

Council

13 December 2018

Agenda Item 47

Brighton & Hove City Council

Subject:	Council Tax Reduction Scheme 2019		
Date of Meeting:	13 December 2018 Policy, Resources & Growth Committee - 6 December 2018		
Report of:	Executive Director, Finance and Resources		
Contact Officer:	Name:	Paul Ross-Dale	Tel: 01273 291969
	Email:	paul.ross-dale@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The council introduced a local Council Tax Reduction scheme (CTR) from 1st April 2013 as a result of national changes localising the previous Council Tax Benefit (CTB) system. Under legislation the local CTR must be reviewed each year. The purpose of this report is to set out this year's review and the resulting recommendations.
- 1.2 When CTR was introduced the funding for the scheme was reduced by 10% when compared with the costs of the previous CTB scheme. The funding has continued to reduce year on year and the gap between the cost of the current scheme and the estimated funding available for 2019/20 is forecast to be £5.8 million.
- 1.3 The council has a choice to manage this by either reducing the cost of the CTR scheme, reducing funding for other General Fund services, increasing revenues from charges for services, or increasing council tax (although increases above the government's 'excessive council tax increase' threshold would require a referendum).
- 1.4 In the current financial year the council is providing for a funding shortfall of approximately £4.6 million of the scheme costs within its General Fund budget.
- 1.5 CTR for people of pensionable age is set according to prescribed rules which are broadly in line with the support offered by the previous national scheme. Councils have no powers to alter the way the scheme works for pensioners, despite the fact that funding reductions impact across the whole scheme.

2. RECOMMENDATIONS:**That the Policy, Resources & Growth Committee:**

- 2.1 Notes that the council undertook formal consultation as a part of this review and that as part of the formal consultation a draft scheme was published which contained possible changes.

- 2.2 Notes the outcome of that consultation (**Appendix 3**) which has been summarised in paragraphs 5.1-5.4.
- 2.3 Considers the proposed changes set out in paragraphs 3.8 – 3.14.
- 2.4 Notes that an Equalities Impact Assessment (EIA) (**Appendix 2**) has been undertaken based on the proposed. The Committee should further note that, to meet their Public Sector Equality Duty, it must give conscientious consideration to the findings of this assessment when making a decision set out at paragraph 2.3, The actions which will be undertaken as a result of this EIA are set out in paragraph 7.9-7.11.
- 2.5 Approves £150,000 funding for the discretionary fund in 2019/20; this would require additional one-off funding of £140,000.
- 2.6 Notes that the Executive Director of Finance & Resources will, prior to 1st April 2019, exercise delegated powers to increase the appropriate calculative elements of the scheme to give effect to national changes.

That the Committee recommends to council:

- 2.7 That the council approves the making of a revised Council Tax Reduction Scheme incorporating the changes at paragraphs 3.8 to 3.14 of the report.
- 2.8 That the Executive Director of Finance & Resources be authorised to amend the council's Council Tax Reduction Scheme (Persons who are not Pensioners) (Brighton & Hove City Council) 2013 to reflect the changes at 3.8 to 3.14 below, and to take all steps necessary and incidental to the introduction of the revised scheme.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Universal Credit (UC) is now live in Brighton and Hove. A person on UC can also claim Council Tax Reduction (CTR) separately and CTR entitlement is based on their UC award. According to current government timescales, all working age claimants will be migrated to UC between 2019 and 2023, although the timescales for local migration are as yet unknown.
- 3.2 The government consulted on Managed Migration, outlining their plans for transferring people from legacy benefits, which include Housing Benefit, onto UC. Managed migration will not begin in earnest until 2020. It has already been announced that funding provided to Local Authorities to provide "Universal Support" will be withdrawn from April 2019, and the DWP will instead work directly with CAB to provide Universal Support. It is not clear what other funding arrangements will be in place for Local Authorities once Managed Migration begins, in order to mitigate potential hardship and provide local support.
- 3.3 One of the features of UC is that it is responsive to changes in household income month by month. This means that people might find that their UC is adjusted on a near monthly basis. Each time UC is adjusted, there is an impact on CTR, resulting in a new Council Tax bill being sent.

3.4 This presents some issues in the administration of CTR including:

- Complex assessment processes;
- Some customers receiving regular repeat bills throughout the year due to minor changes in their UC award;
- Each new bill has a new amount left to pay, and in some cases, the Direct Debit date might be pushed further back, causing a build up of arrears.

