

## WIRRAL COUNCIL

### COUNCIL EXCELLENCE OVERVIEW AND SCRUTINY COMMITTEE

17 NOVEMBER 2011

<b>SUBJECT:</b>	<b>LOCALISING SUPPORT FOR COUNCIL TAX IN ENGLAND – CONSULTATION</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF FINANCE</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>COUNCILLOR STEVE FOULKES</b>
<b>KEY DECISION</b>	<b>NO</b>

#### **1.0 EXECUTIVE SUMMARY**

- 1.1 This report details proposals for the replacement of Council Tax Benefit (CTB) which are set out in the Department for Communities and Local Government (DCLG) consultation paper, 'Localising Support for Council Tax in England' and outlines a proposed response to the consultation paper. It was agreed by Cabinet on 22 September 2011.

#### **2.0 RECOMMENDATION**

- 2.1 That Members note the response to the consultation paper

#### **3.0 REASONS FOR RECOMMENDATION**

- 3.1 To ensure that Members are made aware of the issues arising out of the proposals contained in the consultation paper and the impact on those who are on a low income as well as those administering the scheme.
- 3.2. In general terms the proposals outline an intention to give local authorities the power to introduce a scheme that will:-
- Allow local authorities to provide financial support to pay Council Tax using a new form of discount as opposed to having to apply centrally set rules
  - Achieve an overall saving of 10% of the current national CTB bill of £4.8 billion
  - Simplify the current complex system of criteria and allowances
  - Establish stronger incentives to local authorities to encourage local people back into work
  - Protect pensioners (and other vulnerable groups) against any potential reduction in support

- 3.3. Members are advised that the proposed response will have a direct correlation with the responses of the associated professional representative bodies. The deadline for submissions was 7 October 2011 and it is expected that the DCLG will issue further proposals, setting out the detail of the scheme, during autumn/winter 2011.

#### **4.0. BACKGROUND AND KEY ISSUES**

- 4.1. Proposals to replace support for Council Tax via the current Council Tax Benefit system were first made reference to, briefly, within the publication of the Welfare Reform white paper, 'Welfare to Work', in November 2010. The detail of these proposals has now been made available for local authorities to consider in the consultation paper issued in August 2011.
- 4.2. Council Tax Benefit (CTB) has, since 1993, provided a system of relief against Council Tax liability for lower income households, which may amount to a partial reduction in the amount due to be paid, or support with the full liability resulting in nothing to be paid. CTB is a means tested benefit and entitlement is dependent upon income, savings and household composition. Those with capital in excess of £16,000 are not entitled to CTB. The current scheme is more generous towards pensioners as a result of pension credit rules and both owner occupiers and those in rented accommodation can claim.
- 4.3. The local authority administers the scheme, under a statutory duty, on behalf of the Department for Work and Pensions (DWP). It is heavily prescriptive and legislatively it is centrally governed. The local authority is reimbursed fully, by the DWP, for all correctly paid CTB.

#### **THE CONSULTATION PAPER IN OUTLINE**

- 4.4. The consultation paper proposes the abolition of Council Tax Benefit and the introduction of a 'localised scheme providing support for Council Tax for the most vulnerable in society, including pensioners'. This will bring about a significant change in the role of Local Authorities as they are required to move from the administration of a national defined scheme to being responsible for the design of a local scheme taking into account available funding.
- 4.5. In devising and setting up a new local rebate scheme it is expected that, whilst the DCLG will make certain regulatory provision, local authorities will have wider scope to design a system of local support that best reflects their own key priority areas.
- 4.6. As an intrinsic part of the wider Welfare Reform the DWP is to reduce the current spend on Council Tax Benefit by 10%; £3.13m for Wirral based on current spend. Funding is to be made available to local authorities to initially finance the scheme but will be reduced from the current level of awards to reflect this cut back of funding. The onus will be on each local authority to achieve the 10% saving.

