

COUNCIL

TUESDAY, 23RD FEBRUARY, 2021

At 6.15 pm

In a

VIRTUAL MEETING - ONLINE ACCESS

SUPPLEMENTARY AGENDA

PART I

| <u>ITEM</u> | <u>SUBJECT</u> | <u>PAGE NO</u> |
|-------------|--|--------------------|
| 7. | <u>COUNCIL TAX REDUCTION SCHEME</u> The report has been updated to include revisions suggested following consultation with the Monitoring Officer and the provision of legal advice and also two calculation changes. All changes are shown as tracked changes. | 3 - 14 |

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|--|--|
| Report Title: | Council Tax Reduction Scheme |
| Contains Confidential or Exempt Information? | No - Part I |
| Lead Member: | Cllr Hilton Lead Member Finance and Ascot. |
| Meeting and Date: | Full Council – 23 February 2021 |
| Responsible Officer(s): | Adele Taylor – Director of Resources. Louise Freeth, Head of Revenues, Benefits, Library and Resident Services. |
| Wards affected: | All |

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REPORT SUMMARY

1. Council Tax Reduction (CTR) provides financial assistance to council tax payers on a low income. This report seeks to provide the results of a recent public consultation.
2. The report proposes a change to CTR levels to bring them into line with other neighbouring authorities and the administration arrangements adopted for Housing Benefit and Universal Credit.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Council notes the report and in particular notes the feedback from the consultation and:

- i) Approves the existing 20% contribution level for the 2020/21 Council Tax Reduction scheme with effect from 1 April 2020.
- ii) Approves the continuation of the 20% contribution level for the 2021/22 Council Tax Reduction scheme with effect from 1 April 2021.
- iii) Re-approves the associated changes to the Council Tax Reduction scheme to align them to rules governing Housing Benefit and Universal Credit.

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 1.1 Since April 2013, billing authorities have been responsible for devising their own Council Tax Reduction (CTR) schemes to assist working age council tax payers who are on a low income.
- 1.2 Local CTR schemes replaced a previous national scheme of Council Tax Benefit.
- 1.3 MHCLG provides councils with regulations governing CTR for those of pensionable age, which means that they may still receive up to 100% of their council tax paid via this scheme.

- 1.4 The Royal Borough's CTR scheme for 2019/20 enabled working age customers to receive up to 91.5% of their council tax charge through this form of assistance. However, the Local Government Finance Act 1992 (amended) places a requirement on councils to consider amendments to their scheme on an annual basis.
- 1.5 Councils are required to consult on any changes which they wish to make to the operation of their scheme. They must first consult with their major precepting authorities as it has a direct financial impact upon them. They must also consult anyone else who may be affected i.e. recipients of CTR and the wider council tax payers.
- 1.6 At Council, on 25 February 2020, it was agreed that the maximum level of help available should reduce to 80%. However, the legality of the consultation was subsequently challenged. The Royal Borough agreed to settle rather than defend this legal challenge and a Consent Order was made on 9 July 2020. Due to the pandemic this was not sent quickly and was not received by the Council until 19 August 2020.
- 1.7 The Consent Order required that a fresh consultation should be undertaken and the results brought to Councillor's Attention before requesting that they remake the decision and that another Equalities Impact Assessment be provided, in light of the consultation results.

1.8 The Consent Order did not require the Council to quash the decision that had been made. However, in remaking the decision, the Council should keep an open mind, and not be influenced by the fact that the previous decision was made and has been maintained until now. The Council should not take into account the fact that the budget figures for 2020/21 were predicated on the previous decision. That decision can, if considered appropriate, be changed

4.81.9 That consultation has now been undertaken and a new Equality Impact Assessment prepared.

4.91.10 This report covers the requirements to reconsider the decision made last year, in light of the Consent Order, as well as determining the Council's position on CTR in 2021-22. A CTR scheme may only be changed once a year and those changes proposed must be approved by full Council prior to 11th March preceding their introduction.

