

REPORT TO: PEOPLE SCRUTINY COMMITTEE

Date of Meeting: 3 NOVEMBER 2016

REPORT TO: EXECUTIVE

Date of Meeting: 8 NOVEMBER 2016

REPORT TO: COUNCIL

Date of Meeting: 13 DECEMBER 2016

Report of: Assistant Director Customer Access

Title: Exeter City Council's Council Tax Support scheme for 2017-18

Is this a Key Decision? No

Is this an Executive or Council Function? - Council

1. What is the report about?

- 1.1 This report is presented to seek members' views on the local Council Tax Support (CTS) Scheme for working age residents for 2017-18. The local CTS Scheme started in April 2013 and members are required to agree the Scheme rules annually.
- 1.2 It also seeks approval of the revised Exceptional Hardship policy to take effect from 1 April 2017.

2. Recommendations:

- 2.1 That members note the requirement to read and consider the contents of the accompanying Equality Impact Assessment, in order to consider the impact of the proposals on relevant groups.

2.2 That Council be RECOMMENDED:-

- 1. To approve the revised Exceptional Hardship policy.
- 2. To approve the following changes to the local Council Tax Support Scheme:
 - a) Removing the Family Premium for all new applicants
 - b) Reducing backdating to 1 month
 - c) Using a minimum income for self-employed earners after 1 year's self-employment
 - d) Reducing the period for which a person can be absent from Great Britain and still receive Council Tax Support to 4 weeks
 - e) Removing the Work Related Activity Component in the calculation of the entitlement for new applicants
 - f) Removing entitlement to the Severe Disability Premium where another person is paid Universal Credit (Carers Element) for looking after them
 - g) Removing entitlement to the additional earnings disregard for Universal Credit customers in work
- 3. To delay implementation of change 2e) above to 1 April 2018 if the policy is introduced to Housing Benefit from a date after 1 April 2017.

4. Not to adopt limiting the number of dependent children within the calculation for Council Tax Support to a maximum of 2.

3. Reasons for the recommendation:

- 3.1 Most of the changes (as listed in 8.4) are intended to align the Council Tax Support scheme with changes already introduced in Housing Benefit and / or Universal Credit. Change 8 responds to our increased understanding of Universal Credit as the roll out continues. The Equality Impact Assessment and consultation indicate that the impact on individuals is likely to be limited for changes 1 through 5 plus 7 and 8, and that any resulting hardship can be managed through the Exceptional Hardship scheme.
- 3.2 At the time of preparing this report the regulations introducing change 8 to Housing Benefit have not been released. It would not be consistent to introduce this change to CTS if it was not operating in Housing Benefit as well. As CTS can only be amended from 1 April each year, it would be preferable to introduce the change at the earliest opportunity after the change is introduced to Housing Benefit.
- 3.3 Introducing change 6 will require extensive safeguards to protect vulnerable families and we are currently not able to put these in place. At this point the detailed proposals for introducing this change to Housing Benefit – which we would wish to mirror – have not been released. More time is needed to consider how the change should work in Council Tax Support and develop the safeguards to support this change.
- 3.4 In 2015 the High Court considered the validity of a local CTS scheme in Havering¹. Mr Justice Blake found that, for a scheme to be valid, Members making the decision must have *“conscientious consideration of the impact of the proposals on the relevant groups, whether by diligent reading of the EIA or some other evidence based assessment.”*
- 3.5 The Exceptional Hardship policy has been revised to allow additional help to be given to customers who find themselves in hardship after losing their entitlement to CTS through these changes.

4. What are the resource implications including non-financial resources.

Adopting all of the proposed changes would reduce the amount of Council Tax Support granted under the scheme. Caseload modelling indicates that the maximum eventual savings would be £275,000 annually. Because most of the changes will only affect new claims, the full amount of these savings is unlikely to be realised for five years. The savings only translate to increased income if the extra Council Tax charged is able to be collected. Exeter City Council's share of the extra income would be around £23,500 based on an 8.5% share of the collection fund and a 100% collection rate.

