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## LOCAL COUNCIL TAX SUPPORT SCHEME 2015/16

### 1 SUMMARY

- 1.1 This report provides details of the proposed Local Council Tax Support (LCTS) scheme for 2015/16 and is seeking Members' approval for the scheme to be implemented with effect from 1 April 2015.
- 1.2 Approval is also being requested for the revised Discretionary Reduction in Council Tax Liability Policy to be adopted.

### 2 INTRODUCTION

- 2.1 LCTS replaced Council Tax Benefit (CTB) with effect from 1 April 2013.
- 2.2 Pensioners are protected from the impact of a LCTS scheme. Consequently, eligible pensioners receive a discount on their Council Tax bill equivalent to the same amount as they would have received under the CTB scheme.
- 2.3 LCTS for working-age people is provided through a means-tested discount. It is calculated using similar criteria to the CTB scheme but, because pensioners are protected, the level of support we can provide working-age claimants is less than they would have received under the CTB scheme. This is necessary in order to keep our LCTS scheme cost neutral.
- 2.4 The key components and eligibility criteria for calculating LCTS for working-age claimants are:
- People living in properties whose Council Tax band is E,F,G or H have their LCTS restricted to the maximum amount payable for a band D property.
  - Regardless of their financial circumstances, everyone pays the first 20% of their Council Tax liability.
  - Child maintenance is taken into account when calculating entitlement to LCTS.
  - No non-dependant deductions are made when calculating entitlement to LCTS.
  - Anyone with more than £6,000 is not be entitled to LCTS.
- 2.5 In addition to these components, there is no longer a Second Adult Rebate scheme for working-age claimants.
- 2.6 On 16 July the Executive agreed to retain the current level of funding for the LCTS scheme and adopt the same component and eligibility criteria for the 2015/16 scheme as is currently in place for the 2014/15 scheme.
- 2.7 The only amendment being proposed to the existing scheme is an inflationary increase in the personal allowances used to calculate entitlement to LCTS

(these allowances represent the basic living needs of a claimant and his/her family). This will ensure the scheme is compliant with the Prescribed Requirements for all local schemes, determined by the Department for Communities and Local Government, and also aligned with the Housing Benefit scheme, determined by the Department for Work and Pensions.

- 2.8 Provision for this uprating is contained within Schedule 1 of the Section 13A policy for 2014/15.
- 2.9 As a consequence of a 'landmark' decision made by the Valuation Tribunal for England (VTE) against East Riding of Yorkshire Council, it has also been necessary to amend our existing Discretionary Council Tax Reduction Policy to ensure it complies with the main points detailed in the VTE judgment made on 27 May 2014
- 2.10 The updated policy at Appendix A has been reviewed by the Head of Legal, Estates and Member Services and confirmed that it is sufficient to address the legal requirements outlined in the VTE's recent judgment.

### **3 FINANCIAL IMPLICATIONS**

- 3.1 The estimated level of expenditure for the LCTS scheme in 2014/15 is £4.190 million. This is £252,000 less than the original LCTS grant of £4.442 million.
- 3.2 Retaining the existing parameters and eligibility criteria for the 2015/16 scheme will ensure the continuation of a cost neutral scheme. It is therefore anticipated that there will be no significant impact to the Council or the Major Precepting Authorities (Essex County Council, Fire Authority and Police).

### **4 CONSULTATION**

- 4.1 There are no requirements to carry out a public consultation where a scheme remains unchanged. However, in order to mitigate the risk of legal challenge, a light-touch consultation exercise for the 2015/16 LCTS scheme has been conducted.
- 4.2 Details and replies to the consultation are contained in Appendix B.
- 4.3 Consultation with the Major Precepting Authorities has been on-going throughout the year via the pan-Essex LCTS project group.

### **5 EXCEPTIONAL HARDSHIP POLICY**

- 5.1 The Exceptional Hardship Policy (EHP) formed an integral part of the 2013/14 LCTS scheme. The purpose of this policy was to provide financial support in exceptional cases where claimants were considered to be vulnerable and most at risk at not being able to pay their Council Tax.
- 5.2 The level of funding set aside for the EHP in 2014/15 was £8,959. A similar amount will be available in 2015/16.