4.401.11 Unfortunately, national statistics on % contributions charged by each English Council are no longer collated. However, the table below shows the current and proposed contribution across the Berkshire authorities.

| Council | % Contribution 2020/21 and capital cut off | Proposed % Contribution 2021/22 |
|--|--|---------------------------------|
| Bracknell Forest | 20% | 20% |
| Reading | 35% (£3k) | 35% (£3k) |
| Royal Borough of Windsor and Maidenhead | 20% (£16k) | 20% (£16k) |

| | | |
|----------------|---|------------|
| Slough | 20% - 100% 6 rates based on income bands | 20% - 100% |
| West Berkshire | 30% (£6k) | 30% (£6k) |
| Wokingham | 22% - 100% 5 rates based on income bands | 22% - 100% |

4.141.12 The Royal Borough also has one of the lowest levels of Council Tax which means the payment, by CTR claimants, is lower than in other councils. An example by Berkshire Authorities at Band D is set out below:

| Council | Proposed % Contribution 2020/21 | Band D Council Tax Level 2020/21 | Payment PA by CTR claimants on Maximum Assistance £ |
|--|---------------------------------|----------------------------------|---|
| Bracknell Forest | 20% | 1,728.39 | 345.68 |
| Reading | 35% | 1,976.04 | 691.61 |
| Royal Borough of Windsor and Maidenhead | 20% | 1,392.60 | 278.52 |
| Slough | 20% - 100% | 1,703.35 | 340.67 – 1,703.35 |
| West Berkshire | 30% | 1,895.15 | 568.55 |
| Wokingham | 22% - 100% | 1,892.91 | 416.44 – 1,892.91 |

Table 1: Options

| Option | Comments |
|---|--|
| Do not re-approve the 2020/21 CTR scheme changes nor the continuation of those changes in 2021/22 Not the recommended option. | <p>The Royal Borough's CTR scheme for working age customers had been largely based on the original Default Regulations issued by MHCLG and the recommended 8.5% contribution.</p> <p>Central government funding is not provided for the scheme, therefore to maintain the scheme at the current level costs the council £1.89m pa compared with £2.19m in 2019/20.</p> <p>The change proposed to mixed aged couples brought the scheme into line with entitlement rules for other welfare benefits. Not to do so would have caused confusion for both customers and staff.</p> <p>Although this option is not supported by the small number of residents who completed the survey, further consequences of not re-making the decision made by Council on 25 February 2020 would also include having to recalculate, rebill and potentially refund any credits</p> |

| Option | Comments |
|---|---|
| | owing to working age CTR claimants for the financial year 2020/21. |
| <p>Re-approve the 2020/21 CTR scheme changes but not the continuation of those changes in 2021/22</p> <p>Not the recommended option.</p> | <p>While re-approving the 2020/21 CTR changes would negate the requirement to recalculate, rebill and potentially refund any credits owing to working age CTR claimants for the current financial year, Further changes for 2021/22 are not recommended.</p> <p>Further increasing the percentage contribution for working age recipients in 2021/22 would impact on the customer's ability to pay, at a time of economic crisis, although this would provide further savings for the council.</p> <p>Further decreasing the percentage contribution for working age recipients in 2021/22 would increase the cost of the CTR scheme for the council at a time when the effect of the ending of the Government's Coronavirus Job Retention Scheme is not yet known.</p> |
| <p>Re-make the decision made by Council on 25 February 2020 for the 2020/21 financial year. including the changes proposed.</p> <p>The recommended option.</p> | <p>This decision is confirmed by the results of the re-run public consultation with 41% of respondents agreeing that the level of support should have changed from 91.5% to 80%, compared with 21% disagreeing.</p> <p><u>Although this decision is not confirmed by the results of the re-run public consultation with 59% of respondents disagreeing that the level of support should have changed from 91.5% to 80%, compared with 41% agreeing.</u></p> <p>The effect of not making these changes would be increased budgetary pressure on the council, affecting not just the 2,512 CTR customers but, potentially, the 65,513 households within the Royal Borough.</p> <p>It is acknowledged that these customers may be financially vulnerable but mitigation already exists in the form of discretionary powers to remit charges on an individual basis should they suffer financial hardship and, for 2021 – 2022, the Council Tax Hardship Fund.</p> |