Applications for assistance under the Exceptional Hardship policy may increase if these changes are introduced, and if this is the case, there would be an impact on officers' time and Council finances. Previous years have shown a significant underspend of Exceptional Hardship therefore the financial impact is likely to be minimal.

5. Section 151 Officer comments:

The overall impact on the Council's financial position is small. However it is noted that this proposal was approved at the Devon Local Government Steering Group by Leaders of all Councils in Devon.

6. What are the legal aspects?

Paragraph 5 of Schedule 1B to the Local Government Finance Act 1992 requires billing authorities to adopt a Council Tax Support scheme each year, no later than 31 January.

7. Monitoring Officer's comments:

Provided the requirements contained within paragraph 6 above are met, this report raises no issues for the Monitoring Officer.

8. Report details:

- 8.1 Exeter City Council's local Council Tax Support scheme has been in place since national Council Tax Benefit was abolished in April 2013. Rules for pensioners are set nationally, leaving discretion for local rules for working age customers. The Scheme agreed by Exeter City Council from April 2013 was based on the old Council Tax Benefit scheme with the following key changes:

- Maximum support limited to 80%
- Capital limit reduced to £6,000
- Introduction of an Exceptional Hardship policy

This scheme has remained unchanged since April 2013.

- 8.2 An options paper was presented by County and District Heads of Finance to the Devon Local Government Steering Group (DLGSG) meeting of 15 April 2016. The preferred option at that meeting, which the Leaders of each Council approved, was to make a series of administrative changes to the CTS scheme from April 2017 and introduce a Minimum Income Floor (MIF) for self-employed claimants. This option was felt to provide sufficient financial savings for DCC – mostly through the introduction of MIF – and help to keep the local CTS scheme in line with changes to national schemes.

- 8.3 Since the DLGSG meeting, the Devon Benefit Officer Group (made up of Revenues and Benefits officers from Devon districts, Plymouth & Torbay as well as finance representatives from the major preceptors) has worked to progress the preferred option. In order to prepare for possible scheme changes and comply with the requirements of The Local Government Finance Act the following work has been undertaken:

- Consultation with major preceptors
- Development of a draft scheme
- Data modelling of potential financial impact
- Public consultation
- Development of an Equality Impact Assessment
- Revision to Exceptional Hardship policy

- 8.4 The draft scheme that was consulted on and for which the Equality Impact Assessment has been completed, consisted of eight changes to the current CTS scheme.

1. Removing the Family Premium for all new applicants
 2. Reducing backdating to 1 month
 3. Using a minimum income for self-employed earners after 1 year's self-employment
 4. Reducing the period for which a person can be absent from Great Britain and still receive Council Tax Support to 4 weeks
 5. Removing the Work Related Activity Component in the calculation of the entitlement for new applicants
 6. Limiting the number of dependent children within the calculation for Council Tax Support to a maximum of 2
 7. Removing entitlement to the Severe Disability Premium where another person is paid Universal Credit (Carers Element) for looking after them
 8. Removing entitlement to the additional earnings disregard for Universal Credit customers in work
- 8.5 A report summarising the results of the consultation is attached at appendix 2. During the 10 week consultation period, 76 responses were received (less than 1%). 70% of respondents were in favour of introducing all eight changes. Change 1 had the highest level of responses objecting to the proposal at 21%. Only just over a quarter of responses were from people claiming CTS which may help to explain why so few objections were received to changes that reduce entitlement.
- 8.6 The Equality Impact Assessment, attached at Appendix 1, highlights the effect that changes 1 and 6 will have on low income families. The annual financial cost of change 1 would be an average of only £31.87 per family and will affect only around 35% of new claims with dependent children. The change mirrors the changes already confirmed for Child Tax Credit from April 2017 and introduced to Housing Benefit in April 2016.
- 8.7 Change 6 however would see affected families losing an average £416.23 per year. The change was proposed to mirror a change previously announced for Housing Benefit, Child Tax Credit and Universal Credit. Detailed regulations for this have not yet been released and there has been much discussion in Westminster about which circumstances should be exempted. Situations where third or subsequent children are born as a result of rape or multiple births plus guardianship / fostering / adoption arrangements are amongst the circumstances being considered. At this stage it would therefore seem premature to introduce this change pending detailed consideration of who should be exempted and how this could be achieved.
- 8.8 Change 3, the minimum income floor (MIF) for self-employed claims, provoked the most comments and suggestions during the consultation. Responses highlighted groups of people who may find it difficult to achieve the level of income assumed under this change and this was reflected in the Equality Impact Assessment as well. It may be that in some circumstances those with disabilities or caring responsibilities for example may appreciate the flexibility of being self-employed and would not be able to commit to full time activity. Other individuals with superficially similar circumstances may have no difficulty achieving the income assumed by the MIF. Rather than making assumptions about the circumstance where MIF should not apply we intend to use the Exceptional Hardship process to consider individual circumstances and award further help where necessary.
- 8.9 Introducing complex exemptions to any of the other changes would offset much of the advantage of making changes to the scheme by increasing the administrative complexity. It will also be difficult to ensure that all the vulnerable individuals we would

