

**STRATEGY AND RESOURCES COMMITTEE  
24 JUNE 2015**

**LOCAL COUNCIL TAX SUPPORT SCHEME**

<u>Report of the:</u>	Director of Finance & Resources
<u>Contact:</u>	Judith Doney/Kathryn Beldon
<u>Urgent Decision?(yes/no)</u>	No
<u>If yes, reason urgent decision required:</u>	N/A
<u>Annexes/Appendices (attached):</u>	None
<u>Other available papers (not attached):</u>	Strategy & Resources Committee Report 11 November 2014

**REPORT SUMMARY**

**This report provides options for the Local Council Tax Support Scheme for 2016/17 and asks Members to choose their preferred option in order that any consultation required can be undertaken over the summer.**

**RECOMMENDATIONS**

**That the Committee advise which option they wish to consider for the Local Council Tax Support scheme from 2016/17 and on which they wish to undertake any necessary public consultation:-**

- 1. Option A – continue with the current scheme for a further year to provide time for a full analysis of the effects of the scheme and to assess the effects of other welfare reforms on the scheme. This would not require a public consultation.**
- 2. Option B – consider increasing the percentage minimum payment on the current scheme by between 5% and 10% for the 2016/17 financial year. This would require a public consultation.**

*Notes*

**1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy**

- 1.1 The Council's Safer and Stronger Communities service plan includes the following target:-**

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- Managing the changes in welfare benefit in a way that reduces the impact on the most vulnerable.

### **2 Introduction**

- 2.1 Under changes made by the Local Government Finance Act 2012 to the Local Government Finance Act 1992, the responsibility for determining the arrangements for Local Council Tax Support passed to local authorities; previously a national scheme was in place. The first Local Council Tax Support Scheme had to be adopted by 31 January 2013. There were certain limitations on what local authorities could include in their schemes, for example, pensioners were protected.
- 2.2 Epsom & Ewell Borough Council's Local Scheme for Council Tax Support was based on the previous Council Tax Benefit scheme and continued means testing for pensioners and for those of working age on low incomes. The scheme provides additional protection for those with extra expenses or needs through a series of premiums and income disregards and these protections continue under the current scheme.
- 2.3 Each year the Council is required under the Local Government Finance Act 1992 to consider whether to revise its scheme or to replace it with another scheme. Any revision or replacement must be adopted no later than 31 January in the financial year preceding that for which the revision or replacement is to take effect.
- 2.4 If any revision or replacement has the effect of reducing or removing support to any class of persons, then the revision or replacement must include such transitional provision as the Council thinks fit.
- 2.5 Before making a scheme the Council must (in the following order) -
  - 2.5.1 Consult major precepting authorities (Surrey County Council and Surrey Police).
  - 2.5.2 Publish a draft scheme in such manner as we think fit, and
  - 2.5.3 Consult such other persons as we consider are likely to have an interest in the operation of the scheme.
- 2.6 The Strategy & Resources Committee on 11 November 2014 recommended a Local Council Tax Support Scheme for 2015/16 based on working age recipients of Council Tax Support making a 20% minimum contribution with the underlying means tested applicable amounts being uplifted by the same percentage as the Housing Benefit rates applicable from April 2015. It also agreed the continuation of the Discretionary Hardship Fund to assist those experiencing financial hardship due to the changes and increased the provision by £10,000 to £30,000. On 9 December 2014 the Council approved and adopted the scheme.

### **3 Current scheme evaluation**

- 3.1 The current new scheme where everyone of working age pays a minimum of 20% of their Council Tax charge has only been in place for less than three months and it is not possible to provide a full analysis of the effects for Epsom & Ewell Borough Council.

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- 3.2 At the end of May there are 1724 working age claimants in receipt of Council Tax Support of which 1518 also receive Housing Benefit. Details of the number of working age claimants in each ward are shown below for information.

Ward	No. of working age CTS claimants
Auriol	45
College	48
Court	357
Cuddington	94
Ewell	137
Ewell Court	65
Nonsuch	14
Ruxley	257
Stamford	148
Stoneleigh	35
Town	293
West Ewell	138
Woodcote	93
<b>Total</b>	<b>1724</b>