3. KEY IMPLICATIONS

- 3.1 In February 2020, there were 2,621 working age customers receiving CTR. Their average Council Tax liability was £19.51 per week and they received, on average £16.25 assistance against this per week.
- 3.2 In February 2021, there are 2,512 working age customers receiving CTR. Their average Council Tax Liability is £20.48 per week and they receive, on average £14.70 assistance against this per week. However, it should be noted that this figure is dynamic and fluctuates throughout the year as residents can receive CTR for short periods, coming on and off the scheme as their financial circumstances change.
- 3.3 Prior to 2020/21, the CTR scheme required that customers of working age pay at least 8.5% of their liability themselves, limiting assistance to 91.5% of their bill.
- 3.4 If the amount of contribution had not been increased for working age residents from April 2020, then the CTR scheme would have cost the council approximately an additional £300,000.
- 3.5 As this is a complex means tested form of public assistance it is not possible to outline the impact on each individual. However, the following table provides outline information and some examples of three types of customer who will be affected by the increase in % contribution proposed.

Table 1.

| | | | | | | | | |
|---|----------|----------|----------|---------------------|----------|----------|-----------------|--|
| | | | | Volume of customers | | | Financial Value | |
| Total number of working age Council Tax Support Customers | | | | 2,512 | | | £1,897,994 | |
| Average Liability | | | | £20.48 | | | | |
| Average CTR award | | | | £14.70 | | | | |
| Customers | | | | | | | | |
| Band A | B | C | D | E | F | G | H | |
| 152 | 562 | 877 | 663 | 164 | 63 | 30 | 1 | |
| Details above shows February 2021 data. | | | | | | | | |
| Example 1: Customer in receipt of a passported benefit i.e. either Income Support, Jobseekers Allowance (Income Based) or Employment Support Allowance (Income Related) in a band H property in White Waltham. Current weekly charge = £3.91 Per annum = £206.96 Proposed weekly charge = £9.31 Per annum = £487.01 | | | | | | | | |
| Example 2. A couple in a Band G property in Datchet who are working and have a gross weekly income of £252.53 of which £27.10 is disregarded. | | | | | | | | |

As a result of having income above their needs allowance, they have to contribute £33.93 per week to their Council Tax charge, irrespective of the maximum support permitted.

In addition:

Weekly contribution to Council Tax at 8.5% £3.87

Weekly contribution to Council Tax at 20% £9.11

- 3.6 In addition to the change proposed, to increase the contribution level from working age customers, it was also recommended that the opportunity was taken to align the existing CTR scheme with the rules regarding Housing Benefit and Universal Credit. This should be done on an annual basis as approximately 80% of customers receiving CTR also receive either Housing Benefit or the Housing Element of Universal Credit.
- 3.7 While aligning the rules across both schemes would not save the council any sums financially, it would ensure that the cost of administering the scheme is minimised as far as possible. The changes proposed would include:
- Adopting the same uprating as the DWP apply for Housing Benefit within the means tested calculation; and
 - Treating mixed age couples, where one is of pensionable age and the other working age, under the same rules as Housing Benefit

Table 2: Key implications

| Outcome | Unmet | Met | Exceeded | Significantly Exceeded | Date of delivery |
|--|--------------------------------------|---------------------------------|------------------------------------|-------------------------------|-------------------------|
| Working age CTR scheme updated and aligned | Working age CTR scheme remains as is | Scheme updated by 31 March 2021 | Scheme updated by 29 February 2021 | N/A | 1 April 2021 |

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 The Council reviewed the operation of the scheme, as it was required to do, in February 2020 and again in February 2021. This showed that contribution levels for the Royal Borough were out of step from other neighbouring councils and that the administration arrangements were out of step with the Housing Benefit scheme.
- 4.2 The proposals within this report aim to continue to address this by re-making the decision of 25 February 2020 and confirming that they will continue into the 2021/2 financial year. Contribution levels for the Royal Borough would be brought into line with other neighbouring councils and this decision would ensure that the administration of the scheme continues to be streamlined and brought into line with the Housing Benefit Scheme.

