

<b>Full Council 22 November 2017</b>		<b>Agenda Item:</b>
<b>Meeting Date</b>	22 November 2017	
<b>Report Title</b>	Council Tax Support Scheme 2018/19	
<b>Cabinet Member</b>	Cllr Duncan Dewar-Whalley, Cabinet Member for Finance and Performance	
<b>SMT Lead</b>	Emma Wiggins	
<b>Head of Service</b>	Amber Christou	
<b>Lead Officer</b>	Zoe Kent	
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. To note the outcome of the public consultation having taken consideration of the potential impact of the proposed changes on working age claimants with the protected characteristics of disability, age and sex under the Equalities Act 2010.</li> <li>2. To recommend changes to the current scheme as listed in paragraph 3.6</li> </ol>	

**Members will be aware of the sensitive nature of the Scheme in relation to its impact on those receiving support of this type. The legal implications in the report set out the importance of following the rules around consultation in the Supreme Court ruling in the Haringey case. In reaching a decision in this matter, all members must have had regard to all supporting papers, and in particular the Community Impact Assessment, and have taken these into account when reaching their individual voting decision on the scheme. Failure to do so could open the Council to challenge, and members will no doubt bear this in mind when exercising their vote.**

## **1 Purpose of Report and Executive Summary**

- 1.1 The Council Tax Support Scheme (CTS) was introduced by the Department for Communities and Local Government (DCLG) in April 2013 as a replacement for Council Tax Benefit (CTB) administered on behalf of the Department for Work and Pensions (DWP). Each year the local Scheme must be approved by Full Council by 31 January.
- 1.2 The purpose of this report is, having noted the outcome of the public consultation and having considered the potential impact of the proposed changes on working age claimants taking into account the protected characteristics of disability, age and sex, under the Equalities Act 2010, to recommend changes to the current CTS scheme listed in paragraph 3.7.

## 2 Background

- 2.1 Prior to the introduction of the scheme in April 2013 the Kent authorities worked together to design a CTS scheme. A common approach was adopted across Kent, with the new scheme broadly replicating the former CTB scheme, but with a basic reduction in entitlement for working age claimants.
- 2.2 As part of its introduction, central government set out a number of key elements:
- the duty to create a local scheme for working age applicants was placed with billing authorities;
  - government funding was reduced initially by the equivalent of 10% from the levels paid through benefit subsidy to authorities under the previous CTB scheme; and
  - persons of pension age, although allowed to apply for CTS, would be dealt with under regulations prescribed by central government, and not the authorities' local scheme.
- 2.3 In Swale, under the current scheme working age claimants must pay at least 20% of their Council Tax liability. Although there is a common approach across Kent, local schemes at district level have been tailored to local needs, so in other parts of Kent the percentage varies.
- 2.4 The Kent districts have been able to use the changes to the empty property discounts to vary the amount working age claimants pay towards their liability. Since its introduction in April 2013, our own local scheme has been reviewed annually; however, the core elements remain as were originally agreed.
- 2.5 Under the Kent-wide agreement the major precepting authorities agreed to collectively pay to each district council an administration fee of £125,000 each year, for three years, to assist with the costs of delivery of the scheme.
- 2.6 It has been recognised by the Kent Finance Officers Group that the contributions that the major precepting authorities make towards the administration of the scheme are essential. It was therefore agreed to base the allocation of the administration fee on the size of the caseload. Swale has been allocated £141,600 administration fee for 2017/18, the second highest award in Kent.
- 2.7 When the new scheme started in April 2013, it resulted in approximately 5,000 households within the Borough paying some council tax for the first time. In addition, approximately 2,500 other households who received partial assistance saw increases in their bills.
- 2.8 Collection of the council tax balances in these cases has been challenging. However, with focus on these accounts and some changes to recovery processes, the scheme has been successful. The administrative fee paid by the

major preceptors has been essential in assisting with the cost of the recovery of these debts.

- 2.9 The overall level of applicants, both working age and pension age, has fallen since the introduction of CTS to 9,948 as at 1 April 2017, compared with 13,381 as at 1 April 2013. This is mainly due to a reduction in unemployment, the rise of the pension age and changes brought into the scheme from April 2017. As a result, the total cost of the scheme has reduced since its inception.
- 2.10 However, the initial '90%' funding that the government passed on to authorities through Revenue Support Grant to support the costs of local schemes has effectively been cut as part of the wider reductions in local government financial settlements. Therefore, although costs have reduced due to a lower claimant base, the outcome is that a greater share of the cost burden is falling on the billing authorities and the other major precepting bodies. This outcome has been one of the main catalysts for undertaking the review.