- 3.3 Under the previous scheme 1085 claimants received full Council Tax Support due to the low level of their income or earnings and have therefore not been used to making any payments toward their Council Tax.
- 3.4 Of the 1724 claimants currently in receipt of Council Tax support 907 are in receipt of income support, jobseekers allowance or employment support allowance, 654 are employed and of these 213 earn the minimum wage or below and the remaining claimants are on a variety of other benefits such as disability benefits or tax credits.
- 3.5 Although we have not reached the final recovery stages on the Council Tax Support recipients, so far 25% of the 1724 claimants have not paid any Council Tax and a further 40% have already defaulted on their monthly payments.
- 3.6 We had reduced our expected collection rate for 2015/16 to 98.4% to take account of the expected lower collection on the Council Tax Support accounts. However at 31 May 2015 our collection is currently 21.2% against the profiled figure of 23.5%. At this point in the year it is too early to know if that trend will continue and the cause of the reduction.
- 3.7 Last year from the 406 who could get assistance from the Discretionary Hardship Fund, we received 49 applications and granted a total of £9,920 on 41 of those. This year we have already received 36 applications for assistance, compared to the 12 applications received at the same point last year. 16 have been awarded help, 11 have been refused and the remaining applications are being processed.
- 3.8 We are trialling a new approach with the support of Citizens Advice Bureau where we give a limited period of full assistance and then a phased reduction in assistance to help claimants adjust to budgeting to pay some Council Tax. To date £2,002 has been spent. If the experience from previous years is repeated we would expect a surge in applications once the more formal recovery processes for Council Tax Support begin at the end of June.

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- 3.9 Since other Councils in Surrey and across the country have run similar schemes to our minimum payment scheme, we requested information on their collection rates. It appears however that few councils do this level of analysis, particularly where the number of Council Tax Support recipients is a low percentage of the taxbase. One Council in Surrey that set a 25% minimum payment or 10% minimum for those with a disability have reported a 74% collection rate for those affected and a Kent authority that has an across the board minimum payment of 25% reported a 76.2% collection rate for those affected. Another Kent site that moved to an 18.5% minimum payment last year achieved an 80.4% collection for those affected.

#### **4 Financial and Manpower Implications**

- 4.1 Last year we estimated that if we continued with the Surrey Framework scheme into 2015/16 the estimated funding gap would rise to £126,395 for EEBC. (A precise figure is unavailable since the Council Tax Support Scheme Grant is now included within the Revenue Support Grant and cannot be separately identified.) The change to a minimum payment scheme for 2015/16 was introduced to help reduce the estimated gap in central government funding for the Local Council Tax Support scheme by approximately £32,957 for EEBC. This was based on a reduction in expenditure of £374,508, a 20% minimum payment for working age claimants and an 80% recovery rate.
- 4.2 The introduction of the minimum payment scheme from 1 April 2015 actually reduced the expenditure on Council Tax Support to £359,497 (of which £39,545 relates to EEBC). This was less than expected but was due to a drop in the overall number of claimants. Based on this reduction and if achieving an 80% collection rate the estimated funding shortfall for 2015/16 would reduce by approximately £31,636 for EEBC.
- 4.3 We do not know the position regarding the government grant for the 2016/17 financial year. However, if the decrease in central government funding continues at the same level as it has 2015/16 and the current 20% minimum payment scheme continued the estimated shortfall in funding for Epsom & Ewell is expected to increase by between £9k and £13k depending on our level of collection.
- 4.4 Previously the recovery team were dealing with about 400 Council Tax support claimants and managed fairly high levels of recovery since the framework was geared to those who might have been able to pay the additional Council Tax. However although we achieved a collection rate of around 89% for Council Tax Support claimants in the first year of the Surrey framework scheme, this dropped to just under 82% for 2014/15.
- 4.5 The number of claimants the recovery team are now dealing with has risen to 1724 and the majority of those have not been required to pay any Council Tax before and have little means to make these payments. Once a liability order has been granted by the courts the usual route to collect the outstanding Council Tax from those on other social security benefits would be by deductions from social security. The current statutory rate of recovery from these benefits is £3.70 a week for 2015/16 which even on a Band A property would only cover half the annual amount payable.

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- 4.6 Whilst the effect of a lower collection rate from the Council Tax Support claimants does not have significant effect on the overall collection rate since the Council Tax Support claimants only account for approximately 5.5% of the total tax base the increased work for the recovery team on this group is high. The capacity of the team is being monitored to inform future decision making.
- 4.7 Realistically Members have few other options available to fund the growing cost of Council Tax Support. Raising the Council Tax is limited to around 2% unless Members wish to go to a public referendum; reserves are currently only £600k above the minimum level and Council Tax Support is an ongoing cost. The only other option is to reduce services further. With the Council facing significant future deficits Members will need to consider carefully future service levels.

#### **Chief Finance Officer's comments:**

- 4.8 Epsom & Ewell Borough Council will only retain approximately 11% of any additional income received from reducing the level of Council Tax Support provided.
- 4.9 The potential additional costs incurred on recovery of monies due may significantly reduce any extra income anticipated for the Council.
- 4.10 A reduction in Council Tax Support could result in increased demand on the hardship fund which is currently unsupported by Surrey County Council or Surrey Police Authority and fully funded by Epsom & Ewell Borough Council.
- 4.11 Increasing the financial burden for families may cause additional pressure on homelessness budgets if families are unable to meet their financial obligations.