- 4.3 In 2019/20, the CTR scheme cost the council £2.19m pa. In 2020/21 the CTR scheme costs £1.8m. While there are currently 109 less working age customers in receipt of CTR, this figure does fluctuate and, based on their average CTR award, accounts for only £1,602 saving. The increase in the % contribution accounts for the majority of the £0.3m reduction in expenditure while acknowledging that this continued reduction will depend on:
- (i) Any change in collection levels
 - (ii) Any changes in the eligibility levels as the profile of CTR customers' change over time.
- 4.4 The current caseload statistics, for working age CTR recipients, are largely unchanged from 12 months ago, despite the current economic crisis and continued promotion of the scheme. This may change following the end of the Government's Coronavirus Job Retention Scheme and any increase in caseload will lead to a direct increase in expenditure for the council.
- 4.5 The proposals suggested will re-confirm that all working age CTR customers receive less financial assistance in 2020/21 than 2019/20, therefore increasing their liability. This would also be continued into 2021/22.
- ~~4.6 If the decision made on 25 February 2020 is not re-approved, each working age CTR recipient will need to be re-billed for the current financial year as the level of their CTR award would need to be recalculated. This may also involve refunding sums to these residents where they have over-paid.~~
- ~~4.7~~4.6 While maintaining the 20% minimum contribution rate may prove difficult for some customers to meet, and therefore could have an impact on council tax collection, it is in some part mitigated by the introduction, and maintaining, of the Council Tax Reduction Hardship Fund outlined at 6.4 below.

5. LEGAL IMPLICATIONS

- 5.1 Section 13A of the Local Government Finance Act 1992 (as amended) ("the 1992 Act") requires each billing authority in England to make a scheme specifying the reductions which are to apply to amounts of council tax payable by persons, or classes of person, whom the billing authority considers are in financial need. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (as amended in 2020) prescribe matters which must be included in such a scheme in addition to those matters which must be included in such a scheme by virtue of paragraph 2 of Schedule 1A to the 1992 Act.
- 5.2 The 1992 Act also requires an authority reducing CTR to consider the issue of whether to award such transitional protection as it sees fit to affected customers. It is proposed that, since the primary purpose of these changes is to ensure a budget saving and mitigation already exists for those individuals suffering financial hardship as a result, to create a complex transitional protection scheme would not be appropriate.
- 5.3 The council has existing powers under S13A(1)(c) of the 1992 Act where an affected customer believes they have suffered financial hardship as a result of

these changes. This power enables the council to reduce the amount which a council tax payer is liable to pay, as respects the dwelling and the day, to such extent as it thinks fit on an individual basis.

- 5.4 The 1992 Act also places a requirement on councils to consult with anyone who may be affected i.e. recipients of CTR assistance and Council Tax Payers, should they wish to make any amendments to their scheme. [The Council has sought to do so, both in respect of the decision with respect to 2020/21 and 2021/22.](#) This follows consultation with the major preceptors i.e. Thames Valley Police and Royal Berkshire Fire and Rescue.