- 4.7. The Local Authority will be required to design a local scheme within pre-defined, albeit wide, parameters set by the DCLG. These will include;
- Pensioners should not experience a reduction in the level of any current (CTB) award,
  - The scheme should support work incentives, avoiding disincentives to move into work
  - Consideration should be given to supporting other vulnerable groups.
- 4.8. It is clear that some people will pay more than they do under the present prescriptive CTB scheme. The reform is intended to provide an opportunity to align support for Council Tax more closely with the existing Council Tax system, in particular Council Tax discounts, so that claimants eligible for support have their liability reduced. The calculation is expected to take place once other discounts are applied e.g. single person discount.
- 4.9. The paper also suggests the potential for a collaboration of the local government sector (nationally or locally) working together to develop 'model schemes'. The national associations such as the Institute of Revenues Rating & Valuation (IRRV) and CIPFA have also indicated a willingness to support model scheme developments.
- 4.10. Council Tax Rebates' will replace Council Tax Benefit from April 2013. Currently Wirral has 22,029 working age CTB claimants and 17,553 claimants who are of pensionable age
- 4.11. For year one (2013/14) DCLG funding will be based on the previous Council Tax Benefit spend less 10%. Total subsidy claimed for Council Tax Benefit expenditure in Wirral for 2010/11 was £31,350,714 and continues to rise given the prevailing economic conditions. Some contingency will be required to allow for any ongoing increase in demand or take-up. It is a matter for consideration whether or not Local Authorities should offer rebates in excess of the grant they receive.
- 4.12. The key steps to establishing a local scheme are design and consultation feeding into the wider budget and Council Tax setting process;
- Design – aside from the obligatory parameters set by the Government, Local Authorities will be required to consider other duties, responsibilities and local priorities, which might include tackling unemployment, and child poverty mitigation. Likely take-up will need forecasting as will funding sources and the impact of non collection of Council Tax. Joint working, perhaps in collaboration with other local authorities is cited in the paper as a potential key element of design which has some potential to reduce costs, assist with risk management, reduce duplication etc.
  - Consultation – Any proposed scheme will be required to be submitted to some form of public scrutiny and will be signed off by Members and possibly the External Auditor.

- Budget / Setting Annual Council Tax- The local scheme must be finalised and agreed in advance of the annual budget Council Tax setting process. It must take into account Council Tax discounts offered to individuals under local schemes. Contingency funding must be in place to off-set unplanned increases in demand or take-up.
  - Risk Management – This will be likely to include increasing collection difficulty, as householders who experience a reduction in support with their bill struggle or even refuse to pay increased amounts.
- 4.13. Administration of local schemes – the DCLG specifies that the local scheme should be fair and easy for claimants to understand. The Local Authority is to ensure the process is administratively simple and avoids creating disincentives to work. The DCLG believes claimants may be disinclined to accept short term work if they have to keep re-establishing eligibility. Any scheme will need to establish eligibility, grant an award (in the form of a discount), allow for appeals and address fraud and error. This will be set against a background of providing certainty for claimants so that entry into temporary work is not discouraged because of the administrative complexity of the local scheme.
- 4.14. Fraud – The proposed DWP Single Fraud Investigation Service will not be responsible for addressing any Council Tax Rebate fraud. Responsibility for this will remain with the Local Authority, who will require appropriate powers since the authority to investigate Housing Benefit fraud is anticipated to have been removed by April 2013. The consultation paper suggests that Council Tax Rebate fraud could be considered alongside ‘tenancy fraud ‘ the latter being a proactive exercise that the Wirral Benefit Fraud Team is currently embarking on in conjunction with local registered social landlords and the Housing Options Team.

#### **KEY ISSUES FOR LOCAL AUTHORITIES**

- 4.15. It is in the interests of all local authorities, local government professional and representative bodies together with voluntary and third sector organisations to take the opportunity to respond to this consultation which brings significant areas of challenge, which include:-
- Any absence of establishing minimum levels of consistency, as a baseline for the scheme amongst Local Authorities may initiate the development of a ‘postcode lottery’.
  - Finding ways to protect vulnerable groups who cannot increase their income through work.
  - Finding ways to withdraw or reduce support from people of working age while supporting the ‘better off in work’ message of Universal Credit.
  - Handling appeals against decisions under any new scheme. CTB appeals are currently dealt with by an independent first tier tribunal; it is likely they will be handled locally under a replacement scheme.

