

Strategy and Resources Executive Advisory Board Report

Ward(s) affected: All

Report of Director of Service Delivery

Author: Belinda Hayden, Revenues & Benefits Lead

Tel: 01483 444867

Email: Belinda.hayden@guildford.gov.uk

Lead Councillor responsible: Tim Anderson

Tel: 07710 328560

Email: tim.anderson@guildford.gov.uk

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Contributing to reviews of the Local Council Tax Support Scheme

Executive Summary

Following a consultation press release in September 2020, councillors indicated that they would like an Executive Advisory Board (EAB) on Local Council Tax Support Scheme (LCTS). Officers proposed in their annual report to the Executive on 24 November 2020 that this occur in May or early June 2021 for the 2022 scheme. This is before any modelling or forecasting takes place and allows the EAB to have input at an early stage.

The report and presentation provide members of the EAB with more information on the complexities and challenges of our LCTS scheme. This is to enable them to provide officers with feedback on key areas they would like officers to either leave untouched or look at in more detail.

Officers will use this information to inform the annual review to create the 2022 scheme, as well as the fundamental review of future options which is a separate review.

Recommendation to EAB

That the EAB provides officers with feedback on areas that they recommend should be either untouched or looked at in more detail during scheme reviews.

Reason(s) for Recommendation:

Councillors asked for an opportunity to provide feedback.

Is the report (or part of it) exempt from publication? (delete as appropriate)

No

1. Purpose of Report

- 1.1 To provide members of the EAB with more information on the Local Council Tax Support Scheme (LCTS), to enable them to provide feedback on the scheme.
- 1.2 Officers will use this information to inform the annual review to create the 2022 scheme, as well as the fundamental review of future options.

2. Strategic Priorities

- 2.1 The work of the Benefits service contributes towards two of our fundamental themes: place-making and community.
- 2.2 LCTS provides residents with help with the Council Tax element of their household costs. By processing claims for financial support quickly and accurately the Benefits service supports the most financially vulnerable and less advantaged of our residents. It is important that the scheme continues to support those most in need.

3. Why the matter is being brought to an EAB now

The Council has a legal duty to carry out an annual review of the LCTS scheme and to consult on proposed changes. LCTS was introduced on 1 April 2013.

Following the consultation press release in September 2020, councillors indicated that they would like an EAB on LCTS. Officers proposed in the report to the Executive on 24 November 2020 that this occur in May or early June 2021 for the 2022 scheme. This will be before any modelling or forecasting takes place and allows the EAB to have input at an early stage.

4. Brief Overview of the Current Situation

- 4.1 As explained in last year's report to the Executive we are working on two different elements regarding our LCTS scheme.
 - The annual review, which we are legally obliged to carry out
 - A more fundamental review of future options for the scheme, which has been delayed due to preparations for Phase B of Future Guildford plus the impact of the pandemic on capacity.
- 4.2 The main driver for the fundamental review is the rollout of Universal Credit (UC). This is assessed by the Department of Work and Pensions (DWP) and is gradually replacing the Housing Benefit (help with rent) that we currently assess alongside LCTS.
 - UC is assessed monthly and, as we take it into account as an income for LCTS, this could mean that some claimants have their Council Tax recalculated every month.
 - The administration grant for Housing Benefit is reducing, which means an increased cost to the Council if we cannot reduce the administrative cost of LCTS.

- Our existing scheme is based on the old Council Tax Benefit Scheme, and other Councils have looked at different models. A different model may suit us better in the future.
- 4.3 Resources have been temporarily diverted from the fundamental review to deliver a range of government pandemic initiatives (business grants, Test & Trace Support payments, increased benefits workload, plus new discounts). However, officers have not identified that the delay is adversely affecting residents. Our current scheme will have an annual review for 2022-23. Under this scheme
- We continue to provide 100% LCTS to 71% of applicants based on applying scheme rules, which include fixed allowances for household and additional needs – effectively assumed expenditure.
 - In addition we provide discretionary help to those adversely affected by our scheme rules where we look at their individual income and expenditure needs – for example through a discretionary scheme we can consider the costs of frequent attendance at hospital for a sick child.
- 4.4 As an added complexity we only control the working age LCTS. Pension Age continues to be set out in detailed legislation by the government and follows a Council Tax Benefit style legislation.
- 4.5 The challenge is to have a scheme that is simple, fair, and affordable. However, experts in LCTS suggest that this is impossible. We are therefore looking for the best combination to meet local needs in any review that we carry out.