Table 1: CTS expenditure by year

<b>Year</b>	<b>Expenditure</b>
2013/14	£10,712,895
2014/15	£ 9,940,783
2015/16	£ 9,801,120
2016/17	£ 9,723,402
2017/18	£ 8,950,857

- 2.11 To support the review a consultant who has previously advised all Kent districts on their CTS schemes has been appointed. The consultant has been assisting in the evaluation of alternative scheme models and the public consultation process.
- 2.12 As in 2017/18 the objectives that have been agreed are to:
- (i) have regard to the reductions in government grant and the financial pressures we face;
  - (ii) make the scheme less costly (if possible), and more efficient in terms of its operation; and
  - (iii) have regard to the impact such changes may have on vulnerable residents, and target support to those most in need.

### **3 Proposal**

- 3.1 Consideration has been given to a range of options for potential change, having regard to the objectives set out in paragraph 2.12 and the suitability for Swale.
- 3.2 The conclusion is that the most practical option would be to maintain a scheme similar to our current scheme. The reasoning behind this is:

- (i) it is known to our claimants;
- (ii) it largely mirrors the housing benefit system
- (iii) our software systems are adapted for this type of scheme and would, therefore, require little additional cost to update;
- (iv) our staff are familiar with the administration of this type of scheme; and
- (v) as it is also aligned to housing benefit, we can continue to take advantage of economies of scale.

- 3.3 Collection of Council Tax from working age claimants since the commencement of the scheme is shown in table 2 below. Prior to the first year of the scheme Swale accepted a grant from DCLG which limited the amount claimants had to pay to a minimum of 8.5%, leading to a highest collection rate for 2013/14. There was a dip in collection in 2014/15 when the amount to be paid doubled. Collection since then has risen as claimants have adjusted to budgeting for this amount. It is likely that if the amounts that working age claimants have to pay continues to rise, collection rates will start to fall.

Table 2: Percentage collected by year

Year	Minimum % paid by working age claimants	Percentage collected
2013/14	8.5%	87.59%
2014/15	15%	81.80%
2015/16	15%	85.30%
2016/17	15%	85.80%
2017/18	20%	52.5% *

*\*2017/18 figure as at 09.10.2017*

- 3.4 Given the objectives of the review set out at 2.12, it is important that we seek to reduce the overall costs of the scheme whilst maintaining fairness and the feasibility of the scheme. Therefore, it is considered that a locally determined selection of the options set out in Appendix I should be included as part of the consultation on Swale's scheme for 2018/19.
- 3.5 The Council went out to consultation on these options for a 6 week period ending on 28 August 2017 via a direct email to approximately 13,000 households. The results of the consultation are contained in Appendix I.
- 3.6 Given the financial challenge facing the Council, it is recommended that the Council implements, the changes set out within the consultation, subject to the amendments set out in Table 3. To give working age claimants some stability it is recommended that the scheme is not changed in 2019/20.

Table 3: Council Tax Support Options

Option	Recommendation	
<b>Option 1</b> - Reducing the maximum level of support for working age applicants from 80 per cent to 77.5 or 75 per cent.	Implement at 75%	Consultation findings support change to reducing the maximum level of support for working age applicants to 75 per cent.
<b>Option 2</b> - Reducing the capital limit from the existing £16,000 to £10,000 or £6,000	Implement limiting to £10,000.	Consultation findings support change to reduce the capital limit to £10,000.
<b>Option 3</b> - Restricting the level of the maximum level of Council Tax Support payable to the equivalent of a Band D charge	Implement	Consultation findings support change to restrict the maximum level of Council Tax Support payable to the equivalent of a Band D charge.
<b>Option 4</b> - Applying a fixed income period to Universal Credit claims for Council Tax Support to avoid multiple changes	Implement	Consultation findings support bringing in this change for Universal Credit claims. This option limits the number of adjustments to a claimant's Council Tax account during the year. If this option was not implemented there could be 12 Universal Credit monthly changes on an account during a year, meaning if payments were not made, recovery action could not be taken during the financial year.
<b>Option 5</b> - Applying a tolerance to Universal Credit claims for Council Tax Support to avoid multiple changes	Not recommended	Consultation findings give the least support to this change. Option 4 received more support compared with this option. In order that Universal Credit claims do not have to be reviewed every month either option 4 or 5 could be implemented. Option 5 is a more radical change to the scheme only used by a few Councils at present. This option may be recommended again in the future when we have a larger Universal Credit caseload.