- Securing the necessary data quickly, accurately and efficiently if local authority access to Universal Credit data to be held by HMRC and DWP is ultimately denied or is insufficient.
- Achieving the very large savings that will be necessary to operate the scheme with a 10% deficit which is £3.1m in Wirral. This reduction is widely viewed as an unlikely average for most current recipients as in practical terms the cut will be much larger as pensioners (which make up 44% of Wirral's 39,562 CTB claimants) within the local population are likely to be excluded / protected from the reduction.
- Collecting Council Tax from people who have not previously had to pay returns to the Community Charge (Poll Tax) situation where low income charge payers were expected to contribute a sum directly in respect of their liability which caused considerable collection issues.

4.16. Key issues which influence the proposed response on the development of the Council Tax Rebate Scheme are:-

- Timescales are of significant concern, in order to be ready to rebate 2013/14 Council Tax accounts, Local Authorities must have finalised and put into operation local schemes before the end of December 2012 to allow sufficient time for the Council Tax billing process which begins in February 2013.
- Under the DCLG timescales for primary and secondary legislation, it is likely that Local Authorities will only have a 12 to 14 month period to develop a workable and financially viable scheme.
- Given the timescale issue software companies will be in a position to significantly influence design and there is potential for Local Authorities to be faced with little scheme choice, at least in the short term, other than to accept the available design and key features. In essence, fitting a local scheme largely around the software available.
- Concern around the 10% reduction against current CTB spend and how any shortfall is found, with the risk of the Local Authority being committed to unforeseen expenditure if take up increases.
- Administration costs for the work involved in setting up and administering a local scheme, including software (procurement and set up), training and publicity. The matter of administrative funding is not covered in the consultation paper in any detail other than to acknowledge the need for detailed work to be undertaken to determine the amount of funding for local schemes.
- Any move away from a prescribed legislative process could present risks in terms of inefficiencies around both the collection and processing of data.
  - Council Tax collection rates may be at risk. Avoidance or non-payment may become an issue as people question the legitimacy of any scheme
  - The Local Authority will be subject to challenges and appeals not prescribed for a national scheme and challenges under equality or fairness issues may be encountered.

- Given the potential for a variety of schemes, running alongside each other in neighbouring Local Authorities, concerns of a 'post-code' lottery.
- A local rebate scheme may conflict with the wider principles of the Universal Credit proposals.
- Possible reliance on the DWP to obtain all the necessary information and then data share with the Local Authority for the Local Authority to determine the rebate. The consultation paper cites that the DWP collects all the data that Local Authorities need for new claims already. Most Local Authorities (including Wirral) can demonstrate that this is not the case and this assumption around such a key matter (which affects administration) is misleading and needs to be addressed in the legislation.
- The proposals around the details of the local scheme principles are still vague. Whilst reference is made to the income / capital of the claimant there is no reference to non dependants in respect of whom a deduction is currently made in both HB/CTB claims.

## **CONSULTATION RESPONSE**

4.17. The paper focuses on nine key themes which Local Authorities are required to consider and these are set out below along with a response on each.

### a. section 5 – Principles of the scheme

This covers the duty of local authorities to run a scheme to provide support for Council Tax. The key principles are:

- Pensioners – The intention is that those of pensionable age will not be affected by the change in that their current levels of award will not change. Questions - *How will a local scheme achieve that requirement and at what cost or otherwise to the wider working age claimant group?*
- Vulnerable groups - are identified as a group any local scheme will be obliged to consider supporting. Questions - *What will be a Local Authority's own criteria for vulnerability, what groups would it prefer to support over other groups at a local level?*
- Incentives to work - Any local scheme should support the work incentives set out in Universal Credit proposals. Questions - *How would the transition be assured within a scope of a local scheme, how would the 'better off in work' for low income families' principle of the wider welfare reform be reflected in the mechanics and distribution of the rebates through a local scheme?*

## Response

- In order to comply with the separate rules for support for pensioners, provision will have to be made from the outset to ring fence an appropriate sum leaving a reduced balance to support vulnerable groups and the working age recipients.
- It is hard to envisage a support scheme that actively discourages a return to work although it is acknowledged that care must be taken in how any transition period is supported.