5. Scheme Overview

- 5.1 In very simple terms any welfare benefit compares income to necessary expenditure (usually based on a set of assumptions) and applies some rules on how much help will be provided.
- 5.2 The government provided detailed legislation in 2012 that forms the basis of our existing LCTS scheme. Our scheme is very detailed and runs to 137 pages. Whilst it is logical, no one could claim that it is simple. It is however fair – in as much as it spells out in detail the criteria and rules that apply for an almost infinite combination of individual and household circumstance.
- 5.3 Provided we meet the legislative requirements of what our scheme must contain, we have freedom to change it. However, some changes have more impact than others. A summary of the changes made to our scheme since 2013 is included in Appendix 1, and areas changed are mentioned in the following narrative.
- 5.4 In summary the component parts of our scheme are:

Chapter 1 - Prescribed Statutory Requirements

- 5.5 Introduction – why we have a scheme
- 5.6 What must be included in the scheme (replicated in Appendix 2)

- 5.7 Interpretation: effectively clear definitions of over a hundred varied items of terminology including “close relative”, “main phase employment and support allowance” and “week”.
- 5.8 More detailed definitions of the key elements of the scheme
- Who is or is not a pensioner
 - Meaning of “couple”
 - Polygamous marriages
 - Meaning of “family”
 - Dependants
 - Households
 - Non-dependants
 - Remunerative work
- 5.9 Information on classes of people that the law says must be included or excluded from our local scheme. For example “Persons treated as not being in Great Britain” and “Persons subject to immigration control” are both excluded
- 5.10 Administrative matters – for example how to apply, how to appeal, duty to notify changes in circumstance, date that an application is considered to have been made, notification of award

Chapter 2 - Local Scheme Requirements

- 5.11 This comprises about 40% of the document
- 5.12 Classes of person entitled to a reduction under this scheme:
- This section specifies when entitlement is to a 100% reduction, and how to calculate reductions of less than 100%
 - This is where we have restricted the property bands that are eligible for help, and excluded applicants with over £6000 capital from help. Looking at Pension Age recipients where no band restriction applies only 3% are in the higher banded properties.
- 5.13 Applicable amounts:
 These are the amounts that a specific household is deemed to need to live on. The government defines them for Housing Benefit and we have been adopting these figures for our scheme a year in arrears as they are not available until after the scheme has been adopted. Table 1 shows the number of working age recipients in each type as at 1 May 2021

Table 1	
Household Type	Number of Working Age Recipients
Couple 1 or both 60 to less than State Pension Age	6
Couple one or both 18+	174
Family 1 or both 60 to less than State Pension Age	3
Family one or both 18+	245

Lone Parent 18+	666
Single 18 to less than 25	28
Single 25+	1206
Single 60 to less than State Pension Age	51
Grand Total	2379

5.14 Maximum Council Tax reduction:

- We have set this at 100%. This means that those in most need can still get 100% help with their Council Tax. 71% of recipients get 100% help. Many authorities require everyone to pay something regardless of their means. This can translate to a debt recovery problem.
- This section also includes details on Non-Dependant Deductions which are the sums that a non-dependant is assumed to contribute to the household. Again we have mirrored these on Housing Benefit deductions and they range from £0 per week for someone who is unemployed and on a welfare benefit to £12.50 for someone earning around £24,000 pa.

5.15 Amount of reduction.

This specifies the calculation of the reduction and confirms our local rule that if the entitlement is less than £10 per week then it is a zero award. As at 1 May 2021 167 claims had periods of entitlement of less than £10 per week.

5.16 Calculation of Income:

- This is a detailed section covering what income is, whether any income should be excluded, and how it should be converted to a weekly sum. Schedules 2 and 3 to the scheme sets out sums to be deducted from both earned and unearned income.
- The legislation on which our scheme is based has its roots in decades of welfare schemes and this area in particular appears to exemplify the need to spell out exactly what is and is not an income. This avoids public funds being provided to support those who are not in need merely because their “income” was not listed so they thought they did not have to declare it.
- This is where we state that child maintenance should be treated as an income and where we have applied a minimum income for the Self Employed after one year of being in business.

5.17 Calculation of Capital:

A detailed section covering what is and is not to be treated as capital. Schedule 4 also sets out capital disregards.

