

## **Report to the Cabinet**

**Report reference:** C-007-2017/18

**Date of meeting:** 11 July 2017



**Epping Forest  
District Council**

**Portfolio:** Finance

**Subject:** Local Council Tax Support Scheme 2018/19

**Responsible Officer:** Janet Twinn (01992 564215).

**Democratic Services Officer:** Gary Woodhall (01992 564470).

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### **Recommendations/Decisions Required:**

(1) That a public consultation exercise on the 2018/19 scheme be undertaken between August and October 2017; and

(2) That the following elements of the scheme be approved for consultation purposes:

(i) the acceptance of the general principle that the Local Council Tax Support scheme for 2017/18 should aim to be cost neutral for the Council;

(ii) to seek views on alternative funding options for the Local Council Tax Support scheme if the scheme was not cost neutral;

(iii) the disregard of Bereavement Support Payment in the calculation in line with other Welfare Reforms;

(iv) the introduction of technical changes relating to the assessment of Universal Credit income to allow for Local Council Tax Support to be awarded for a fixed period of six months before a review was undertaken; and

(v) a revision to the scheme in order to prevent an excess council tax discount being awarded, that would enable Epping Forest District Council, where appropriate, to decide the income to use in the calculation irrespective of any notification from the Secretary of State for Work & Pensions.

### **Executive Summary:**

On 20 December 2016, Council adopted the Local Council Tax Support scheme for 2017/18. Consideration now has to be given to the scheme for the financial year 2018/19 which will require approval by full Council in December 2017.

It is necessary to undertake public consultation on the Council's scheme each year before the scheme is adopted by Council. In view of the timescales, it will be necessary for the consultation to be undertaken between August and October 2017 in order to ensure that the Authority will have consulted correctly and that Council can adopt the scheme at the December meeting.

## **Reasons for Proposed Decision:**

The judgement given in the case of R v London Borough of Haringey on 29 October 2014, highlighted the requirement for Local Authorities to consult on their scheme annually, whether they intend to make any changes to their Local Council Tax Support scheme or not. The judgement also made clear that in their consultation, Local Authorities also needed to consult on how the scheme is to be funded. Respondents should be given the opportunity to give their views on whether the scheme should be cost neutral, or, if not, whether the scheme should be funded by making changes to the scheme, increasing the Council Tax, cutting other Council services, or using Council reserves. The Council's scheme must be agreed by full Council and be in place by 31 January 2018.

In view of the timescales, consultation needs to be undertaken between August and October 2017. If consultation is commenced later, it will not be possible to complete the consultation and make any amendments to the scheme in time for a further report to Cabinet on 7 December 2017.

## **Other Options for Action:**

Cabinet could either decide not to carry out a consultation exercise for the 2018/19 Local Council Tax Support scheme, or that consultation should only be carried out on potential changes to the scheme, not the funding of the scheme. However, bearing in mind the judgement in R v London Borough of Haringey, the Council could be judicially reviewed.

## **Report:**

### Local Council Tax Support schemes

1. Local Council Tax Support (LCTS) replaced Council Tax Benefit with effect from 1 April 2013. People of pension age continue to be protected from adverse changes as required by the Government, although the Government can introduce legislation to change the scheme for people of pension age. Every Local Authority must then amend their scheme to reflect the legislative changes. For people of working age, the Council has adopted a scheme which has the following key elements which are different to the scheme for people of pension age:

- The calculation of support is based on 75% of the Council Tax bill, rather than 100%.
- The calculation of support is 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, has their support calculated as if their property was a band D.
- Inclusion of child maintenance in the calculation with a disregard of £15 per week (per family). This is income that is received into a household that may not be available to other households that pay the same amount of Council Tax.
- The capital limit is £6,000, so those with capital exceeding £6,000 are required to make full payment of their Council Tax liability.
- A Minimum Income Floor for claimants who are self-employed (from April 2016). Where the declared income from self-employment is less than the National Living Wage, income is assessed using the National Living Wage instead. This is in line with other welfare reforms.
- The Exceptional Hardship Scheme for LCTS is intended to support people whose individual circumstances mean that their Council Tax liability is causing them exceptional hardship.

2. The scheme was designed to take into account the ability to pay and the collectability of the resultant Council Tax liability. Across Essex, annual collection rates have been higher than originally anticipated, which is due partly to the caseload decreasing as the economy recovers, but also due to the proactive work that Officers have undertaken with people affected by the Local Council Tax Support scheme. Council Tax Officers have been proactively contacting people and have set up special arrangements to help people who do not receive their income on a monthly basis. The scheme design has been successful to date.

#### Consultation for 2018/19

3. In view of the judgement in R v London Borough of Haringey, it is clear that consultation is required whether changes are to be made to the scheme or not. Although at present, it is not proposed to make any major changes to the scheme for 2018/19, there are some potential changes which should be considered and therefore it is recommended that consultation is undertaken on these issues.