### b. Section 6 - Establishing local schemes

Covers the opportunity available to Local Authorities through a local rebate scheme to align support arrangements with the wider Council Tax system, it sets out the three key steps necessary to establish such schemes :-

- Design – *what are the Local Authorities local priorities which may drive the foundation of a local scheme , for example , unemployment, how can take-up and demand be best forecast ?Can schemes be developed, amended over time?*
- Consultation – *who will the Local Authority need to submit proposed scheme details to for scrutiny or challenge, are there wider requirements for external audit?*
- Feeding into the budget and Council Tax setting process – *How will Local Authorities address the continued operation of any existing local schemes and incentives for Council Tax discounts, alongside a local rebate scheme ?*

It significantly focuses on the issues around ‘work incentives’, that Local Authorities will be required to consider how to ensure a local scheme supports a move into full or part time work and to ensure that this transition is financially sustainable - *How can Local Authorities support, through the local scheme those who are in work, or wish to work in securing affordable Tax rates?*

## Response

- The flexibility of a local rebate scheme may be able to help address local priority areas and issues.
- The difficulty in doing this may be linked to the level of grant and the breadth of priority areas / groups that may be supported.
- Contrary to this it could be viewed that support should be awarded against pure financial circumstances rather than a status, particularly if the localised scheme is not to conflict with Universal Credit principles.
- It would make sense to consider the reforms for CTB alongside a review of Council Tax.

c. Section 7 – Joint working

Covers the potential and identifiable benefits of collaboration between Local Authorities. In particular suggesting Local Authorities may wish to consider the following in developing local schemes:-

- Reduction of duplication and cost
- Avoidance of inconsistencies between boundary areas – ie the ‘ post - code lottery’
- Opportunity to better manage financial risk
- Model ‘types’ of collaborative/ joint working for consideration

Response

- It is clear that the DCLG wishes to encourage Local Authorities to look towards some form of collaboration or joint working as it is cited as an option throughout all key areas detailed.
- The Wirral Benefit service experience of collaborative working arrangements is positive and has allowed a robust and effective practice to develop primarily to help further strengthen local service resilience. A wider, contractual arrangement may not be so beneficial.
- The need for this, due to the potential of administration burden and associated cost could also be avoided if a basic scheme is established nationally which facilitates local variations within prescribed boundaries.

d. Section 8 – Managing risk

This highlights the need for Local Authorities to review the critical financial pressures which could occur if the implementation of the local rebate scheme results in a fall in Council Tax collection rates. Consideration must be given to, and contingency plans developed for, a number of possibilities, including:-

- Difficulty in collecting increased rates of Council Tax from those who previously paid nothing (under CTB) or now experience a reduction in the support they receive.
- Actual demand exceeding anticipated demand which may exceed budget forecasts.

The benefits of collaborative/ joint working are also set out in terms of helping mitigate risks such as the potential for significant associated financial pressures – *Local Authorities are asked to consider how this would work, what is the wider scope for risk sharing and what administrative provisions would be necessary to facilitate this approach?*



## Response

- As the support is to be in the form of a 'rebate or discount' collection issues and concerns could be mitigated to a significant degree as the credit is applied directly to the bill.
- Careful consideration will have to be given to removing entitlement from any group that has previously not had to pay or has benefited from support through CTB as there is a risk of non – payment.
- It will be hard to set future budget forecasts in the absence of an explanation of how the DCLG intends to fund Local Authorities from year two.
- It will be equally difficult to set future budgets if it proves difficult to accurately predict demand. Where a known and prescriptive base for any scheme is absent or lacking then the risk this presents, at least in the short term, of informing the budgetary process can only increase.