3.5 The proposed amendments to the CTR scheme will:

- Simplify the scheme for some CTR recipients;
- Avoid sending as many change bills;
- Avoid an increase of administration costs associated with frequent UC changes.
- Operate out with the UC regime.

3.6 The proposed change to CTR in this report seeks to smooth out the impact of minor changes in income for people in receipt of Universal Credit, by reducing the requirement for new Council Tax bills to be issued for these minor changes.

3.7 By sending multiple bills, there can be an impact on the overall billing and reminder process for that individual. The council aims to make sure that it is able to keep a smooth payment process for people who are on an income that has only slight fluctuations. If repeated bills are sent, Direct Debit dates can end up being moved further back each time, and arrears can arise. Also, each time a bill is sent, it means that a reminder would not be triggered for late Council Tax payments in relation to previous bills, making it harder to identify support needs and bring Debt Prevention procedures into play. Reminders are a regular part of our Council Tax payment cycle and are instrumental in helping people to avoid accumulating arrears. The new proposals will result in any changes in entitlement being calculated according to the CTR rules, but if the change is less than £2, the change will not be applied and therefore a new bill would not be sent.

3.8 As with any change involving a threshold or limit, minor benefits or detriments to income will not be reflected in the discount received. The example at **Appendix 1** shows how the minimum change threshold might affect households when they have changes. If there is no other change of circumstances during the year, the Council Tax Reduction would be recalculated at the time of the new financial year (the following 1 April). However, in this situation the new amount of CTR would apply only from 1 April. Paragraph 3.12 shows the other occasions when the rule would not apply, and a change bill would be sent even if the change is less than the minimum amount.

3.9 Even if there are no further changes during the year, CTR for all recipients will be recalculated at the time of Annual Billing in time for each new financial year, following the introduction of the minimum change rule. The recalculation would apply from the start of the financial year.

3.10 The CTR caseload changes over time and will continue to do so as more Universal Credit cases go live. The current caseload is 11,500 for working age cases (19,100 including pensioners, who are not subject to these proposals). But the caseload is never static, as people move in and out of entitlement. Also the

number of change calculations can vary and is much larger than the actual caseload itself. Based on figures from April to September 2018, we have extrapolated that there could be over 42,000 change calculations in one year. Of these, we estimate that 19,000 would result in a change to entitlement. Of these, we estimate that a small percentage of 15% to 18% would be impacted by the minimum change rule, meaning that approximately 1,400 to 1,700 changes would not be passed on.

3.11 There are some situations where the minimum change rule would not apply:

- Under existing rules, a person must qualify for at least £5 weekly CTR in order to receive any CTR. If a person has a change of circumstances that takes them below £5, they would no longer receive any CTR, even if the reduction was less than £2. For example, if they were entitled to £5.50 CTR, but after a change, their entitlement reduced by £1, the change would still be applied and therefore their entitlement would reduce to zero.
- Under existing rules, the maximum amount of CTR available to working age claimants is the equivalent of 80% of Band D Council Tax liability, even if their actual Council Tax band is higher. If a person's entitlement is close to the maximum entitlement, the "minimum change" rule could mean that they would never reach their maximum entitlement. For example, if they were entitled to £18.50 and the maximum they could receive was £20.00, even if their entitlement increased by £1.50, the minimum change threshold would not have been reached, so the entitlement would not be changed. Analysis of current caseload indicates that this is anticipated to affect less than 50 cases and there is also the option of using the discretionary Council Tax Reduction (DCTR) fund to mitigate any hardship. These cases cannot be identified in advance as changes of circumstances will not be known until the coming year. The DCTR fund for 2018/19 was set at £150,000. In 2017/18 the budget was also £150,000, which enabled DCTR to be awarded to 1,418 households.
- Changes in liability, including where a discount (such as Single Person Discount) is added or removed, or a change of banding. These changes will still be calculated.
- The award of a Discretionary Council Tax Reduction (a discretionary top up to the main CTR award), or changes to a Discretionary CTR award. These changes will be calculated.

