrangements for Localising Support for Council Tax and a “Statement of Intent”. This is intended to provide local authorities with the certainty over the Government’s proposals that are needed in order to construct a scheme and begin detailed conversations with interested parties in their area prior to the publication of detailed regulations.

3.4 The Statement of Intent sets out what local consultation arrangements are required. In particular, before making a Scheme, the council needs to take these steps in this order:

- consult any major precepting authority which has power to issue a precept to it;
- publish a draft scheme in such a manner as it thinks fit; and
- consult such other persons as it considers are likely to have an interest in the operation of the scheme

The first step of consultation with the major precepting authorities (Sussex Police and East Sussex Fire and Rescue Service) has been undertaken as set out in paragraph 4.1 and they will also be consulted again on the draft Scheme. The next stage of consultation is set out in para 3.11.

3.5 The Statement of Intent also sets out Transitional Arrangements and Prescribed Requirements. One of the key aspects of this is to ensure that applicants already in receipt of council tax benefit do not need to apply again for a council tax discount i.e. the council can use existing applications and information to calculate a reduction for council tax bills for 2013/14. It also sets out how the government’s commitment to protect pensioners on low incomes from these changes will be implemented in practice. In addition it gives information about a default scheme that will come into place if a local authority fails to implement a new scheme. In practice, any authority having to operate the default scheme will be required to deliver the same benefits as the current Council Tax Benefit Scheme, although the funding from the government will still be reduced by 10%. It is important to note that even though affected pensioners will be protected from the financial consequences of the changes they will still see a presentational impact of the reforms because they will be receiving a discount on their Council Tax Bill from 1 April 2013 rather than receiving a benefit payment.

Approach to designing the draft Scheme

3.6 In designing the draft Scheme the council has taken into account a wide range of complex issues including:

- the Government’s Statement of Intent and other relevant guidance and regulation relating to vulnerable people and work incentives (The relevant documents are listed under “Supporting Documentation” below).

- the feedback received from initial consultation from a range of stakeholders including major precepting authorities
- the need for an Equalities Impact Assessment including regard for vulnerable people and cumulative impact of other welfare reform changes
- incentivising work and alignment with emerging Universal Credit proposals
- incorporating, where appropriate, key elements of the current Council Tax Benefits scheme in order to minimise the complexity of the transition process and build on tried and tested national approaches
- balancing simplicity and transparency in scheme design with a need to meet other policy objectives and legal duties
- the impact on collection rates for council tax (including the impact on major precepting authorities) and the administrative costs of the scheme
- the reduction of at least 10% in government funding for council tax support nationally and the direct impact on the council's overall financial position
- the potential impact on other council services from the implementation of these changes, for example homelessness and social care

3.7 The council has designed the draft Scheme on the basis of a series of principles. The first set are Transition Principles and deal with the change from the 2012/13 council tax benefits system to the new 2013/14 council tax support system. The second set are Scheme Principles and deal with the ongoing operation of the new system.

Draft Transition Principles

- the council will provide clear and accessible information to all those affected by the ending of Council Tax Benefit
- the council will ensure those affected by the ending of Council Tax Benefit can access additional advice and support
- those people who are currently receiving Council Tax Benefit will have their eligibility for a Council Tax Discount assessed without having to reapply to the council*
- there will be a cap on the maximum detriment that any household faces as a result of the changes in the first year*

* assuming no other changes in their circumstances

Draft Scheme Principles

- support for Council Tax will be in the form of a discount and entitlement will be assessed by a means test so that those with the least ability to pay will receive the highest levels of assistance.
- The means test will take into account similar criteria to the old Council Tax Benefit scheme in deciding who is eligible for a discount
- Council Tax Discount resources for those on a low income will be distributed as widely as possible amongst those eligible to claim the discount
- There will be a discretionary fund to ensure that the most vulnerable can access additional support in exceptional circumstances
- The Scheme will support people moving into, and on low paid, work.
- The Scheme will be reviewed annually with provision to make urgent in year changes where required by legislation.

