

	<h2>Policy and Resources Committee</h2> <h3>19 February 2020</h3>
<p style="text-align: right;">Title</p>	<p>Council Tax Support 2020/21 – Revision to Council Tax Reduction Scheme</p>
<p>Report of</p>	<p>Chairman of the Policy and Resources Committee</p>
<p>Wards</p>	<p>All</p>
<p>Status</p>	<p>Public</p>
<p>Urgent</p>	<p>Yes (see section 1.2)</p>
<p>Key</p>	<p>No</p>
<p>Enclosures</p>	<p>Appendix A – Proposed Barnet Council Tax Support Scheme Appendix B – GLA Consultation Response Appendix C – Windrush Compensation Scheme Guidance Appendix D – Local Government Ombudsman (LGO) guidance on Council Tax Support official error overpayments.</p>
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Summary

This paper provides information relating to proposed changes to the Local Council Tax Reduction Scheme (LCTRS) scheme from April 2020, including analysis from the public consultation carried out between 9th December 2019 and 10th January 2020.

The report seeks support from members on the amended LCTRS scheme and for referral to Full Council.

Officers Recommendations

The report recommends that the Committee:

1. Agree that the proposed Barnet Local Council Tax Support Reduction Scheme as set out in Appendix A should be referred to Full Council for approval.

1. WHY THIS REPORT IS NEEDED

Local Council Tax Reduction Scheme

- 1.1 The London Borough of Barnet is considering making changes to its current Local Council Tax Reduction Scheme (LCTRS) in 2020/21 following guidance from the Ministry of Housing, Communities & Local Government. The Council proposes:
 - To disregard any income and capital payments in relation to The Windrush Compensation Scheme in line with guidance from the Ministry of Housing, Communities & Local Government (MHCLG) and Housing Benefit regulations.
 - To introduce an option for residents to apply for a Discretionary Council Tax Hardship payment (Section 13a) to offset LA error/official error overpayments of LCTRS whereby the resident could not reasonably have known they were being overpaid, in line with Local Government Ombudsman (LGO) guidance issued in August 2019.
 - To award Council Tax Support from the start date of Council Tax liability when a claim for LCTRS is made during the first week of liability, bringing Barnet's scheme in line with the default scheme.
- 1.2 The proposed LCTR scheme requires approval of Full Council and this decision needs to take place at the scheduled 3rd March 2020 meeting to allow sufficient time to implement the changes if the scheme is approved.
- 1.3 The changes to the scheme will not adversely affect residents with no specific group negatively affected following the proposed changes.
- 1.4 By its nature any disregarded capital will result in additional Council Tax Support impacting on the amount of Council Tax that can be collected, however, as this is a new compensation introduced by government this will have no impact on any previous MTFs planning and will not have a negative impact on future planning.
- 1.5 Discretionary Council Tax Hardship payments are also referred to as Section 13A grants. Section 13A(1c) of the [Local Government Finance Act 1992](#) allows local authorities to, in exceptional circumstances, reduce the Council Tax liability for a charge payer. Statutory exemptions and discounts must first have been exhausted. Section 13A(1c) are funded from the general fund.
This policy is already in place and the purpose of this report is to ensure the policy clearly defines that these payments can be applied for in relation to Local Authority error overpayments in relation to Council Tax Support. There will be no significant additional cost to the general fund.

Current Position

- 1.6 The current scheme will remain unchanged in all other aspects with all changes made in the 2019/20 scheme remaining applicable. The changes proposed bring the scheme in line with recommendations from MHCLG and the LGO.

The Windrush Compensation Scheme

- 1.7 Government introduced The Windrush Compensation Scheme to help people who may have suffered a loss because they were unable to demonstrate their lawful right to live in the UK. Full details of the scheme can be found [here](#).

Following guidance from MHCLG, as set out in Appendix C, payments of income and capital in respect of the scheme will be disregarded in Barnet's LCTR scheme.

