

Report to the Cabinet

Report reference: C-009-2012/13

Date of meeting: 23 July 2012



**Epping Forest
District Council**

Portfolio: Finance and Technology

Subject: Localisation of Council Tax Support

Responsible Officer: Janet Twinn (01992 564215).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) That a general principle is agreed that the scheme of Local Council Tax Support should be cost neutral for the Council;**
- (2) That the elements of the scheme as set out in paragraphs 8 and 9 are approved for consultation purposes;**
- (3) That Members determine which of the other options as set out in paragraph 10 are included as part of the consultation process;**
- (4) That Members confirm that the Council should participate in the six week countywide consultation exercise commencing on 1 August; and**
- (5) That the Chairman of Council be requested to waive the call in arrangements for this decision due to its urgency as any delay would prejudice the Council's interest.**

Executive Summary:

On 25 June 2012, the Finance & Performance Management Cabinet Committee received an overview of the Government's decision to replace Council Tax Benefit with a new system of Local Council Tax Support.

The timetable for implementing a Local Council Tax Support scheme is very tight, with the final scheme requiring approval by full Council in December 2012. The draft scheme will be the subject of formal consultation with the major precepting authorities (Essex County Council, Essex Police Authority and Essex Fire Authority). In addition, there will be consultation with the public and voluntary bodies. In order to achieve approval of the final scheme in December 2012, the consultation will need to be undertaken during August and September. It is therefore necessary for the Cabinet to determine its proposals for a draft Local Council Tax Support scheme so that consultation may take place within this timescale.

The Epping Forest District Council scheme is being prepared within the framework of an Essex-wide scheme that seeks to achieve cost neutrality, i.e. the cut in Government funding is to be offset by making reductions in the amount of support that working age households can receive. A scheme that is not cost neutral is likely to result in cuts to services by the Council and all the precepting authorities.

Reasons for Proposed Decision:

The Council is required to undertake consultation prior to agreeing a Local Council Tax Support scheme. The scheme must be agreed by full Council and be in place by 31 January 2013. If the Council fails to have a scheme in place by this date, the Government's default scheme will be imposed.

In view of the very tight timescales to have a scheme in place, consultation needs to be undertaken from the beginning of August. If consultation is commenced later, it will not be possible to complete the consultation and finalise the scheme in time for a further report to Cabinet in October. It is currently planned that all the Essex authorities will undertake consultation on the Essex wide framework during the same period and therefore it is necessary to request that the call in is waived.

Other Options for Action:

The Council could choose to adopt the default scheme as determined by the Department for Communities and Local Government. It would not then be necessary to devise a scheme specifically for Epping Forest and consultation would not be required. However, the default scheme will be based upon the current national scheme with no restriction as to who can claim or how much can be paid and expenditure will exceed the grant from the Government. The scheme will therefore not be cost neutral for the Council, or the precepting authorities.

Report:

Proposed Local Council Tax Support scheme

1. Essex Benefit Managers and ECC finance officers have been meeting on a regular basis since January 2012 to design an Essex wide framework for LCTS, reducing duplication of effort, sharing expertise, with mutual support for possible challenge and helping with strategic engagement with suppliers.
2. The over arching principle is an Essex scheme that is cost neutral, so the impact of the reduced funding from Central Government is passed onto claimants. However, due to the different demographics of individual billing authorities, it is unlikely that there will be a scheme that is uniform across Essex, but it is intended to have a common framework with local variations.
3. All Essex authorities expect to adopt the following items in their schemes:
 - Design a cost neutral scheme that passes the cut in funding to working age claimants.
 - All pensioners will be treated as a class that is protected from the changes, so all changes will be for working age only.
 - The local support scheme will be means tested for 2013/14, using a lot of principles of the current Council Tax Benefit scheme.
 - The current Second Adult Rebate scheme will not be included in the LCTS scheme for working age claimants.
 - To reduce the capital limit from £16,000 to £6,000.
 - Restriction of support to a maximum liability, either by restriction to a specific Council Tax banding and/or a % restriction of liability with variations in different Essex authorities.
 - Minor changes to the treatment of 'changes in circumstances' to remove the requirement to calculate and award 'underlying entitlement' when overpayments occur, either due to a failure to report a change in circumstance or fraud.