3.12 The council is required to consider transitional protection for any CTR recipients affected by new proposals. In this instance, there is no change to existing entitlement on 1 April, unless there happened to be a qualifying change of circumstances on that day. The minimum change rule applies to changes of circumstances from 1 April onwards, therefore no transitional protection is required.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 An alternative option is a full income banding scheme. Whilst this type of scheme would be simpler, the software to deliver it is not available for 2019/20. The

scheme would involve setting bands or income brackets for people on Council Tax Reduction. It would involve establishing a person's household income and awarding a set percentage of reduction, according to income band. For example, if a person had income that fell in the lowest band (as an example, £0 to £150), they would receive 80% CTR. But if a person's income fell in the next band, they would receive 70% (amounts and percentages are illustrative only). The banding scheme remains an option for future years, subject to fuller evaluation and availability of software.

- 4.2 Another option was to consider whether support for vulnerable people could be increased, but this would have a substantial financial cost that is not deliverable within current budget constraints. However the budget process gives an opportunity for evaluating how the council's overall welfare framework can be funded.
- 4.3 A different level of "minimum change" was also considered. A higher minimum threshold could be set, for example £5. Whilst this would mean fewer change bills, it would also mean a higher impact on individuals as they would lose more income (or keep more income if the change meant that their CTR was not reduced). A lower threshold is recommended to achieve a fairer balance of impact versus administrative efficiency.
- 4.4 Do nothing. This was considered as an option, as the proposals involve some administrative complexities. But by delivering the proposal, it should be possible to reduce at least some of the change bills that are sent out for very minor changes while maintaining good practice debt prevention.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The council is required to consult with the Fire Authority and the Sussex Police and Crime Commissioner about proposed changes to the Council Tax Reduction scheme. This was done on 20 August 2018.
- 5.2 The proposal was then subject to a public consultation which ran from 6 September 2018 until 4 November 2018. The consultation was available on the council's website and an email was sent to all current Council Tax Reduction customers where email addresses were on record. Letters were sent to the remainder of the Council Tax Reduction customers. The consultation link was also set to a sample of Council Tax payers who do not currently claim CTR. Local advice services were alerted to the consultation at the Advisory Services Network meeting on 5 September 2018. There were 708 responses and the report at **Appendix 3** summarises the outcome.
- 5.3 The following shows that there was broad support for the overall intention of simplifying the CTR scheme and reducing the number of bills sent in respect of very small changes:

Response	Number of responses	Percentage
Strongly agree	244	34.5
Tend to agree	279	39.4
Neither agree nor disagree	69	9.8
Tend to disagree	32	4.5
Strongly disagree	37	5.2
Don't know / not sure	44	6.2
Sub Total	705	99.6
No response	3	0.4
TOTAL	708	100

- 5.4 Comments and additional points were made by many of the respondents. Many were supportive of the policy intention. Where concerns were raised, they tended to be around fears that the most vulnerable and those on lowest income could be losing out. In consideration of this point, it is also possible that people may derive short term benefit from the new scheme where a reduction of CTR is not passed on to them. If the situation is reversed and an increase of CTR is not passed on straight away, the Discretionary Council Tax Reduction scheme can ensure that extra support is available to people who need it, although the fund is limited and not every application is successful.
- 5.5 Additional comments were made by some respondents to suggest that other mechanisms be used to limit the number of bills. For example, having annual or six monthly / quarterly council tax bills, or changing the timeframe over which income is assessed, so that assessments are based on monthly income, as with UC. Whilst some of these ideas may be worth exploring further, there is currently no technical or legal basis for altering Council Tax billing cycles.
- 5.6 Another concern was that changes would be passed on retrospectively at the start of the next financial year, e.g. that a bill increase would not be passed on in August, but at a later date. This is not the case. If the bill is recalculated at the time of annual billing for the new financial year, the new amount of CTR will be effective from 1 April of the new financial year.

6. CONCLUSION

- 6.1 Whilst the CTR proposal for 2019/20 impacts upon a relatively small number of people, it will prevent multiple bills going out to those people when their income has only changed by a small amount. This will provide stability and predictability to their Council Tax bills and help people to maintain smoother payments and help to avoid an arrears situation.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The CTR scheme for 2019/20 is planned to remain unchanged from the 2018/19 scheme with the exception of the introduction of the £2 change threshold

described in this report. The change in the number of claimants and the planned council tax increase in 2019/20 will affect the overall cost of the scheme.