The Draft Scheme

3.8 A number of high level options for designing the scheme have been considered and multiple variations modelled. This is summarised in Appendix 1 including the key findings from that work. These findings have informed the draft Brighton & Hove Council Tax Low Income Discount Scheme which is shown at Appendix 2 along with case study examples of how it may affect individuals. The impacts on households and an assessment of the numbers affected are shown in Appendix 3. Its key features include:

- support for Council Tax for people of pensionable age will be provided through a means tested discount equivalent to what they would have been entitled to under the previous Council Tax Benefit system*
- support for Council Tax for people of working age will be provided through a means tested discount and in 2013/14 will take into account similar criteria to the old Council Tax Benefits scheme in deciding who is eligible
- The Council Tax discount for people of working age will be determined on the basis of 90% of full Council Tax liability
- the earnings disregard for single working age people will be doubled from £5 to £10 per week
- a cap on the maximum detriment that any household faces of £3 per week from 2012/13 to 2013/14 as a result of the replacement of Council Tax Benefits with this new Council Tax Low Income discount*
- up to £100,000 per annum available in a discretionary fund to provide additional assistance in exceptional circumstances to the most vulnerable

* assuming no other change in circumstances

This means most households of working age will pay something towards their Council Tax and there will be extra help for the most vulnerable in exceptional circumstances

3.9 The proposed administration of the draft Scheme is set out in Appendix 4. The key similarities between this and the current Council Tax Benefits Scheme are:

- the Council Tax Low Income Discount can be claimed at the same time on the same form as Housing Benefit and they will be assessed together
- The work will be carried out by the council's Revenues and Benefits service
- There will be a right of appeal against any decision made.

3.10 There are opportunities to improve and simplify key areas of complexity which currently exist within the Council Tax Benefit scheme. Particular areas which may be improved are around application forms, requirements for evidence, timescales for claiming and notification letters. The second stage consultation will seek views on how these simplifications can be best achieved. It will also assess options for how the discretionary discount will be applied. At this stage there is insufficient detail from government about how appeals will operate.

Next steps

3.11 Following decision by this committee the draft Scheme will be published on the council's consultation portal. The council will be seeking feedback on:

- the draft Transition principles
 - the draft Scheme principles
 - the draft Scheme
 - how the Scheme will be administered
 - how the Discretionary Fund could operate
 - the Equalities impact of the proposals
- 3.12 This will be achieved through by a variety of materials and channels (for example video presentations) to ensure that it is accessible to a wide range of stakeholders. There will be Frequently Asked Questions on the website which will be kept up to date as key issues are clarified. The Community & Voluntary Sector Forum will be commissioned to undertake further consultation on the council's behalf. Feedback from those with first hand experience of working with households who will be affected by these changes will be sought, whether from the council's front line benefits staff, staff in other related council services such as housing advice and children's services or advice agency workers. The council's Welfare Rights team, Performance & Analysis team, Equalities & Inclusion team and Communications team are all providing advice and guidance to ensure that this part of process is as meaningful and informative as possible.
- 3.13 The details of the administration of the scheme will be refined and published as further guidance is made available from government.
- 3.14 Proposals for the operation of the discretionary fund will also be developed. It is possible that the discretionary fund may not be directly within the Scheme, but may sit beside it. The council already has responsibility for Discretionary Housing Payments and will have additional responsibility for Social Fund payments from 2013/14. The latter is a transfer from the Department of Work and Pensions as part of the ongoing welfare reforms. The council will need to consider how these, in combination with other discretionary funds, can be best used to support the most vulnerable, for example to prevent homelessness. While it may not necessarily be appropriate to pool these resources, there should be clarity about the purposes of each, who is eligible for them, how they can be accessed and how they collectively support the council's overall priorities.
- 3.15 The final Scheme including all the details of how it will be administered and the discretionary discounts will be reported to Policy & Resources Committee in October followed by Full Council.
- 3.16 Plans are being developed to ensure the council can communicate effectively with affected households once a final scheme has been agreed by Full Council. Current caseload is being analysed and this will, for example, enable us to identify which households are council housing tenants where face to face contact from council housing officers could be provided. For many customers face to face or phone contact is likely to have a greater impact than posted written material.
- 3.17 There is a particular stream of work in the project plan for implementing the scheme to ensure that sufficient well trained staff are in place to support the transition to the new scheme.
- 3.18 The provision of additional advice, both by the council, advice agencies and organisations such as the credit union, will be essential at the changeover point.