- The billing authority to make available a small sum to cover exceptional hardship cases.

4. ECC have participated in this process and the Police and Fire representatives have indicated their support for the work done. ECC, Police and Fire have indicated that provided schemes are cost neutral, they are unlikely to object to the scheme details.

5. Other benefits of a county-wide approach include potential support from ECC in particular (and possibly Police and Fire) with managing the risk from legal challenge, and contribution of funding for an exceptional hardship fund, additional recovery and anti-fraud work. ECC have also agreed to participate in the consultation process by hosting the on-line consultation response forms.

6. Detailed analysis of methods of reducing support has been undertaken, based upon fairness, ease of understanding and ease of administration, taking into account the demographic profile of current CTB claimants. This exercise has been complicated for the five Essex Authorities (including EFDC) that use the Capita Revenues and Benefits IT system as the software for modelling a scheme was not available until late June whilst the other two software suppliers made their modelling software available in March/April. In view of this, initial costs of the current scheme have had to be achieved from profiling specific groups and it has not been possible to include the actual impact on specific groups of claimants in this report.

7. The following are the aspects of the proposed Epping Forest scheme, which are consistent with the Essex- wide principles noted above.

8. Pension age claimants will be protected which means that the amount of council tax support under the new scheme will be no less than the amount of Council Tax Benefit currently being paid. This does not mean that they will not have to pay more Council Tax e.g. if the precepts are increased.

9. The amount of support to working age households will be reduced by the principles of the Essex-wide framework set out above and the proposed methods set out below:

- The calculation of support will be based on 80% of the Council Tax bill, rather than 100% at present. This will give the majority of the savings required, but as the savings do not generate sufficient to give a cost neutral scheme, additional changes will be required.
- The calculation of support will be based on a maximum of a band D property. This means that anyone of working age that lives in a property with a Council Tax Band of E, F, G, or H, will have their support calculated as if their property was a in a band D.
- Inclusion of child maintenance in the calculation with a disregard of £15 per week (per family). This is currently disregarded in full in the CTB calculation but is income that is received into a household that may not be available to other households that pay the same amount of Council Tax.
- Reduce the period of backdating (with good cause) from the current 6 months to 3 months. This brings the time limit into line with the current rules for pensioners, although pensioners do not have to show good cause.
- The introduction of an exceptional hardship scheme for LCTS which will support people whose individual circumstances mean that the increased Council Tax liability is causing them exceptional hardship.

10. Members may also want to consider whether the following should be considered for inclusion in the scheme to be consulted upon:

- A flat rate non-dependant deduction included in the calculation instead of the varying rates included in the CTB calculation. This will produce some savings but also some additional payments. It will however, make the administration of the scheme easier and a recalculation of LCTS will not be required when there are changes to a non-dependants income.
- Inclusion of child benefit in the calculation of LCTS. This income is currently disregarded but is income currently received that is not available to other households that pay the same amount of Council Tax.
- Minimum award of £1 per week (to reduce administration). There is currently no minimum award of CTB and in theory a person could receive just £0.52 per year. A minimum award of £1 per week will mean that awards of less than £52 per year will be cancelled but the additional liability is more likely to be affordable.
- The protection from the cuts in benefit of certain groups of people such as the disabled and families with children under 5 years. However, providing protection to these groups of people will result in non protected groups having to pay even higher amounts of Council Tax and the possibility that the maximum support would need to be lower than the proposed 80%.

11. Other forms of income are currently disregarded in CTB such as Disability Living Allowance and War Disablement Pensions but it is not proposed to include these in the calculation of LCTS as this would have an adverse impact on some of the most vulnerable groups.

12. The proposed scheme has taken into account the ability to pay and the collectability of the resultant Council Tax liability. Although regard has been taken of the impact on disabled claimants, families with children and not removing incentives to work, if full protection is provided to these large groups of people, it will mean that childless job seekers, some of whom receive just £67.50 per week, will bear the cost of the cut in funding in full. This is likely to lead to an increase in recovery activity and in write offs as the debts would not be recoverable.