5.18 Students:

Full time and overseas students are generally not eligible for LCTS, however there is a detailed set of rules regarding when students are or are not eligible, and how their income should be calculated.

5.19 Additional rules around periods of entitlement including rules on backdating. We reduced backdating to one month in 2018-19 to mirror changes to Housing Benefit regulations.

5.20 Transitional arrangements.

It is a legislative requirement that we consider transition when making a change to our scheme rules. We operate a Discretionary Hardship Fund for those affected by the rules, where we look at applicant's individual income and expenditure needs.

Schedules

- 5.21 Schedule 1 sets out the Personal Allowances and Premiums that income is compared to. A Personal Allowance is the basic amount that a specific type of household is expected to need each week – for example a family, couple or single person. Premiums are the additional sums required for specific needs such as having a disability or needing a carer.
- 5.22 Schedules 2, 3 and 4 cover deductions from income and capital.

6. Modelling and Forecasting Challenges

- 6.1 Modelling of scheme changes is important to try and ensure that support remains consistent and fair, and that the scheme remains affordable by the Council, and preceptors.
- 6.2 There is a legal requirement that we consult the County and the Police on any scheme changes. They pay a proportion of the cost. The Borough's share being around 9%.
- 6.3 Modelling and forecasting are challenging because:
- As may be concluded from the above overview, there are endless permutations of household circumstances given the number of different variables.
 - Whilst our software supplier has provided us with forecasting software, it contains finite options and is restricted by the data that we already hold. Even with the forecasting software we invariably find that we need to match data from a variety of reports to try and extract the information that we need, which is a time-consuming exercise.
 - Data continually changes, so the forecast today may be very different to the forecast in a few months time.
 - We lack detail on passported cases (approximately 50% of the working age caseload). These are cases where their entitlement to Employment Support Allowance income related, Income Support or Job Seekers Allowance income based means that their income has already been assessed by the DWP and will not exceed the personal allowance and premiums. They comprise 75% of those receiving a 100% reduction in Council Tax.
- 6.4 Some summary statistics about the current caseload are included in Appendix 3
- 6.5 All the major changes to our scheme were made prior to 2017-18. These were to achieve the savings required by the introduction of LCTS. In recent years changes have been focussed on keeping the scheme in line with amendments to Housing Benefit (in the hope that consistency makes it easier for claimants to

understand) and uprating the underlying Personal Allowances, Premiums and Non-Dependant Deductions to ensure that the support provided is not eroded by inflation. We have continued to forecast the effect of the changes that we make so that we can gauge the cost and identify the effect on claimants. Forecasting for the 2022-23 scheme which will be agreed by Full Council in December 2021 has yet to occur, allowing officers to take the feedback from this EAB into account.

- 6.6 Substantial modelling will be required as part of the fundamental review of options. Given that the review is currently delayed due to the impact of the pandemic on capacity, which looks to continue for a substantial part of this financial year, it is unlikely that we will reach the detailed modelling stage until 2022-23. Feedback from the EAB will help inform that modelling and it is anticipated that once complete the results will be brought back to the EAB during 2022-23.
- 6.7 It should be noted that whilst our software provider has provided us with flexibility within the scheme rules, this flexibility is restricted to areas that they felt were most likely to be changed by their customers. Any suggestions outside of these may be impossible to deliver, or expensive by virtue of being bespoke.

7. Examples of how the Scheme Works (presentation – Appendix 4)

Some examples of how LCTS calculations work will be presented during the EAB meeting.

8. Areas for Discussion

- 8.1 Now that members of the EAB understand the complexities of the scheme as well as areas that have been amended in recent years, officers would like to know whether there are any key areas that councillors would suggest we
- leave untouched, or
 - look at in more detail.
- 8.2 For example:
- Should everyone have to pay something regardless of their circumstance. This would be a radical change given that 71% of recipients currently pay nothing.
 - Should we continue to increase Personal Allowances, Premiums and Non-Dependant deductions to protect against inflation each year. This prevents the situation where an applicant just falls short of 100% reduction because their income has had an inflationary increase but the allowances do not match it.
 - Should we increase any of these by more than the rate of inflation. For instance, should non-dependants contribute more (is £12.50 an adequate contribution for someone earning £24,000 pa?), should specific personal allowances or premiums be higher to provide a higher level of support to specific household types or individual needs.