## **6 RISK IMPLICATIONS**

### **Funding/scheme design**

- 6.1 In light of future funding cuts and the fact that funding for LCTS is no longer shown as a separate funding stream, the proposed LCTS scheme is for 2015/16 only. Consequently, it is important to highlight to Members that our scheme will need to be reviewed and approved on a year-by-year basis.

### **Demand for Council Tax Support**

- 6.2 There are significant financial risks in terms of a demand led service being financed by a fixed grant. Any increase in demand could result in a financial impact for both the Council and the Major Precepting Authorities.

### **Collection**

- 6.3 The impact on collection will continue to be mitigated by the work being done by the LCTS Collection Officers. These officers focus on collecting Council Tax from people who are in receipt of LCTS and helping them to deal with problems arising from any difficulties in making payment.

### **Discretionary Council Tax Reduction Policy**

- 6.4 The implications of not adopting the revised policy could expose the Council to legal challenges in the future.

## **7 RESOURCE IMPLICATIONS**

- 7.1 There are a number of risks that can affect the financial cost of the LCTS scheme, including demand, difficulty in collection and an increase in the Council Tax. Although demand has declined by 6.85% since the introduction of our scheme, further provision has been made to mitigate the associated risks by retaining £40,000 of the DCLG's New Burdens Funding in a reserve fund.

## **8 LEGAL IMPLICATIONS**

- 8.1 Schedule 1A of the Local Government Finance Act 2012 requires local authorities to consider whether to revise its scheme or to replace it with another scheme.
- 8.2 The authority must make any revision to its scheme, or any replacement scheme, no later than 31 January in the financial year preceding that for which the revision or replacement scheme is to have effect.
- 8.3 If any revision to a scheme, or any replacement scheme, has the effect of reducing or removing a discount to which any class of persons is entitled, the revision or replacement must include such transitional provision relating to that reduction or removal as the authority thinks fit.

8.4 The proposed scheme for 2015/16 is not being revised therefore there is no need to consider any transitional provisions.

8.5 The Local Government Finance Act (LGFA) 1992, as amended, states that billing authorities must have a policy in place to consider applications for a Council Tax reduction in exceptional circumstances, as detailed in Section 13A of the respective Act.

## **9 EQUALITY AND DIVERSITY IMPLICATIONS**

9.1 A full equality impact assessment on the LCTS scheme was produced when the 2013/14 scheme was created. This assessment continues to be reviewed and updated on an annual basis to reflect any future amendments.

## **10 RECOMMENDATION**

10.1 It is proposed that Council **RESOLVES**

- (1) That the LCTS scheme be approved to come into effect from 1 April 2015, as detailed in the Section 13A policy deposited in the Members library.
- (2) That the Discretionary Reduction in Council Tax Liability Policy set out in Appendix B be adopted.



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### **Background Papers:-**

None.

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**Discretionary Reduction in Council Tax Liability Policy**

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## **1 Introduction**

1.1 Section 13A (1)(c) of the Local Government Finance Act 1992, provides the Council with additional discretionary powers to enable it to reduce the Council Tax liability where statutory discounts, exemptions and reductions do not apply.

1.2 These discretionary awards can be given to:

- Individual Council Tax payers;
- Groups of Council Tax payers defined by a common set of circumstances;
- Council Tax payers within a defined area: or
- To all Council Tax payers within the Council's area.

1.3 Section 13A (1)(c) states:

*in any case, may be reduced to such extent (or, if the amount has been reduced under S13A (1) (a) (Council Tax Reduction Scheme) such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.....*

1.4 This provision allows the Council the discretion to provide assistance to tax payers where either the existing legislation does not provide a discount, exemption or reduction or, in such circumstances, where the Council feels that the level of discount; exemption or reduction is insufficient given the circumstances.

1.5 When deciding on whether to grant a discretionary award, the Council will consider each application on its own merits. Principles of reasonableness will apply in all cases with the Council deciding each case on all material and relevant factors.

1.6 Any decision made will be made without reference to any budgetary considerations.

1.7 Likewise, any reduced liability will be considered in conjunction with the circumstances of the Council Tax payer. The circumstances of the Council Tax payer will be reviewed on a periodic basis to ensure that the reduction in liability remains justified.