13. At the time of preparing this report only 3 other authorities have published their schemes for consultation. However, it appears that the principles in the proposed EFDC scheme are similar to the proposals being considered by other authorities.

14. The final scheme will partly be dependant upon the provision of IT software that can calculate LCTS in accordance with the proposals. At present, our software supplier has indicated that they will be supplying software that can calculate LCTS in accordance with the proposals in this report.

Residency Qualification

15. An issue that needs to be considered is the extent to which existing residents can be favoured in any local scheme through the use of a qualification period to exclude those that have only recently located in the district. There is concern that the other Welfare Reforms and benefit restrictions may lead to claimants leaving some London boroughs and locating in neighbouring districts, causing pressure on services and resources in those districts.

16. Whilst the concern is a genuine one and some migration away from London boroughs is already evident, there are a number of practical difficulties with implementing a residency qualification. The primary concern is whether a residency qualification period would be subject to challenge as being discriminatory. It is believed that benefits must be available equally to anyone from a European Union member state, however this is a complex area of

law and a legal opinion is being sought to clarify this.

17. If a residency qualification was to be introduced, a system to record this data would be required. This information is not held for current claims and the software does not have a field where it could be captured and used to put qualifying claims into payment. As this requirement is specific to this Council it is unlikely that Capita would be prepared to amend their system and even if they were there would be a charge for doing so. If it was not possible to record this data and have it working directly as part of the Capita system there would need to be a parallel system and a process of manual intervention. This would be possible but would complicate the process and add to the costs of administration.

18. As the data is not currently held, a question arises over how the current caseload would be treated if a residency qualification were introduced. Would staff be required to contact all existing claimants (approximately 9,000) at 1 April 2013 to confirm their length of residency? If existing claimants had been resident for less than the qualification period would their claims then be taken out of payment? If the restriction was only applied to new claims you could have the situation where someone who moved in on 31 March 2013 was eligible but someone who moved in on 1 April 2013 was not.

19. It is also worth considering the difficulty in collecting Council Tax in many of these cases. Under the proposed scheme even those of working age receiving the highest amount of Council Tax Benefit will still have to pay 20% of the charge. As many of these people have limited means it will be difficult for them to pay and overall it is anticipated that the collection rate for Council Tax will fall. If we know that people will find it difficult to pay 20% of the charge it is unrealistic to expect them to pay 100%. Indeed it can be argued that someone on limited means may make some effort to pay £6 per week but is likely to just ignore a demand for £30 per week. If this were to happen the introduction of a residency qualification could reduce the overall amount collected and simply result in more bills being written off.

20. The Welfare Reform Act states that local authorities must have regard to the disabled, people with children and must not remove incentives to work. A residency qualification could be inconsistent with all these. There may be people moving to our area for support for their disability or due to domestic violence. Do we then make exceptions? If we make too many exceptions, the complexity of the scheme and its administration costs increase.

21. In view of the issues set out above it is not proposed to include the option of a residency qualification in the consultation.

Consultation

22. Before final approval of the scheme, councils are required to consult:

- Major precepting authorities (County, Police, Fire)
- The public
- Relevant stakeholder groups e.g. CAB, voluntary bodies

23. Essex County Council finance officers have attended all the pan-Essex benefit managers meetings and have reported to their Cabinet on 19 June 2012. Despite being invited to all the meetings, the Police authority and the Fire authority have not attended any of the meetings but they have received all the minutes and documents from the meetings. They have indicated that provided the schemes are cost neutral, they are unlikely to object to the schemes. Consultation now needs to take place with the public and other relevant stakeholders.

24. The Essex authorities are planning on co-ordinating the consultation and having the same consultation period. Consultation will commence 1 August 2012 and last for six weeks. The responses will then be considered before the final recommendations are presented to Cabinet in October 2012 and full Council in December 2012. Although a longer consultation period may be desirable, the tight timescales for the authority adopting a scheme mean that a longer consultation period will not be possible. The Consultation Institute has issued a document 'Consultation aspects of Council Tax Benefits Localisation'. In that document they recognise that a shorter timescale than normal may be necessary, particularly where more rapid decision-making is required.