9. Key Risks

- 9.1 There is a risk that modelling is inaccurate either exposing the council to unknown costs or failing to provide residents with essential support. To a degree the second can be catered for via a hardship fund. The first however remains a risk with a variety of costs:
- Scheme costs more as modelling did not accurately predict that more residents would qualify for help, or for more help than currently
 - Scheme is insufficiently detailed and is challenged via judicial review
 - Scheme is more difficult to administer (either more complicated or more applicants) increasing the administrative cost.

10. Financial Implications

- 10.1 LCTS is funded from the Collection Fund, and any variance from costed assumptions affects the surplus or deficit of this fund. Any deficit is recovered from the General Fund.
- 10.2 A more generous scheme would necessitate savings being made elsewhere in the Council to pay for it.
- 10.3 Additional revenue costs could be incurred if changes are needed to our existing software.

11. Legal Implications

- 11.1 The *Local Government Finance Act 2012* introduced local council tax reduction (CTR) schemes to replace CTB from April 2013. The *Council Tax Reduction Scheme (Prescribed Requirements) (England) Regulations 2012* contains the mandatory elements for any local scheme and details the scheme that must be adopted for pensioners.
- 11.2 Schedule 1A to the *Local Government Finance Act 1992* as amended makes further provision regarding the LCTS schemes. The Council is under a statutory duty to review its LCTS scheme annually. If the authority wishes to revise or replace its scheme for 2020-21, the Council must (in the following order):
- (a) consult any major precepting authority, which has the power to precept 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.

The Council must decide on any revision or replacement of the scheme by a meeting of the Council. In 2017 *The Council Tax Reduction Schemes (Amendment) (England) Regulations 2017 SI 1305* changed the deadline for the Council to decide on a scheme from 31 January to 11 March.

- 11.3 Under Schedule 1A to the 1992 Act, the Council must publish the scheme in such a manner as it thinks fit. We currently publish our scheme on our website once Council has approved it and we have made all the agreed amendments. In addition, each Council Tax bill that we issue explains that help with the Council

Tax may be available and advises taxpayers where further information can be found.

12. Human Resource Implications

- 12.1 In the event that a review of the LCTS scheme results in more applications or a more complex scheme, additional resources may be required to administer it.

13. Equality and Diversity Implications

- 13.1 We must demonstrate that we have consciously thought about the three aims of the Public Sector Equality Duty, as set out in *Section 149 of the Equality Act 2010*, as part of the decision-making process to develop an LCTS Scheme. The three aims the authority must have due regard for are to:

- eliminate discrimination, harassment and victimisation
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic

- 13.2 We will review the LCTS EIA alongside both the annual and the fundamental options reviews.

14. Climate Change/Sustainability Implications

- 14.1 No such implications apply

15. Summary of Options

- 15.1 Whilst turning EAB feedback into effective modelling may be constrained by the availability of data and resources, this should not prevent the EAB from providing feedback which may include:

- Continuing with minimal changes to the annual scheme to keep it in line with inflation.
- Suggesting key areas that members of the EAB recommend should continue to receive a high level support
- Identifying areas where support could be reduced.

16. Conclusion

- 16.1 The LCTS scheme is complex and not without challenges. The law requires that we review our scheme annually, and there is scope within the prescribed requirements to amend or create an entirely new scheme.

Officers are working on

- The annual review of the current scheme (affectively amending the current scheme)

- A fundamental review of future options for LCTS, which may lead to the creation of an entirely new scheme.

16.2 Feedback from the EAB will inform both reviews, and be a step in the consultation process for scheme changes.

17. Background Papers

None

18. Appendices

Appendix 1 – Summary 2013 to 2021

Appendix 2 – Matters that must be included

Appendix 3 – Current case load statistics

Appendix 4 – PowerPoint presentation – including example calculations

Please ensure the following service areas have signed off your report. Please complete this box and do not delete.

Service	Sign off date
<i>Finance / S.151 Officer</i>	<i>20/05/21 request</i>
<i>Legal / Governance</i>	<i>25/05/21</i>
<i>HR</i>	<i>20/05/21</i>
<i>Equalities</i>	<i>20/05/21</i>
<i>Lead Councillor</i>	<i>26/05/21</i>
<i>CMT</i>	<i>18/05/21</i>
<i>Committee Services</i>	