1.8 For the purposes of administration, the decision to grant any reduction in liability will be considered within the categories detailed below.

## **2 Exceptional Financial Hardship**

2.1 In accordance with Section 13A (1)(a) of the Local Government Finance Act 1992, the Council has a Council Tax Reduction Scheme which provides support, through a discount, to those deemed to be in financial need. The Scheme has been designed to take into account the specific and financial circumstances of individuals through the use of applicable amounts, premiums and various income disregards.

2.2 Applications will be accepted under this Section 13A(1)(c) policy from people who have qualified for support under the Council Tax Reduction Scheme but who are still experiencing severe financial hardship. Other tax payers may also make an application for assistance, however, the Council would normally expect the Council Tax payer to apply for financial help through the Council Tax Reduction Scheme in

the first instance.

2.3 As part of the process for applying for additional financial support, all applicants must be willing to abide by **all** of the following:

- a. Make a separate application for assistance;
- b. Provide full details of their income and expenditure;
- c. Able to satisfy the Council that they are not able to meet their full Council Tax liability or any part of their liability;
- d. Accept assistance from either the Council or third parties, such as the Citizen Advice Bureau or similar organisations, to enable them to review their finances and, if possible, help them to manage their money more effectively, including the termination of any items that are considered to be non-essential expenditure;
- e. Identify potential changes in payment methods and arrangements to assist the applicant;
- f. Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted;
- g. Able to demonstrate that all reasonable steps have been taken to meet their full Council Tax liability, including applications for employment or additional employment, alternative lines of credit, etc.;
- h. Able to confirm that there is no access to any assets that could be realised and used to pay the Council Tax
- i. That every effort has been made to maximise their income through, if entitled, applications for other welfare benefits, cancellation of non-essential contracts and outgoings, and identifying the most economical tariffs for the supply of utilities and services generally.

2.4 The Council will be responsible for assessing applications and the following factors will be taken into consideration when applying this policy:

- a. Current household composition and specific circumstances, including disability or caring responsibilities;
- b. Current financial circumstances;
- c. Determine what action(s) the applicant has taken to alleviate the situation;
- d. Consider alternative means of support that may be available to the applicant by:
  - i. re-profiling council tax debts or other debts;
  - ii. where applicable, encouraging an application for a Discretionary Housing Payment for Housing Benefit;
  - iii. where applicable, maximising entitlement to other welfare benefits; and
  - iv. determining whether the spending priorities of the applicant should be re-arranged.

### **3 Crisis – Flood, Fire, etc.**

3.1 The Council will consider requests for assistance from Council Tax payers who, through no fault of their own, have experienced a crisis or event that has made their property uninhabitable e.g. due to fire or flooding, where they remain liable to pay the Council Tax and for which they have no recourse to financial compensation or to any statutory discounts or exemptions.



- 3.2 All such requests must be made in writing detailing the exact circumstances as to why a reduction in liability is required and specifying when the situation is expected to be resolved.
- 3.3 The Council will consider applications on a case-by-case basis, in consultation with other organisations where appropriate. A reduction will be applied where the Council Tax payer remains liable to pay the Council Tax and where they have no recourse to financial compensation or to any statutory discounts or exemptions or where the crisis or event is not covered by any insurance policy. The Council will not consider requests from Council Tax payers where government guidance or policy provides for a 100% reduction in liability in specific circumstances e.g. flood relief schemes.

#### **4 Other circumstances**

- 4.1 The Council will also consider requests from Council Tax payers for a reduction in their Council Tax liability based on other circumstances not specifically mentioned within this policy. Any application received will be considered on a case-by-case basis.
- 4.2 No reduction in liability will be granted where any statutory exemption or discount could be granted to cover the liability in full.

#### **5 Changes in circumstances**

- 5.1 The Council may revise any discretionary reduction in liability where the applicant's financial circumstances or situation changes.
- 5.2 The Council Tax payer agrees that they must inform the Council immediately, either by phone or in writing, about any changes in their financial circumstances which might affect their claim for financial assistance under this policy. Failure to do so may result in the financial award being withdrawn and a requirement for the applicant to repay any overpayment back to the Council. All changes in circumstances should be notified within 21 days in accordance with the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 as amended.
- 5.3 All changes in circumstances should be notified within 21 days, in accordance with the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (as amended).