6. RISK MANAGEMENT

- 6.1 The proposals listed above will lead to working age CTR customers receiving less financial assistance and therefore increase their liability. This increase may prove difficult for some customers to meet and therefore could have an impact on Council Tax collection.
- 6.2 The council is however retaining existing protection for vulnerable customers within its current scheme. These include:
- Disregarding income received from Child Benefit and Child Maintenance for both couples and lone parents with children.
 - Disregarding eligible child care costs up to £175 per week for one child and £300 per week for two or more children.
 - Disregarding income received from Disability Benefits such as Attendance Allowance, Disability Living Allowance and Personal Independence Payments.
- 6.3 The council has existing powers under S13(A)(1)(c) of the Local Government Finance Act which allows for the reduction of the charge, as the Borough sees fit. The Borough's policy specifies that where an affected customer believes they have suffered severe financial hardship this discretionary power maybe utilised. This power enables the council to reduce the amount which a council tax payer is liable to pay, as respects the dwelling and the day, to such extent as it thinks fit on an individual basis. It is proposed that this existing power is used in the event of customers facing financial hardship as a result of this change.
- 6.4 As part of the Government response to the Covid pandemic, the Ministry of Housing, Communities and Local Government (MHCLG) provided local authorities with additional funding to assist those economically vulnerable. This is referred to as the Council Tax Reduction Hardship Fund and required authorities to use their S13(A)(1)(c) powers to provide residents with additional support including working age Council Tax Reduction customers who could receive up to £150 additional reduction in their council tax liability. The Royal Borough received £564k additional funding and, at the time of writing, has awarded £480k to 3,083 residents. The fund has to cover anyone in receipt of Council Tax Reduction, at any point, up to 31 March 2021 and it is therefore anticipated that it will be fully utilised at that point.

- 6.5 Government have also announced that the Royal Borough will receive a further £599k in additional funding for the financial year 2021/22 and the council intends to replicate this form of assistance to ensure that those working age customers in receipt of Council Tax Reduction are further supported. However, the final details of this scheme remain under consideration as the council is mindful that sums may need to be adjusted to take account of economic factors on the overall caseload e.g. the ending of the furlough scheme and other potential hardship cases.

Table 4: Impact of risk and mitigation

| Risks | Uncontrolled risk | Controls | Controlled risk |
|---|--------------------------|---|------------------------|
| Existing customers affected by the change could suffer hardship | Medium | S13(A)(1)(c) permits cases to be considered on an individual basis | Low |
| Collection rates in respect of Council Tax will not be achieved | Medium | The Revenues Team will ensure the focus remains on collection and that this is monitored monthly. | Low |

7. POTENTIAL IMPACTS

- 7.1 The council has to give due regard to its Equalities Duties, in particular with respect to general duties arising pursuant to the Equality Act 2010, section 149. Having due regard to the need to advance equality involves, in particular, to the need to remove or minimise disadvantages suffered by persons who share a relevant characteristic that are connected to that characteristic. [Further details about the Equalities Duties are set out in the Equality Impact Assessment, which all councillors should read before taking the decisions identified in this report.](#)
- 7.2 The council tax system is programmed to identify all CTR accounts. There is no evidence to indicate that groups with protected characteristics have been disproportionately affected by the operation of the scheme previously and while the changes proposed may reduce support available to individuals this would be based on the individual's circumstances rather than merely because they share a protected characteristic.
- 7.3 The powers provided within S13A(1)(c) of the Local Government Finance Act also provide further mitigation.
- 7.4 Standard questions relating to Equality and Diversity were included on the survey but it was made clear that answering these was not compulsory. While 191 responses were received, not all respondents chose to complete the questions regarding their circumstances or ethnic background.
- 7.5 **Climate change/sustainability:** no impact identified.
- 7.6 **Data Protection/GDPR:** no impact identified.