## **5 Options for 2016/17**

- 5.1 Next year Councils can continue with the scheme as approved for 2015/16 or may modify their schemes. Any significant changes would require further consultation. Under the Prescribed Regulations those of pension age must continue to be protected from any changes and currently our caseload consists of 1254 pensioners (42%) who are in receipt of Council Tax Support.
- 5.2 There are 2 main options for a 2016/17 Council Tax Support scheme:
- Option A: Continue with current scheme.
  - Option B: Increase the percentage of the minimum payment for the 2016/17 financial year.

#### **Option A: continuing with the current scheme**

- 5.3 This would enable a full evaluation of the minimum payment scheme to be undertaken and the effects on certain groups of claimants to be assessed before making further changes to the scheme. It would also provide a better understanding of the collection problems and the effects of the increasing bad debt provision on the collection fund and the call upon staffing resources.
- 5.4 This option would not require a public consultation exercise.

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#### **Option B: Increasing the percentage of the minimum payment for the 2016/17 financial year**

- 5.5 This option would continue to reduce the funding shortfall if the Council Tax owed by working age claimants can be collected at a reasonably high level.
- 5.6 The percentage payment can be set as a standard amount with assistance to vulnerable households provided by the Discretionary Hardship Fund as now or by setting different levels of percentages for vulnerable groups. If differing levels of percentages are introduced the overall percentage would need to take account of these reductions and information on this aspect would be included in any scheme proposed.
- 5.7 Should Members wish to pursue this option it is recommended that we go out to consultation on a range of % increases from 5-10%.
- 5.8 Since Option A would require no further consultation, a recommendation to continue this scheme for 2016/17 would be put forward to Committee. Option B would require full consultation and Committee will need to decide at its November meeting which percentage minimum payment level they wished to introduce for 2016/17.
- 5.9 The current Discretionary Hardship Fund enables officers to consider claims on an individual basis rather than as just belonging to specific groups. If Option A continues the existing £30k provision would need to be continued to mitigate the results of the Community Equality Impact Assessment. If Option B is chosen it is likely that to mitigate the findings of the Community Equality Impact Assessments increased provision may be required. This would be considered in conjunction with other options such as the use of differing percentages for Options B. This work will be undertaken as part of any proposals for the 2016/17 scheme.
- 5.10 For those current recipients who will be disadvantaged by any new scheme Options B would also require consideration of the transitional provisions which are thought fit. More details will be provided in a follow up report to be presented at the November Committee meeting.
- 5.11 Following the recent Haringey ruling it is felt that a multiyear settlement could leave us vulnerable to challenge. Please refer to paragraph 7.5.

## **6 Other factors impacting on future schemes**

- 6.1 The Council Tax Support Scheme is to be statutorily reviewed this year by the Government. The review will consider whether to abolish the current scheme and move this to Universal Credit or leave it with local councils and may make further changes to the default scheme which we would need to take into account when setting future schemes. The results of the review are not expected until the autumn.
- 6.2 It is important that any scheme agreed by the Council is capable of being administered effectively. This Council uses Academy, one of a small number of systems available for this purpose. The costs of implementing changes to the scheme are relevant, in the context of the likely sums to be recovered from council tax payers and claimants. The Council's software company along with other providers of such software has stated its intention not make any further changes to its software until after the review.

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- 6.3 The Government have already expressed their intention to make a further £12 billion of savings from the welfare budget and these will affect many Support recipients through other benefits/credits they receive and are likely to have an effect on their ability to pay the additional Council Tax required. Housing Benefit is particularly vulnerable because of its soaring budget and for 2016/17 the government has already announced a cut in the overall benefit cap limit from the existing £26k to £23k. Other proposals include reducing Housing Benefit by a flat 10% cut across all claims, freezing benefit rates for three years and limiting claims payments to a maximum of three children.
- 6.4 There is now uncertainty about the plans for full roll out of Universal Credit. Although the roll out of new claims from single claimants is due to happen in the Epsom & Ewell area from January 2016 onwards this will only affect a very small number of recipients. However, if the government decide to speed up the roll out the way we calculate the Support scheme will need to change as the current means tested method will not be sustainable and we would need to make more significant changes to the 2018/19 scheme if it continues to be run by local councils.