#### **6 Decision Making Process**

- 6.1 The Chief Finance Officer and the Portfolio Holder for Governance will assess and determine all exceptional financial hardship applications from individuals.
- 6.2 Decisions on all other matters related to this policy will be taken by the Executive.

#### **7 Duties of the applicant**

- 7.1 A person claiming any discretionary reduction in liability must:

- Provide the Council with such information as it may require to make a decision;
- Tell the Council of any changes in circumstances that may be relevant to their ongoing claim; and
- Provide the Council with any other relevant information as it may require in connection with their claim.

## **8 Start date, award and duration**

- 8.1 The start date, award and duration of any payment will be made as part of the decision making process and this will be done on the basis of the circumstances and the evidence supplied.
- 8.2 In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

## **9 Payment**

- 9.1 In line with legislation, any award shall be granted as a reduction in the liability of the Council Tax payer, thereby reducing the amount of Council Tax payable

## **10 Notification of decision**

- 10.1 The Council will notify the applicant in writing within 14 days of making a decision. The notification will include the reason for the decision and it will also advise the applicant of their right of appeal if they disagree with the decision.

## **11 Appeals**

- 11.1 If an applicant is dissatisfied with the decision, an appeal may be made in accordance with Section 16 of the Local Government Finance Act 1992.
- 11.2 The Council Tax payer must, in the first instance, write to the Council outlining the reason for their appeal. Once received, the Council will reconsider its decision and notify the Council Tax payer accordingly.
- 11.3 Where the Council Tax payer remains aggrieved, a further appeal can then be made to the Valuation Tribunal. This further appeal should be made within 2 months of the decision of the Council not to grant any reductions. Full details can be obtained from the Council's website or from the Valuation Tribunal Service website.

## **12 Fraud**

- 12.1 The Council is committed to protecting public funds and ensuring funds are awarded to the people who are rightfully entitled to them.
- 12.2 An applicant who tries to fraudulently claim a reduction in liability by falsely declaring their circumstances or providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.

- 12.3 Where the Council suspects that such a fraud may have been committed, the matter will be investigated and may lead to criminal proceedings being instigated.

### **13 Complaints**

- 13.1 The Council's 'Comments, Compliments and Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about this policy.

### **14 Equalities Statement**

- 14.1 The Council is committed to equality and fairness. Equality is about ensuring people are treated fairly and given fair changes. It is also about ensuring that people receive fair outcomes in the standard of service they receive from the Council. This incorporates everyone, regardless of their race, gender, age, religion or belief, sexual orientation and/or disability.

### **15 Policy Review**

- 15.1 This policy will be reviewed annually and updated as appropriate to ensure it remains fit for purpose. A review may take place sooner should there be any significant changes in legislation.

**Outcome of Consultation**

**Should the Council continue to help people on low incomes pay their Council Tax?**

	Response Total	Response %
Yes	22	92%
No	2	8%
Total Respondents	24	100%

Comments in relation to No responses

- If they are in larger properties then they should consider renting out a room/rooms or downsizing
- This funding should come from Central Government

**Should the way we calculate the level of Council Tax support remain the same as it is under the current scheme?**

	Response Total	Response %
Yes	21	88%
No	3	12%
Total Respondents	24	100%

Comments in relation to No responses

- It should be harder to get help, not easier
- It should be more onerous and allow for all residents

**Do you have any other comments to make about the proposed scheme for 2015/16?**

Total Respondents	4
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Comments

- Provided there continues to be sufficient support for those who may be unable to meet their council tax demands under the LCTS scheme (we understand that a role was created specifically for this purpose at RDC)
- Why is it that Child Maintenance is included for this but not included for Tax Return purposes? I don't think it should be included here either
- Make sure those receiving support are genuine cases

- I feel this needs to be strict as those of us who work and pay their full Council Tax should not feel that we are being duped by some of the population who do not/will not work in order to become career claimants