8. CONSULTATION

- 8.1 A public consultation exercise was undertaken during the period from 14 October 2020 to 08 January 2021. The survey sought views from respondents on both the 2020/21 changes and the proposal to maintain those changes into 2021/22. It was available on-line but paper copies were available upon request. 1 paper copy was requested. The consultation was promoted through a variety of channels during this time:
- A link was immediately available on the Royal Borough's website.
 - Automated messages highlighting the consultation were immediately placed on the generic Council Tax and Benefit e-mail addresses.
 - A paper flyer was produced, of all live consultations, [including reference to the CTRS consultation](#), and a distribution house engaged to issue it to every household within the Borough from 21st to 26th October 2020
 - A newspaper advert, of all live consultations, [including reference to the CTRS consultation](#), was placed in the local press during the week commencing 17th November 2020
 - E-mails were issued to 303 community groups or charities, identified from various sources, on 3rd November 2020. Members were asked to advise on any other community groups or charities missing from the list of 303, but none were identified
 - An e-mail, together with a copy of the leaflet, was sent to 10,286 Council Tax liable parties on 30th November. That being the number of e-mail addresses held against live Council Tax accounts.
- 8.2 In total there were 191 responses received, compared with the 141 responses received last year.
- 8.3 Supplementary questions were asked, for monitoring purposes, to determine whether respondents were currently in receipt of CTR or were completing the consultation on behalf of a representative body. While only 2 respondents advised that they were completing the survey on behalf of a representative body, a total of 7 respondents then went on to state which group in the community they represented. Analysis of the 7 shows that only 1 respondent was in fact representing a specific group i.e. RBWM Liberal Democrats. The remaining 6 stated they were "resident" (x2), "working man", "pensioner", "tax paying resident" or "carer".
- 8.4 Of those who chose to respond to these questions, 27 (14.21%) of respondents stated that they were currently in receipt of CTR and 38 (86.36%) advised that they were of working age.
- 8.5 The consultation exercise was based on five questions to residents of the Royal Borough, three of which required specific responses with the remaining two allowing free text responses regarding any alternative savings proposals, or additional changes, that respondents would wish to see. Standard Equality and Diversity questions were also asked but it was made clear that providing this information was voluntary.
- 8.6 In summary:

- ~~150 respondents (79%)~~ 112 respondents (59%) did not agree that the level of support should have been decreased. ~~This compares with 97 respondents (68.79%) in February 2020.~~
- 114 respondents (64.04%) did agree that the CTR should have been aligned with those of Pensioners and working age Housing Benefit Customers
- 110 respondents (58.51%) did not agree that the level of support available for working age customers in 2021/22 should continue at 80%

8.7 In making its decision, in relation to the CTR Scheme, the Council must conscientiously take into account the feedback from the consultation process. The Council should look carefully at the comments made, including the alternative proposals suggested as to savings/revenue generation.

9. TIMETABLE FOR IMPLEMENTATION

9.1 If approved, the proposals would re-confirm the 2020/21 changes to the CTR scheme which were effective from 01 April 2020.

9.2 Maintaining the changes for 2021/22 would take effect from 01 April 2021.

10. APPENDICES

10.1 This report is supported by one appendix:

- Appendix A – On-Line Consultation Responses

11. BACKGROUND DOCUMENTS

11.1 This report is supported by one background document:

- Equality Impact Assessment which may also be found here:
<https://www.rbwm.gov.uk/home/council-and-democracy/equalities-and-diversity/equality-impact-assessments>

12. CONSULTATION (MANDATORY)

| Name of consultee | Post held | Date sent | Date returned |
|-------------------|--|-----------|---------------|
| Cllr Hilton | Lead Member for Finance | 05.02.21 | 07&12.02.21 |
| Cllr Johnson | Leader of the Council | 05.02.21 | |
| Duncan Sharkey | Managing Director | 05.02.21 | 08.02.21 |
| Adele Taylor | Director of Resources/S151 Officer | 05.02.21 | 10.02.21 |
| Kevin McDaniel | Director of Children's Services | 05.02.21 | 05.02.21 |
| Hilary Hall | Director of Adults, Health and Commissioning | 05.02.21 | 05.02.21 |

| Name of consultee | Post held | Date sent | Date returned |
|--------------------------|--|------------------|----------------------|
| Emma Duncan | Monitoring Officer and Deputy Director of Law and Strategy | 05.02.21 | |
| Elaine Browne | Head of Law | 05.02.21 | 09.02.21 |
| Nikki Craig | Head of HR, Corporate Projects & ICT | 05.02.21 | 08.02.21 |
| Louisa Dean | Communications | 05.02.21 | |
| Karen Shepherd | Head of Governance | 05.02.21 | |
| | Other | | |
| | | | |

REPORT HISTORY

| Decision type: | Urgency item? | To Follow item? |
|---|----------------------|------------------------|
| Council decision | No | No |
| Report Author: Louise Freeth, Head of Revenues, Benefits, Library and Resident Services. Tel: 01628 685664. | | |