<b>Option 6</b> – To disregard Bereavement Support payments inline with the Housing Benefit regulations	Implement	Consultation findings support change.  Change brings CTS in line with wider welfare system.
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## 4 Alternative Options

- 4.1 The current scheme which was brought in on 1 April 2017 could be left in place with no amendments from 1 April 2018. However given the positive response to the consultation exercise and as the Council's funding will continue to reduce, there is a risk in taking this option that there would be a cost to both Swale and the major preceptors. This would then have a knock on affect to other services.
- 4.2 As part of the consultation, as well as consulting on various options related to the design of the scheme, case law has clarified that we are also required to consider alternative funding options as opposed to simply changing the current scheme to reduce costs.
- 4.3 Therefore, within the consultation the following questions were posed. Should Council Tax be increased for all Council Tax payers to fund the CTS scheme? Should Council reserves be used to fund the scheme? Should there be cuts to Council services to fund the scheme?
- 4.4 All options in 4.3 were rejected by the majority of responders – see Appendix I for the detail. As the Council's funding from the Government for the provision of all services is likely to be reduced in the future, and as the impact of choosing any of the alternative funding options would affect all residents in the Borough, it is not considered that any of the options in 4.3 should be taken forward for funding the CTS scheme.

## 5 Consultation Undertaken or Proposed

- 5.1 Prior to the implementation of any changes to a CTS scheme, authorities are required to consult with the public. There have been a number of challenges to CTS consultations, and it should be noted that a judgement handed down by the Supreme Court has defined what is meant by 'good consultation'.
- 5.2 The guiding principles which have been established through case law for fair consultation are as follows:
  - (i) the consultation must be carried out at a stage when proposals are still at a formative stage;

- (ii) sufficient information on the reasons for the decision must be provided to permit the consultees to carry out intelligent consideration of the issues to respond;
  - (iii) adequate time must be given for consideration and responses to be made; and
  - (iv) the results of the consultation must be properly taken into account in finalising any decision.
- 5.3 There is also a duty to consult with the major precepting authorities who are statutory consultees. All major precepting authorities were consulted during the consultation period.
- 5.4 Following the report to Cabinet on 12 July 2017 a public consultation was undertaken between 17 July 2017 and 28 August 2017. The consultation was open to all Swale residents aged 18 or over, i.e. people who pay Council Tax or receive CTS. The consultation was carried out online, with a direct email to approximately 13,000 households, and was promoted on the Council's website, through social media, and in the local media. Paper copies were available on request.

## 6 Implications

Issue	Implications
Corporate Plan	<p>Running an effective and efficient CTS Scheme contributes to the Council priority of being 'A Council to be proud of'. It also contributes to the priority of 'A Community to be proud of', as it supports the most vulnerable whilst creating incentives to work for those who are able to.</p> <p>The changes introduced through the Welfare Reform agenda and Local Council Tax Support Scheme are aimed at providing greater work incentives, which have the potential to positively impact on the economic prosperity of those returning to employment, as well as the wider community. Data shows that the number of working age claimants has reduced, which results at least in part from movement of benefits claimants into work.</p> <p>Performance is measured through BV9 Percentage of Council Tax collected in year.</p>
Financial, Resource and	It is anticipated that there will be some limited costs associated with the consultation process, but this is a statutory requirement.

Property	<p>The costs of awards made under the CTS scheme impact on the declared tax base, and thereby the council tax yield. If the cost of awards were to be reduced, this would mean that the Council's tax base would increase, and overall council tax income could increase.</p> <p>Any increase to council tax income is shared through the Collection Fund with major preceptors.</p>
Legal and Statutory	<p>The Council has a statutory duty to consult on a proposed scheme under the Local Government Finance Act 2012 and Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (as amended). As mentioned in paragraph 5.1, case law has determined the guiding principles for fair consultation, which we followed.</p> <p>Regard needs to be made to the rules around consultation laid out through the Supreme Court ruling in the case of R (on the application of Moseley) v London Borough of Haringey (2014), and in particular, the need to set out alternative choices within the consultation. Referred to in paragraph 5.2.</p>
Crime and Disorder	No implications.
Sustainability	No implications.
Health and Wellbeing	Residents who have difficulty in paying their Council Tax can put in a claim for a Section 13A discretionary award. Those whose health appears to be affected will be signposted to appropriate advice.
Risk Management and Health and Safety	If consultation is not carried out appropriately, there is a risk of challenge once a decision is taken.
Equality and Diversity	A full Community Impact Assessment has been carried out.

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: CTS Scheme review of options
- Appendix II: CIA CTS Scheme 2018/19

## **8 Background Documents**

Council Tax Support Report 2017/18 Scheme Full Council 23.11.2016

<http://services.swale.gov.uk/meetings/documents/s6520/Council%20-%20Council%20Tax%20Support%20Report%2023.11.2016%20FINAL.pdf>