### e. Section 9 – Administering local schemes

The ethos behind a local scheme is presented as being administratively simple and avoids creating disincentives to work. The consultation paper sets out the key components that a 'good' scheme administration will need to incorporate:-

- Establish eligibility – according to prescribed terms of the scheme – *how can Local Authorities ensure the scheme is transparent / easy to understand?*
- Grant the award-*how should claimants be notified of the decision and any reduction?*
- Make provision for appeals - *how would Local Authorities consider appeals in a fair and structured manner, do Local Authorities view that scope of discretionary support for hardship should be built into a scheme design?*
- Address errors

Local Authorities will be expected to devise ways of minimising administration costs, reducing errors and the risk of fraud. There is inference that some basic consistencies must be established and agreed at a national level in order to support Local Authorities in delivering a local scheme that is able to meet the above.

#### Response

- There must be a basis for the local scheme that is set nationally. Failure to achieve this will magnify administration difficulties and present general confusion amongst those who seek and need the support.
- Any local scheme must not have the effect of making people worse off overall in terms of their income and entitlement to support when the Universal Credit and Council Tax Rebate tapers are (separately) applied.
- An appeals process needs to be structured, and there is perhaps scope to consider appeals against CTR decisions alongside Council Tax appeals. Alternatively, Benefits Teams traditionally have a wealth of experience already established in their Appeals Team. The Team role could be amended to consider challenges to CTR determinations, perhaps alongside similar challenges to the allocation of the revised Discretionary Support scheme.

#### f. Section 10 – Data sharing

The paper acknowledges that in order for Local Authorities to set up, design and operate an efficient and effective rebate scheme data sharing is paramount. Those claiming Council Tax rebates should not be required to provide their details more than once (i.e. to more than one agency). In essence Local Authorities are asked for their views on making provision, legislatively to mirror current arrangements between the DWP and Local Authorities which enable the sharing of an extensive range of data. It is suggested that in administering a local scheme Local Authorities will:-

- Be able to rely on data already gathered by the DWP in the process of administering Universal Credit – *would Local Authorities be sufficiently confident to rely on data gathered on their behalf given current situation that is widely acknowledged to be failing?*
- Retain lawful access to the DWP customer information system (CIS) - *what would the implications on a Local Authority be in terms of detecting and preventing fraud / error in the absence of access to DWP data?*

The clear links between accessibility to data and the ability to prevent and / or detect fraud are acknowledged in the consultation paper and the DCLG suggests that Local Authorities will retain responsibility for fraud investigative work in relation to local rebate schemes

#### Response

- Access to HMRC and Pension Service data as well as DWP Job Centre Plus data will be required
- Unless the DWP achieves significant improvement in their benefit claims process relying upon them to gather data for any local rebate scheme will be questionable as the best way forward.

#### g. Section 11- Funding

Local Authorities will be required to give consideration to the funding of a local scheme. This differs from Council Tax Benefit current funding, which in essence is direct reimbursement for expenditure incurred. The change to grant based funding under a local scheme will require the following considerations:-

- The fact that the grant will represent a 10 % reduction against previous CTB expenditure - *how will the Local Authority distribute the grant amongst the working age population , should this be on a simple ‘ equal pain’ basis?*
- The form of the grant
- Whether or not expenditure is restricted to the maximum level of the grant or can be exceeded- *how would this be funded locally?*
- Distribution of the grant , frequency and how the distribution is justified – *what provisions for in claim review and intervention are required? What is the administrative burden of any proposals around review?*

#### Response

- The reduction in grant may be for many recipients considerably more than 10% as the cuts cannot apply to pensioner groups. This leaves significantly higher levels of savings to be achieved through re-distribution of support largely amongst the working age sector.
- Consideration ought to be given to a review of national Council Tax discount schemes, such as Single Person Discount which may have the potential to yield significantly more than the likely savings target but comes with issues over changing others level of payment.
- The paper does acknowledge the possibility of Local Authorities and their Council Tax payers’ potential to benefit from a reduction in take-up of any local rebate scheme.

#### h. Section 12 – Administrative costs

The paper acknowledges that the transition to and administration of local schemes should not put pressure on Local Authority finances. Equally it suggests that Local Authorities will be under a duty and therefore will need to give consideration to the basis for such costs (i.e. compared to the present arrangements for the administration of CTB) and to establish ways to reduce the costs of administration and suggest a view, that this may be achieved through collaborative or joint working arrangements:-

- How can the DCLG/DWP help Local Authorities achieve a reduction in administration costs?
- How can the DCLG/DWP encourage / incentivise collaboration working arrangements?