Discretionary Council Tax Hardship payments in relation to Local Authority error overpayments in relation to Council Tax Support

- 1.8 The London Borough of Barnet are looking to update its policy on Local Authority error/official error Council Tax Support write-off's following guidance from the Local Government Ombudsman.
- 1.9 The key driver for this change in policy was to create an option to consider writing-off overpayments of Council Tax Support whereby the resident could not have reasonably known they were being overpaid due to a local authority error. This issue arose following a complaint and guidance issued by the LGO. Applications will be assessed on a hardship basis.
- 1.10 There is no further changes to the overall policy intentions of the current policies or additional restrictions to what is being offered within this updated policy.
- 1.11 There is no change to the allocated budget available for those facing hardship. The Council however will keep the impact of the proposed scheme under review and if appropriate consider whether increases to the DCTH budget is appropriate.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Guidance issued on 31 July 2019 (Appendix C) by the Ministry of Housing, Communities & Local Government advised that payments of income and capital in respect of the Windrush Compensation scheme will be disregarded under Housing Benefit regulations and Council Tax Reduction Schemes (Prescribed Regulations).
- 2.2 The council consulted on the proposed changes for a 4-week period. The consultation was focused on stakeholder's views on the Windrush Compensation Scheme and two further improvements to the scheme following feedback from residents. These key areas are listed below.

1. Disregard of any income from the Windrush Compensation scheme.

2. Disregard of any lump sum payments from the Windrush Compensation scheme
3. To introduce the option for residents to apply for a Discretionary Council Tax Hardship payment to offset local authority Council Tax Support over-payments, where it is assumed the resident could not have been reasonably expected to know they were being overpaid. A decision will be made on hardship.
4. Award Council Tax Support from the start date of Council Tax liability if an application is made within the same week of the liability start date. This is in line with Housing Benefit regulations.

2.3 As expected given the minimal impact of the changes and with all changes intended to have a positive impact on Barnet residents, there were very few responses to the consultation. Of the 4 responses received, only the Greater London Authority commented on the proposed changes. The 3 other responses were in relation to elements of the scheme not being consulted on or in one case a different department of the council.

All Respondents

- A Barnet resident requested the removal of the £5.00 Non-Dependant deduction for students. Although this isn't part of the consultation this will be recorded as feedback towards considerations for the 2021/22 LCTR Scheme.
- A young Barnet resident requested that the council introduce cricket pitches around the area. This feedback has been forwarded onto the relevant department for response given it doesn't form part of this consultation.
- A supervisor from Barnet Citizens Advice responded asking if the minimum income floor in relation to the self-employed will be reviewed as it's felt other London Boroughs have exemptions that Barnet do not offer. Although this isn't part of the 2020/21 consultation it will be used as feedback when considering the 2021/22 Council Tax Support Scheme.
- The final response came from the Greater London Authority (GLA). This has been included in Appendix B and outlined below.

Greater London Authority Response

Appendix B contains the full written response received from the Greater London Authority (GLA), the key points are summarised below with the Council's response where appropriate.

- The GLA recognises the need for councils' schemes to take account of changes to Housing Benefit Regulations, such as the exclusion of income and capital payments in relation to the Windrush Compensation Scheme.
- The GLA agrees the change to award CTS from the start date of council tax liability, if an application is made within the same week of the liability start date, aligns the scheme with Housing Benefit regulations.

- The GLA supports the proposed change to enable claimants who have received a CTS payment in excess of their entitlement to offset their requirement to make a repayment to the council via a Discretionary Council Tax Hardship payment. It is important that the Council make claimants aware of their ability to apply for support in this way if they have inadvertently received an overpayment.

DCTH Policy

- 2.4 The additional detail within the DCTH policy will provide a more robust reference point for applicants and decision makers.
- 2.5 Any DTCH applications in respect of Local Authority Council Tax Support overpayments will be assessed on customer hardship.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

Proposed LCTRS Scheme

- 3.1 No alternate options were considered with the proposed changes arising from MHCLG guidance to bring the scheme in line with Housing Benefit legislation.

4. POST DECISION IMPLEMENTATION

Proposed LCTRS Scheme

- 4.1 The decision to amend the scheme will be referred to Full Council on 3rd March 2020. New income and capital disregard parameters will be set up within the system software to deliver the proposed changes.

Discretionary Council Tax Hardship Payment Policy

- 4.2 Key staff will be briefed on the policy in readiness for April 2020.
- 4.3 The policy will be published online and shared with key stakeholders such as Citizens Advice Barnet.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The proposed changes to the scheme will have no significant impact to the cost of the scheme or the MTFS.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 The changes to the scheme are minor and have no anticipated effect on the above.

5.3 Social Value

5.3.1 The LCTR scheme provides financial support to council tax payers on low incomes by reducing the amount they are required to pay. The DCTH policy provides support to our most vulnerable citizens to help meet council tax liabilities and shortfalls and upon approval can help to offset Local Authority error overpayments whereby the resident could not have been reasonably expected to know they were being overpaid.