25. Following discussions with the other Essex authorities and ECC, it has been determined that each authority will publish their draft scheme on their individual websites with a link for responses to ECC who have the necessary consultation software. ECC have the ability to provide the consultation in a different format if required, and they will also host an email facility for anyone who wishes to supply a fuller response. The responses will then be fed back by ECC to the relevant authority. For anyone who does not have access to the internet, the draft scheme and ability to respond in paper format will be made available.

26. The pan-Essex group is producing a bi-monthly newsletter distributed to Members, staff and external stakeholders which will give details of the consultation and how to respond.

27. The Council will write to all current CTB claimants (working age and pensioners) giving them an outline of the proposed scheme and explain if they will be affected or protected. The consultation and methods for providing consultation responses will be included in the letter. It is intended to send the letter at the commencement of the consultation. It is also intended to send a further letter in December/January to working age people, by which time final scheme proposals will enable us to give a more accurate indication of the effect on each household. It is hoped that this will reassure pensioners and give fair notice to people of working age that from 2013 they will be required to pay more Council Tax and budget accordingly.

Timeline

- 23 July 2012 - Cabinet to review the draft scheme in readiness for consultation
- 1 August 2012 - Commencement of six week consultation period
- 22 October 2012 - Cabinet to determine the final scheme for full Council approval.
A reserve date of 3 December 2012 has been provisionally set in case more time is needed to develop the scheme
- 18 Dec 2012 - Full Council to approve final scheme.
- Dec 12/Jan 2013 - Letters to existing claimants
- Feb to Mar 2013 - 2013/14 budgets and Council Tax set.
Council Tax bills issued

Other considerations

28. Introducing a LCTS scheme is a key change but there are many other welfare reforms on the horizon which will make it an extremely challenging couple of years for the Council and its residents. These are outlined below:

- The introduction of a benefit cap on the total weekly benefit payments that a household can receive
- A Housing Benefit size criteria restriction for people renting in the social sector
- The introduction of Universal Credit where claimants will receive the majority of their benefits, including housing costs, in one lump sum.
- Changes to Tax Credits impacting on claimants eligible for the 50-plus element of Working Tax Credits and couples with children
- Social Fund reform which transfers responsibility for Social Fund loans to Unitary Councils
- The transfer of Disability Living Allowance for working age people to Personal Independence Payments
- Supported Housing reform which reforms the payment of benefit to people in supported and specialist housing
- The introduction of the Single Fraud Investigation Service. New powers in the Welfare Reform Act will enable joint investigations between DWP, HMRC and local authorities. To support this, a Single Fraud Investigation Service comprising of resources from the three organisations will be formed in April 2013. Local Authority Investigation staff will not transfer to SFIS until 2015 but will be working to SFIS guidelines from April 2013. Although SFIS will undertake investigations into Housing Benefit fraud, they will not be undertaking any investigation into LCTS fraud.

Waiver of Call In

29. In order for the Council to be able to participate in the co-ordinated county wide consultation process commencing on 1 August 2012, it is necessary for the ordinary call in arrangements for the decisions set out at the start of this report to be waived.

Resource Implications:

Implementation costs:

The Government has provided an initial grant of £84,000 and has indicated that additional funding will be made available. It is anticipated that the implementation costs will be met from the Government funding but there may be a need to supplement this when the full costs are known.

Abolition of Council Tax Benefit:

Around £9m of expenditure and £9m of subsidy income will be deleted from the Council's budget from 2013/14. A contingency will need to be retained in case of subsidy being clawed back by DWP. For example when excess payments of Council Tax Benefit relating to periods prior to April 2014 are identified after 1 April 2014.