It is in the council and household's interests to ensure that arrangements to pay council tax are in place at the outset for those paying for the first time to ensure that there is not a quick escalation of debt and resulting costs for all parties. This is being linked to the council's work on Financial Inclusion.

Response to Department of Communities and Local Government

3.19 The Department of Communities and Local Government published a paper called Localising Support for Council Tax Funding Arrangements Consultation in May 2012 which set out the proposed funding arrangements for Local Authorities administering this. The council has previously responded to broader Government consultation on these changes including submitting a joint response across all Sussex Authorities expressing serious concerns about the changes. These included the timescales, harmonising with Universal Credit, the impact that the government's commitment to protecting pensioners has on other groups currently in receipt of council tax benefit, administrative costs and the impact on council tax collection. This particular government consultation document relates only to the funding of the new arrangements and the reply to the detail proposes to particularly focus on the following points

- the government based its proposed funding provisions in part on an expected decrease in Council Tax Support take up next year. The council will seek the government's reasons as to why it expects take up of Council Support to reduce as trends in Brighton & Hove show caseload increasing by 7% over the period from 2009/10 to 2011/12, this means that the funding shortfall will be greater than 10%
- the council will also emphasise the importance of being able to collect arrears of Council Tax from Universal Credit as is currently the case with some national benefits.
- the transition to and the ongoing administration of Council Tax Support must be considered as a new burden on local government and adequately funded
- the lack of clarity about the adequacy of future funding levels for Council Tax Support given its proposed integration into the business rates retention scheme

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 As set out in paragraph 3.4, the Council has a duty to consult with major precepting authorities prior to publication of the draft scheme. Formal approaches to both Sussex Police and East Sussex Fire and Rescue Services have been made. Responses to this consultation to date have been positive with the Fire and Rescue Service complementing the council on the early commencement of the work. A formal response from East Sussex Fire and Rescue Service is included at Appendix 8. Feedback has been received from Sussex Police and their formal response will be circulated once received.

4.2 In developing a preferred model the Council has sought to consult and engage with as many relevant groups in the city as possible. A consultation conference hosted through the CVSF (Community and Voluntary Sector Forum) was held on 13 June 2012. Over 320 organisations were invited including the CVSF member

organisations and a number of social housing providers. A list of the attendees on the day are included in Appendix 7. The Council has received a great deal of positive feedback on this event and the information obtained from the specialist organisations that attended has been invaluable in developing the draft Scheme.