- 7.2 The forecast subsidy the council will pay towards the CTR scheme in 2019/20 will increase to £5.8million from £4.6million in 2018/19.
- 7.3 The estimated cost of the CTR scheme is reflected in the council tax base. The Council Tax base report to Policy, Resources & Growth Committee on the 24 January 2019 will reflect the approved 2019/20 scheme.
- 7.4 It is proposed to provide one-off funding to maintain the discretionary CTR fund at the level provided in previous years of £150,000. Current resources are estimated to reduce to 0.010million by year-end and therefore this will require additional one-off funding of £0.140million in 2019/20 to bring the fund up to this level. This allocation is included within the budget update report elsewhere on this agenda and will be treated as a commitment in setting the 2019/20 budget if approved.

Finance Officer Consulted: James Hengeveld Date: 16/11/18

Legal Implications:

- 7.5 Paragraph 5 of Schedule 1A to the Local Government Finance Act 1992 requires a billing authority, such as the council, to consider each financial year whether to revise its CTR scheme or to replace it with another one. If it wishes to amend its scheme, it must consult any major precepting authority and such other persons as it considers likely to have an interest in the operation of the scheme. Any revision to the Scheme, for implementation in 2019/20, must be made by 11 March 2019. If any revision to a scheme has the effect of reducing or removing a reduction, the revision must include such transitional provision relating to that reduction as the authority thinks fit.
- 7.6 Under Part 3 of the council's constitution, and section 67 (2) (aa) of the 1992 Act, the making of a revised CTR Scheme is reserved to full Council. It is appropriate for the draft Scheme to be considered first by the Policy, Resources and Growth Committee, given its remit in relation to Council Tax and corporate budgetary matters, and to refer its recommendations on the revised Scheme to full Council.
- 7.7 Under section 149 of the Equality Act 2010 the council must in the exercise of its functions have due regard to the need to eliminate discrimination, harassment, victimisation; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This duty is known as the Public Sector Equality Duty (PSED). The EIA is attached to the report as Appendix 2 for Members' consideration. In a 2015 case, R on the application of Logan v London Borough of Havering, the High Court found that there had been a failure by the full council to have due regard to the PSED because not every member of the council had been provided with a report and accompanying equality impact assessment looking at the possible adverse impact of the changes.

- 7.8 Under the council's Scheme of Delegations to Officers, the Executive Director of Finance and Resources has, subject to any general guidance or limitation imposed by the relevant Committee, delegated power to exercise the council's functions regarding the Council Tax Reduction scheme. Any changes to the scheme, such as an increase in the calculative elements of the scheme, occasioned by national changes will be made under delegated powers.

Lawyer Consulted:

Liz Woodley

Date: 26/11/18

Equalities Implications:

- 7.9 As the proposed changes to the scheme for 2019 are very limited, the Equality Impact Assessment (EIA) breaks down the general caseload to give a cross-section of how the scheme as a whole affects groups with protected characteristics. However, the scheme as a whole has been examined for Equalities Impacts in previous reports, each time the scheme has been adjusted. The new proposed changes are broadly neutral. Any CTR recipient regardless of background or protected characteristic might have an increase or a decrease of their entitlement.
- 7.10 One feature of the scheme is that there is an impact for those who are very close to the existing 80% Band D maximum award of CTR. In a snapshot of current caseload, 53 cases were currently less than £2 away from maximum CTR. They will be unable to attain full entitlement, as they would not be able to reach the minimum £2 change required to trigger a recalculation. However, not all of those cases would necessarily have a change during the year. The number of cases is too low to provide meaningful statistics. However, in those 53 cases, 36 were women (67%) and just over half (28) were single parents. 27 were people with disabilities. The Discretionary Council Tax Reduction scheme can respond where appropriate to any hardship caused by this part of the rules. Referral to advice agencies is also made where appropriate.
- 7.11 164 cases in the caseload snapshot include a child under the age of one, which gives an indication of cases where pregnancy and maternity are a characteristic. Due to the way means testing works, although somebody would have an increase of income upon the birth of a child, their applicable amount (assessment of financial need) also goes up. The two might balance off and the change to CTR could be marginal or non-existent. If non-existent, there is no difference to how claims are currently calculated. If marginal and below £2, the change would not be passed on. Any impacts around new children joining the household would be monitored and DCTR applications would be invited where appropriate.

Sustainability Implications:

- 7.12 There will be a marginal reduction of paper bills sent.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix 1: Example
2. Appendix 2: Equalities Impact Assessment.
3. Appendix 3: Outcome of CTR Consultation.