#### Response

- Administrative costs are most likely to only be reduced through simplification of the scheme whoever delivers it.
- Information Technology has the capacity to drive administrative costs up out of proportion to other changes if a situation emerges with multiple solutions and with no wider DCLG involvement or interaction with the software companies.

#### i. Section 13 – Transitional and implementation issues

Local Authorities are asked to consider what might achieve the simplest, single transition to local schemes or phased transition, following similar principles to the implementation of Local Housing Allowance. Issues for consideration include:-

- Timescales – the time to design new schemes, commission and procurement of IT systems, training and implementation.
- Communication – of changes to claimants and stakeholders, including the third sector.
- The wider welfare reform programme (Universal Credit) and associated changes to Housing Benefit.

#### Response

- More detail is required regarding the scheme in order for Local Authorities to properly consider their position and options in terms of scheme establishment, transitional and implementation issues.
- Change of this magnitude would ordinarily be supported by a national communication strategy / package, however, this may not be achieved when there is the potential that for each Local Authority to operate their own support provision on an entirely different basis.

#### j. Section 14 – List of consultation questions

The paper seeks Local Authorities views on some 45 questions surrounding the areas as set out above, in addition to inviting other wider comments.

### **5.0 RELEVANT RISKS**

- 5.1 There are no risks to the Authority directly associated in responding to the consultation. There are clear issues and risks in the development of the scheme.

### **6.0. OTHER OPTIONS CONSIDERED**

- 6.1 None.

## **7.0. CONSULTATION**

7.1. Formal local consultation has not taken place as in this instance the view of the Authority is sought. Nationally recognised organisations such as the representative professional bodies are also contributing to the consultation process.

## **8.0. IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

8.1. The reduction in the level of support will impact on the Voluntary Sector especially advice and debt agencies. The landlord sector will also see an impact as the Local Authority competes for payment for residual Council Tax debt from the tenant's income which will also have to meet rent payments.

## **9.0. RESOURCE IMPLICAITONS: FINANCIAL; IT; STAFFING AND ASSETS**

9.1 FINANCIAL: For year one (2013/14) DCLG funding will be based on the previous Council Tax Benefit spend less 10%. Total subsidy claimed for Council Tax Benefit expenditure in Wirral in 2010/11 was £31,350,714 and continues to rise given the prevailing economic conditions. A contingency will be required to allow for any ongoing increase in demand or take-up.

9.2 IT: Software companies will be in a position to significantly influence scheme design and there is potential for Local Authorities to be faced with little choice, at least in the shorter term other than to accept software companies design and key features, in essence fitting a local scheme largely around available software.

9.3 STAFFING: Council Tax Rebate proposals affect staffing levels as will the Universal Credit proposals but this will only be quantified as further details of the proposals emerge. Over 150 people work in the various areas of Benefits in the Authority.

9.4 ASSETS: The reduced staffing that is likely to be seen will reduce the accommodation requirements as will the impact of the Universal Credit proposals as currently set out.

## **10.0 LEGAL IMPLICATIONS**

10.1 There are none arising out of this report

## **11.0. EQUALITIES IMPLICATIONS**

11.1 There are none arising out of this report

11.2 Equality Impact Assessment (EIA)

- |                                       |     |
|---------------------------------------|-----|
| (a) Is an EIA required?               | No  |
| (b) If 'yes', has one been completed? | N/A |

## **12.0 CARBON REDUCTION IMPLICATIONS**

12.1. There are none arising out of this report.

## **13.0.PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

13.1. There are none arising out of this report.

FNCE/243/11

**REPORT AUTHOR:**           **Malcolm Flanagan**  
Head of Revenues, Benefits & Customer Services  
telephone:   (0151 666 3260)  
email: malcolmflanagan@wirral.gov.uk

## **APPENDICES**

NONE

## **REFERENCE MATERIAL**

DCLG consultation paper 'Localising Support for Council Tax in England'  
<http://www.communities.gov.uk/publications/localgovernment/localisingcounciltaxconsultation> - August 2011

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
Cabinet	22 September 2011