- 4.3 Attendees predominantly represented the advice agencies and further work will be needed in the second phase of consultation to ensure impacts on particular communities of interest have been properly considered. Participants recognised advantages and disadvantages of all the potential approaches to scheme design (minimum payment, means testing, maximum liability) and there was no clear favourite. There was an overall view that ensuring fairness was important and should not be compromised by a desire for simplicity. The draft Scheme incorporates a range of features from all the models. Immediate feedback on the day stressed the importance of considering young people and the effects that the wider welfare reforms will have on this group in particular. As a result the draft Scheme includes specific amendments that will help support young people onto employment through changes to the earnings disregard. A full copy of the feedback can be seen at Appendix 7. Following the event, a copy of the filmed presentation on the various models and consultation materials were e-mailed to the full CVSF membership. This encouraged further participation from those unable to attend on the day.
- 4.4 Consultation was also undertaken with the Children & Young People Network and Social Landlords Forum. A variety of suggestions were made about how income such as child benefits should be considered in the scheme. There were differences of views with advice agencies on this matter. On balance the draft Scheme has not recommended changes in this area.
- 4.5 The work undertaken to date was the subject of an Overview and Scrutiny Workshop on 28 June 2012. The minutes of that meeting are included at Appendix 6. Many of the concerns raised relate to the next stage of the project planning for implementation and have been specifically covered in the Next Steps section above as a result of this feedback to ensure clarity.
- 4.6 There was common concern expressed during the consultation about the impacts of the changes on the most vulnerable and the cumulative impact of wider welfare reform changes. This has been taken into account through the proposal to establish a discretionary fund and not to pass on the full amount of government funding reduction to households in the city.
- 4.7 The next steps for consultation on the draft Scheme are set out from para 3.11.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The estimated cost of council tax benefit in 2012/13 is £25m. The draft Scheme has an estimated cost of £23.5m, a reduction of £1.5m, after allowing for discretionary discounts of £0.1m. If Council tax increases by 3.5% in 2013/14 this cost will rise to £24.3m.

- 5.2 The government has announced indicative allocations of council tax support grant to replace the loss of council tax benefit subsidy. The announcement included the planned 10% reduction in resources but also included a reduction due to a nationally assumed downward trend in claimants which is not borne out locally. Therefore the actual loss of resources is greater than 10%. The indicative allocation also takes no account of any council tax increases in 2013/14 and therefore the additional cost of discounts due to council tax increases will fall to the council.
- 5.3 The new council tax support grant will be paid to the council, Sussex Police and East Sussex Fire Authority in proportion to their elements of the overall council tax. The proposed grant from government in 2013/14 for Council Tax Support is £22.2m, compared to the estimated draft Scheme costs for 2013/14 of £24.3m, a shortfall of £2.1m. 85% of this shortfall (£1.8m) relates to Brighton & Hove, the remaining £0.3m will be a loss of taxbase shared between East Sussex Fire and Rescue Service and Sussex Police Authority.
- 5.4 The proposed scheme will mean over 10,000 households currently in receipt of full Council Tax Benefit will pay a proportion of their council tax from 1/4/2013. It is anticipated that these additional council tax debts will require additional resources to support collection at an estimated cost of £0.2m. It is also anticipated there will be a marginal reduction in the council tax collection rate equivalent to £0.150m. This means that the funding shortfall for Brighton & Hove in 2013/14 will be £2.15m, this is incorporated into the council's financial projections. There will also be additional costs in administering the new scheme however it is assumed these costs will be funded by government as a new burden on local authorities.
- 5.5 The council tax support grant is assumed to be fixed at the 2013/14 level and is expected to be rolled in to the Business Rate Retention scheme, the replacement for formula grant. Details of how the grant will be treated once transferred have yet to be announced but it is assumed there will be no increase. This means the council will bear the financial risk of fluctuations in the number of claimants, where trends show small increases each year, and the additional cost of the scheme due to council tax increases. These assumptions have been built into the medium term financial estimates included in the Budget Update and Budget Process report 2013/14 elsewhere on this agenda.
- 5.6 Budget Council in February this year set aside £0.75m to support the implementation of a local council tax benefit scheme; the council has also been awarded £0.08m from government to support implementation giving total resources available of £0.83m. Some of these resources are being used to provide project resources, support consultation, and additional ICT costs. Some will be used to provide extra staff to support the roll out of the new scheme including communication with affected households and provide additional advice and support. Any remaining resources could be used to top up the discretionary fund or provide further transitional relief over and above the planned cap.

Finance Officer Consulted: James Hengeveld

Date: 25/06/12

Legal Implications:

- 5.7 This report is based on provisions in the Local Government Finance Bill dealing with the introduction of localised council tax benefit support schemes. The Bill has passed its third reading in the House of Commons and is going through its stages in the House of Lords. Assuming the Bill becomes law, it is possible that some of its provisions may be changed between now and Royal assent.