4. If it becomes necessary to make further cuts to the expenditure on Local Council Tax Support, the maximum Support payable for people of working age could be reduced from 75% to a percentage that would achieve the required savings. However, although collection rates have been better than expected, if the scheme is changed and people have to pay more, there will become a point at which collection rates will significantly reduce as the liability becomes too much and people stop paying altogether. Consultation will be required on this particular aspect of the scheme, together with options for alternative funding arrangements, rather than making savings through the scheme itself.

5. From 6 April 2017, Bereavement Support Payment is a new benefit which replaces the old bereavement benefits system for people who are under state pension age. It may be paid to a surviving spouse or civil partner and consists of an initial lump-sum followed by up to 18 monthly instalments. For Housing Benefit purposes, the monthly Bereavement Support Payments are disregarded as income and the lump sum payment is disregarded as capital for 52 weeks. If this disregard is to be replicated in the Local Council Tax Support scheme, consultation will be required.

6. As Universal Credit is rolled out nationally, the administrative burden of calculating Local Council Tax Support entitlement for recipients of Universal Credit becomes greater. Universal Credit is reassessed on a monthly basis so there is the potential that an LCTS award based on Universal Credit could change every month necessitating the issue of a new council tax bill every time. If this were to happen, it would make the recovery of unpaid council tax very difficult as, with each monthly recalculation, the recovery process would have to be restarted and it would be virtually impossible to progress beyond the reminder stage of the recovery cycle. It is therefore proposed to consult on making an award of LCTS to a recipient of Universal Credit, for a fixed period of 6 months, regardless of changes in Universal Credit income during that period. At the end of 6 months, the LCTS will be recalculated by using the average weekly amount of Universal Credit received during the previous 6 months. A new award will then be fixed for the following 6 months and so on. At present there are only 33 households receiving LCTS and Universal Credit but this number will increase as the roll out of Universal Credit full service accelerates.

7. Another proposed amendment that will require consultation is the ability for the Council to disregard an award of a DWP administered benefit when we know that the award of that benefit was incorrect. For example, there have been cases when the DWP have awarded Income Support to a single parent and yet that claimant has admitted to us that they live with a partner who works, or a case when Guaranteed Pension Credit was awarded when the claimant was not of state pension age. In circumstances like these, we are currently bound by the DWP decision and have had to award maximum LCTS. A change to the

wording from 'shall' to 'may' will allow the Council to disregard decisions made by the DWP where we know that they are incorrect.

8. The Essex Authorities have continued the joint work that they have carried out to implement their schemes for the last five years. Meetings take place on a monthly basis and ECC regularly attend these meetings. Although the Police and Fire Authorities are invited, they rarely attend because ECC act as their representative and they are sent minutes of these meetings. In this way, the requirement to consult with major precepting Authorities is met.

9. It is proposed to carry out public consultation for the 2018/19 scheme between August and October 2017. Essex County Council have previously hosted the on-line consultation for the Essex Authorities and it is hoped that they will also agree to host the on-line consultation for 2018/19. For anyone who does not have access to the internet, the ability to respond in paper format will be made available.

#### **Resource Implications:**

The cost of consultation on the Local Council Tax Support scheme for 2018/19 will be met from existing budgets.

#### **Legal and Governance Implications:**

There is a requirement for consultation to be undertaken on the Council's Local Council Tax Support scheme each year.

#### **Safer, Cleaner and Greener Implications:**

There are no specific implications.

#### **Consultation Undertaken:**

Consultation has been undertaken with ECC and the Fire and Police Authorities through the regular meetings with the Essex Benefit Managers. The proposed amendments and funding arrangements for the scheme will be subject to public consultation as set out in this report.

#### **Background Papers:**

Report to Council 20 December 2016.

#### **Risk Management:**

##### Risk register

A risk register was produced as part of the process for devising the Local Council Tax Support scheme. It has not been necessary to make any amendments.

##### Caseload growth risk

If more people become eligible to claim LCTS e.g. because of economic downturn, then the cost of the scheme will increase. However caseload has been reducing as the economy has improved.

##### Collection risk

If there is a reduction in the maximum percentage of Council Tax liability that is eligible for Local Council Tax Support, the impact of the scheme is that low income working age households have to pay a proportion of their Council Tax liability. Inevitably there will be bad

debts but the collection rate has been higher than anticipated. However, there will be a point where people are asked to pay more Council Tax, therefore making the liability too high for them, that they will not make any payments at all.

Funding reduction risk

The Local Government Finance Settlement will reduce again in 2018/19. This could lead to either making changes to the LCTS scheme to reduce expenditure or to make savings elsewhere, either from Council budgets, increasing the Council Tax or using Council reserves.

Precept increase risk

LCTS costs will increase if any of the precepting Authorities increase their Council Tax.

**Equality Analysis:**

The Equality Act 2010 requires that the Public Sector Equality Duty is actively applied in decision-making. This means that the equality information provided to accompany this report is essential reading for all members involved in the consideration of this report. The equality information is provided as an Appendix to the report.