Impact of new LCTS scheme:

The scheme is being designed to achieve 'cost neutrality' – defined as being that there will be reductions in the amount of financial support given to local people sufficient to cover the cut in Government funding. The estimated cost of LCTS should therefore be in line with the Government funding being made available. Provisional funding figures have been announced and amount to around a 12% cut compared with current funding levels. It is higher than 10% because the Government has based its calculations on a notional future measure of expenditure that includes inflation. In addition, because people of pension age are protected from any cut in LCTS, the increase in Council Tax liability for people of working age will be in excess of 20%. The final funding figures will not be available until late Autumn. However, although the scheme is being designed to be cost neutral, this is dependent upon the increases in liability for Council Tax for working age people on low income being collected. Recovery costs may therefore increase and the Council Tax collection rate may reduce.

The costs of LCTS and the Government funding for the scheme will be borne by the major precepting authorities in proportion to their precept size: currently ECC 7.5%, Police 9.5%, Fire 4.6%, and EFDC 10.4%.

The scheme needs to be designed to ensure, as far as possible, stability and sustainability in the Council's finances.

LCTS treated as a discount:

LCTS will be treated as a discount on the Council Tax bill, much like Single Persons Discounts. This means that the taxbase will be smaller. In order to avoid significant increases in the Band D figure arising from a smaller taxbase, the Government funding will be treated as income that reduces the Council's bottom line, and therefore, reduces the amount to be raised from Council Tax.

Exceptional Hardship fund:

It is inevitable that there will be a small number of households with unforeseeable exceptional circumstances. The Council may wish to retain discretion to provide additional support to such people. Details of how such a fund would operate need further work but currently it is anticipated that it will operate in the same way as the current Discretionary Housing Payment scheme.

Legal and Governance Implications:

Adoption of LCTS is a statutory requirement. Failure to do so will lead to a default scheme being imposed by the Government.

Safer, Cleaner and Greener Implications:

There are no specific implications.

Consultation Undertaken:

Consultation has been undertaken with ECC and the Police and Fire authorities. The draft scheme will be subject to formal consultation as set out in this report.

Background Papers:

Finance and Performance Management Scrutiny Panel report 25 June 2012.

DCLG publications on LCTS

Pan-Essex Benefits working group documentation including options appraisals.

Consultation Institute publication 'Consultation aspects of Council Tax Benefits Localisation'

Impact Assessments:

Risk Management

Key risks have been set out in a risk register which was provided in the report to the Finance and Performance Management Cabinet Committee on 25 June 2012. There have been no changes to the Risk Register since that report.

Consultation:

Consultation on LCTS has to be undertaken as outlined in the Welfare Reform Act 2012.

Failure to consult could result in a legal challenge to the Council's scheme.

Default scheme:

If the EFDC LCTS is not in place by 31 January 2012, the Government's default scheme will be imposed upon the authority. The cost of the default scheme will exceed the Government grant and the major precepting authorities will need to fund the shortfall in excess of £900,000.

Demand Risk:

The Government grant in 2013/14 will be a fixed sum. There is a possibility that demand and eligibility for financial support under the LCTS may be greater than current levels, particularly if economic conditions worsen. The cost of additional discounts would be borne in proportion by the major precepting authorities (ECC, Police, Fire, and EFDC). Conversely if demand falls (e.g. if economic conditions improve), the additional saving would be realised by the same authorities. Thus the local authority has direct financial incentives to support the local economy.

Inflation risk:

Council Tax freezes have operated in the last two years however there are no indications yet about whether freezes will continue. There is a risk therefore that if Council Tax is increased by County, Police, Fire, District or parishes, then the cost of LCTS will increase. An exercise will be needed to estimate the additional net income that would arise from a Council Tax increase, the cost of LCTS and collectability losses.

Equality and Diversity

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? Yes

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?

Formal Equality Impact Assessments will be undertaken prior to the scheme being finalised. People of pension age are protected from changes to LCTS and there will therefore be a disproportionate effect on working age households currently in receipt of Council Tax Benefit. As Council Tax Benefit is awarded to those on low income, any change will hit such households the hardest as working age residents on a low income will have more Council Tax to pay.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

The proposed scheme spreads the changes as widely as possible among the affected client group to reduce inequalities. The proposed scheme still includes matters in the calculation such as premiums for children and disabled persons, thereby giving some protection to more vulnerable groups.