## **7 Equalities and Other Legal Implications**

- 7.1 The Council has a duty under the Equality Act 2010, in the exercise of any of our functions, to have regard to the need to: eliminate discrimination, harassment, victimisation and other prohibited conduct; advance equality of opportunity; and foster good relations. This requires an assessment of the impact of any changes to the Local Council Tax Support Scheme on those with the relevant “protected characteristics”.
- 7.2 The Community Equality Impact Assessment (CEIA) that was carried out for the introduction of the current minimum payment scheme and the criteria for the Discretionary Hardship Fund which takes into account the findings in the Community Equality Impact Assessment would need to be reviewed if the minimum percentage is increased.
- 7.3 Option B which changes the minimum percentage would require the Council to undertake a full consultation process of at least 8 weeks. This would be similar to that carried out for the initial scheme. It would involve consulting with current Council Tax Support recipients who would be directly affected by the changes, general taxpayers by use of a survey on the website and use of the Citizen’s panel, monthly eBorough Insight, the Equalities Forum and local advice groups, residents associations and political groups and precepting authorities. Paper copies of the survey would again be made available at the Town Hall and Venues to get as wide a consultation as possible.
- 7.4 In order for the results of any consultation to inform final recommendations on the Council Tax Support scheme for 2016/17 the exercise must start at the beginning of July. An analysis can then be provided for the November Committee meeting.

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- 7.5 Since the Council last undertook a public consultation on its Local Council Tax Support Scheme there has been a Supreme Court Judgment on the consultation carried out by the London Borough of Haringey. All Councils are now to have regard to the finding of this judgment when undertaking further consultation exercises. Councils are required to detail in their consultation what other options might be available to meet the shortfall in central government funding, such as raising the council tax, using reserves or reducing the funding of other services, and the reasons why the Council is not proposing to adopt any of these.
- 7.6 It is not absolutely clear from the legislation that Councils may adopt a scheme under which the maximum level of support will change (reduce) year on year for a number of years, without this constituting a “revision” to the scheme each year, requiring consultation etc. There is therefore a risk that a decision to do that may be susceptible to challenge.
- 7.7 For example, matters to be included in a scheme, as set out in the 1992 Act, include “A scheme must set out *the reduction* to which persons in each class are entitled...” indicates an expectation that the reduction will not change. Similarly, it states that a reduction may be “a discount”, calculated in a specific way. This must also be read in the context of the clear requirement to consider each year whether to revise or replace the scheme, and to follow the consultation requirements if it wishes to do so.
- 7.8 There is nothing, however, to stop the Council from indicating in a consultation this year that it intends to reduce the maximum available support for some classes of person in future years, and can take responses into account in deciding whether/how to revise the scheme in future years.
- 7.9 Other options which have been disregarded include, for example, adopting the “default scheme” published by the Secretary of State in accordance with the 1992 Act, or absorbing the funding shortfall in other ways (for example by reducing the sums spent on other services). Reference to these matters ought to be included in any consultation.

#### **Monitoring Officer’s comments:**

- 7.10 The cost of dealing with any challenge to our scheme would be substantial. There is concern about adopting a “multi-year” scheme, under which the maximum reduction changes year on year, without undertaking further consultation each year.

## **8 Sustainability Policy and Community Safety Implications**

- 8.1 None for the purposes of this report

## **9 Partnerships**

- 9.1 None.

## **10 Risk Assessment**

- 10.1 The main risks identified remain the adverse impacts on claimants and financial risks to the council and therefore the council taxpayer. The shortfalls identified in paragraph 4 relate solely to Epsom & Ewell Borough Council but decisions made on the Local Scheme will also affect Surrey County Council and Surrey Police who must be consulted on any proposed changes.



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- 10.2 It would be expected that increasing the percentage Council Tax Support recipients have to pay will affect collection rates. It is difficult to predict the possible loss in revenue at this stage given the lack of information from other sites and the fact our own scheme has only been running for a couple of months. A prudent approach to collection will need to be taken when setting the taxbase forecast for 2016/17 and the following 3 years.
- 10.3 It would be expected that the higher the minimum percentage set for Council Tax payment the lower the amount that could be collected. It would be necessary to ensure a substantial bad debt provision was made within the Council's collection fund to cover this.
- 10.4 If a Discretionary Hardship Fund assisting vulnerable households continues the Director of Finance & Resources would regularly monitor the expenditure against the provision.
- 10.5 If the Council looks to introduce a multi-year scheme (with the maximum level of support changing year on year) and the full roll out of Universal Credit happens during this period we will need to consider how the move to a non-means tested scheme can be put in place. Work on developing a replacement discount scheme should be given some priority. The legal risks associated with seeking to adopt a multi-year scheme are set out above.

## **11 Conclusions and Recommendations**

- 11.1 At present there is insufficient data to provide a full analysis of the effects of the minimum percentage payment scheme. For the 2016/17 scheme members can choose to consider to either continue with the current scheme for a further year or to increase the percentage which may reduce the shortfall in funding from central government and consider the introduction of a multiple year scheme.
- 11.2 We have sufficient time to undertake a public consultation over the summer months on the possible levels of percentage increase and on methods to protect the most vulnerable residents for the effects of the scheme. Following recent cases highlighting shortcomings in other Council's consultation exercises we will take legal advice prior to our own consultation to ensure all aspects are covered.

**WARDS AFFECTED: ALL**