wish to protect from the changes are covered. It is therefore better to utilise the Exceptional Hardship scheme to lessen the effects in individual cases where hardship could result. The Exceptional Hardship policy, attached at appendix 3, has been revised to ensure that it is available to anybody who loses their entitlement to CTS as a result of these changes.

- 8.10 The Local Government Finance Act 1992 requires the Council to consider transitional protection for any changes that will reduce a person's entitlement. Besides change 3, all changes will only affect new claims to CTS or existing claims when their household circumstances change. It is not therefore necessary to apply any transitional protection. Any cases of hardship, including in the short term, will be managed through the Exceptional Hardship scheme. Change 3 allows a period of 12 months at the commencement of a self-employed activity before the minimum income would be applied. For existing claims where the policy will reduce entitlement from April 2017 Exceptional Hardship will be offered for any cases that need help to manage the transition.
- 8.11 Individuals who will see a reduction in support will be identified and contacted prior to the change being introduced. They will be offered individual support to adjust which could include awards of Exceptional Hardship to manage the transition.

9. How does the decision contribute to the Council's Corporate Plan?

The Council Tax Support scheme supports Exeter's communities and neighbourhoods by helping low income residents afford their Council Tax liability. The Exceptional Hardship policy strengthens this support by ensuring that the scheme rules do not cause inadvertent hardship in individual cases.

10. What risks are there and how can they be reduced?

There is always a risk to Council Tax collection rates whenever people are required to pay more. However these changes will affect very small numbers of existing claimants. Overall, only a small amount of extra Council Tax is being charged so the effect on collection rates, if any, should be minimal.

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

- 11.1 An Equality Impact Assessment accompanies this report at appendix 1. For the decision of Council to be safe from legal challenge (see paragraph 3.3) all Members are required to have read this assessment.
- 11.2 The Exceptional Hardship policy plays a pivotal role in ensuring that these changes do not cause a disproportionate disadvantage to households with protected characteristics. The changes made to the Exceptional Hardship policy accompanying this report at appendix 3 ensure that this discretionary additional help is available to those who lose their entitlement to CTS as a result of these changes.

12. Are there any other options?

Each change is capable of being introduced separately. The Council can therefore choose to adopt all, only some of, or none of the proposed changes. In each case this will leave our local CTS scheme out of line with rules in Housing Benefit or Universal Credit and may result in additional scheme costs through needing to administer different rules for all these schemes.

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Assistant Director Customer Access

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

Localising support for Council Tax: vulnerable people – key local authority duties

Contact for enquires:
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Appendix 1 – Equality Impact Assessment
Appendix 2 – Consultation results and summary report
Appendix 3 – Exceptional Hardship policy
Appendix 4 – Full scheme document

ⁱ R (on the application of Logan) v London Borough of Havering [2015] EWHC 3193 (Admin)