Under the Bill as currently drafted, only the full Council will have power to make the Council Tax Support Scheme. Certain classes of claimant must be protected and the Council will need to consider any transitional provisions for any current class of claimant adversely affected by the new scheme. Also, there must be reference in the Scheme to the procedure for the appeal of decisions and a claims application procedure. Unless a scheme is adopted by the Council before 31/01/2013, a default scheme will automatically apply. The three Bill requirements (consulting the precepting authorities, scheme publication and formal consultation) are explained in the body of the report. The Bill provides that these three steps can be validly carried out before the Bill becomes law.

In creating its Scheme, the Council must have due regard to its general duties under section 149 of the Equality Act 2010 towards people with particular protected characteristics, (age; disability; gender reassignment; marriage and partnership, pregnancy and maternity; race; religion or belief; sex; and sexual orientation) and the duty to mitigate child poverty under the Child Poverty Act 2010. Detailed information is given about these duties and the duty to prevent homelessness in the Government publication "Vulnerable people – key local authority duties" listed as one of the Background Documents to this report. Case law demonstrates that duties such as these are continuing duties

The drafting of the Council's Scheme to date has had regard to these matters and the equalities impact assessment and the formal consultations will assist in identifying any further issues which need to be considered before the next report is made.

The Council must also have regard to the guidance in the Government publication "Taking Work Incentives into account" listed as one of the Background Documents to this report.

Lawyer Consulted:

John Heys

Date: 21/06/12

Equalities Implications:

- 5.8 In addition to the legal requirements detailed in para 5.7 it is recognised that the combined affects of the wider welfare reform package on the residents of the city require a robust and detailed Equalities Impact Assessment, which is underway. An EIA which is at data collection stage is attached at Appendix 5. In addition to working alongside officers in Equalities and Inclusion and Welfare Rights, the project team will engage with the CVSF Equalities Network and the Health and Well-Being Board to further review and hone this document. A completed Equalities Impact Assessment will be included with the proposed final scheme to Council in October. Feedback from the first stage of consultation has informed

the design of the scheme; specifically the proposal for discretionary discounts for vulnerable people in exceptional circumstances and the scheme principle of spreading the available resources for the scheme as widely as possible so no single group is disproportionately affected.

Sustainability Implications:

- 5.9 There are no sustainability implications related specifically to this proposal.

Crime & Disorder Implications:

- 5.10 The Police Authority have been consulted at an early stage of this project and will continue to be involved. The council will take into account any information provided in the ongoing development of this scheme.

Risk and Opportunity Management Implications:

- 5.11 There is a detailed risk log attached to this project, this covers areas such as:
- Changes in local demographics
 - ICT implications
 - Last minute legislative alterations
 - Financial inclusion
 - Procurement

Public Health Implications:

- 5.12 A public health impact assessment will be undertaken as part of the second stage of consultation.

Corporate / Citywide Implications:

- 5.13 The replacement of Council Tax Benefits with a new localised Council Tax Support Scheme, the Brighton & Hove Council Tax Low Income Discount Scheme, has significant implications for large numbers of householders in the city and major policy and financial implications, which are set out in the body of the report.

SUPPORTING DOCUMENTATION

Appendices:

1. Options for the scheme
2. The preferred model
3. Impact on Households
4. Principles for the administration of the Brighton & Hove Council Tax Low Income Discount Scheme
5. Draft equalities impact assessment
6. Overview and Scrutiny minutes 28th June 2012
7. CVSF consultation report
8. Fire authority consultation response

Documents in Members' Rooms

None

Background Documents

1. Localising Support for Council Tax – A statement of Intent – published by CLG in May 2012
2. Localising Support for Council Tax – Vulnerable people – key local authority duties – published by CLG in May 2012
3. Localising Support for Council Tax – Taking work incentives into account – published by CLG in May 2012