5.4 Legal and Constitutional References

5.4.1 Section 13A(1)(a) and (2) of the Local Government Finance Act 1992 introduced a duty on every billing authority in England to make a scheme specifying the reductions which are to apply to amounts of council tax payable, in respect of dwellings situated in its area, by:

- (a) Persons whom the authority considers to be in financial need, or
- (b) Persons in classes consisting of persons whom the authority considers to be, in general, in financial need.

5.4.2 The above scheme is referred to as the authority's council tax reduction scheme. Section 67 of the 1992 Act requires that revisions to the council tax reduction scheme are reserved to Full Council for a decision.

5.4.3 Schedule 1A sets out the requirements in relation to adoption or revision of a scheme. Paragraph 2 confirms a scheme must state the classes of person entitled to a reduction and that this may be by reference to income, capital, a combination of income and capital, number of dependents and whether an application has been made. Different reductions may be set for different classes. A reduction may be a discount calculated as a percentage, a set amount, expressed as an amount of council tax to be paid or the whole amount of council tax. The scheme must state the procedure by which a person may apply for a reduction and the procedure for appeal. The scheme must comply with prescribed matters set out by the Secretary of State in regulations. Paragraph 5 confirms that a billing authority must consider whether to revise its scheme or to replace it with another scheme for each financial year. Any revisions or replacement must be made no later than 11 March in the financial year preceding that for which the revision or replacement is to have effect. If any revision or replacement has the effect of reducing or removing a reduction to which any class of persons is entitled, the revision or replacement must include such transitional provision as the authority thinks fit. When making revisions to a scheme, paragraph 3 applies. Paragraph 3 requires an authority, before making a scheme, to (a) consult any major precepting authority which has power to issue a precept to it, (b) publish a draft scheme in such manner as it thinks fit, and (c) consult such other persons as it considers are likely to have an interest in the operation of the scheme.

5.4.4 **Section 13A(1)(c)** permits a billing authority to reduce council tax in other discretionary circumstances

5.4.5 There is a statutory duty to consult on the council tax support scheme. With only 4 responses received these have been reported under section 2.3 with a summary of the GLA response. The Full response is outlined in Appendix B. Case law has confirmed that when determining whether to change policy, the Council must be receptive to reasonable arguments against the proposals. There have been no negative responses to the proposals outline in this report.

5.4.6 Council Constitution, Article 7 (Committees, Sub-Committees, Area Committees and Forums and the Local Strategic Partnership) sets out the responsibilities of the Policy and Resources Committee which includes: To be responsible for Finance including Local taxation.

5.4.7 Council Constitution, Article 4 (The Full Council) sets out the responsibilities of the Council which includes: Setting the Council Tax.

5.5 Risk Management

5.5.1 No risks have been identified within this report with all proposed changes having a positive impact on specific groups of residents. No residents will be adversely affected by the proposed changes. The amount of DCTH used towards Local Authority error CTS overpayments will be kept under review.

5.6 Equalities and Diversity

5.6.1 The 2010 Equality Act outlines the provisions of the Public-Sector Equalities Duty which requires Public Bodies **to have due regard** to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not
- foster good relations between persons who share a relevant protected characteristic and persons who do not.

5.6.2 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

5.6.3 With all proposed changes expected to have a positive impact, no specific group will be adversely affected. The overall assessment of the proposed scheme is one of positive impact. DCTH policy is publicised and brought to the attention of key stakeholders such as the Citizens Advice Barnet. It will also keep both the DCTH/DHP policy and this proposed scheme under review.

5.7 Corporate Parenting

5.7.1 In line with Children and Social Work Act 2017, the council has a duty to consider Corporate Parenting Principles in decision-making across the council. The outcomes and priorities in the refreshed Corporate Plan, Barnet 2024, reflect the council's commitment to the Corporate Parenting duty to ensure the most vulnerable are protected and the needs of children are considered in everything that the council does.

5.7.2 The changes proposed are intended to have a positive impact and not adversely impact any Barnet residents

5.7.3 The council will always have regard to the Corporate Parenting Principles in considering any applications for discretionary help from foster carers, providers of supported lodgings, special guardians or care leavers.

5.8 Consultation and Engagement

5.8.1 The consultation results have been included in the main part of this report.

5.8 Insight

5.8.1 Insight taken from existing scheme along with feedback from MHCLG and GLA.

6. BACKGROUND PAPERS

6.1 None applicable to this report