

REPORT TO THE EXECUTIVE
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<b>DATE</b>	<b>24th July 2012</b>
<b>PORTFOLIO</b>	<b>Resources &amp; Performance Management</b>
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<b>Localised Council Tax Support</b>
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<b>PURPOSE</b>
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1. To seek authority from the Executive to commence a public consultation exercise with a view to developing and preparing a local scheme for Council Tax Support which will be placed before full Council for approval and implementation prior to 31<sup>st</sup> January, 2013

<b>RECOMMENDATION</b>
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2. That the Executive
  1. Agree to move forward on the understanding that members preferred approach would be to apply a percentage benefit reduction at the end of the calculated assessment for all working age claimants. A final policy decision will be made by full Council prior to 31<sup>st</sup> January, 2013 following the results and evaluation of the consultation exercise and further equalities impacts analysis.
  2. Authorises the Director of Resources, in consultation with the Leader and Executive Member for Resources and Performance Management to embark on a public consultation exercise for a draft scheme for Council Tax Support

<b>REASONS FOR RECOMMENDATION</b>
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3.
  - From April 2013, the Council will become responsible for a local council tax support scheme which will replace the current national council tax benefit scheme. The Council must enter into a full public consultation in order to meet critical timescales and develop and adopt a final scheme by January,2013 . This will be a decision by full Council.

<b>SUMMARY OF KEY POINTS</b>
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4.	Council Tax Benefit (CTB) is currently an income related social security benefit administered by local authorities on behalf of the Department for Work and Pensions (DWP). The local authority awards benefit on a means tested basis to claimants after other council tax discounts have been applied. The benefit is demand led; as more people apply and are eligible to claim so the overall benefit bill increases. The Department of Work & Pensions (DWP) covers the cost of CTB by giving the local authority subsidy based on the overall amount paid. Current arrangements are such that eligibility for Housing and Council Tax Benefit are determined at the same time and on the same application forms and are generally subject to the same calculation criteria in respect of income, capital and earnings. Eligibility for those of working age and also those of pension age is determined through a single application process.
5.	The cost that the Council incurs in awarding CTB is met in full by the Government. There is no limit in the amount that the Council can claim from the Government which means that the Council's finances are protected, even if caseload numbers go up as they have been doing in recent years.
6.	It was announced in the spending review of 2010 that support for council tax would be localised from April 2013 and expenditure reduced by ten per cent. This means that local authorities will run their own schemes based on finance from and guidance given by the Department for Communities and Local Government (DCLG) rather than the DWP. This announcement was followed in February 2011 by the Welfare Reform Bill which contained provisions to abolish Council Tax Benefit paving the way for localised schemes.
7.	<p>The governments policy objectives in localising support for council tax are that it will :-</p> <ul style="list-style-type: none"> <li>• Give local authorities a greater stake in the economic future of their local area. The paper claims that the reforms will “create stronger incentives to get people back into work”.</li> <li>• Give local authorities the opportunity to reform the system of support for working age claimants</li> <li>• Reinforce local control over council tax</li> <li>• Give local authorities significant control over how a 10% reduction in expenditure on council tax is achieved</li> <li>• Give local authorities a financial stake in the provision of support for council tax</li> </ul>
	<b>Overall policy framework of the scheme</b>
8.	The government has decided that Pensioners will be protected from any reduction in support as a result of the change and support for vulnerable pensioners should be delivered through a national framework of criteria and allowances. This will replicate the existing scheme and the government is also looking to simplify the way the support is calculated and administered in the future.
9.	Any localised scheme should support positive work incentives. The government intends that people should get more overall income in work than out of work, that they should get more overall income from working more and earning more, and that people should be confident that support will be provided whether they are in work or out of work and that it will be timely and correct.

10.	Local authorities should consider ensuring support for other vulnerable groups by taking account of their responsibilities under the Child Poverty Act 2010, The Disabled Person's (Services, consultation and representation) Act 1986 and the Housing Act 1996. Local Authorities are required to consult about their scheme.
11.	Billing authorities will be the default lead authority for council tax support schemes and will be required to consult with precepting authorities in particular with county council, fire and police authorities about the proposed scheme.
12.	Local authorities will be able to revise schemes between years but not in-year in order to give some certainty to claimants
13.	If the billing authority fails to adopt a scheme before 31st January, a default scheme provided for in regulations will take effect. This is likely to be a carbon copy of the council tax benefit scheme and the billing and precepting authority would have to make up the financial difference as the grant award would only cover 90% of the overall costs of operating the scheme.
14.	Councils will need to be clear about the categories of claimant entitled to a reduction and the reductions which are to apply to those categories and the procedure by which a person will claim the reduction.
15.	Grants will be paid to the billing and major precepting authorities reducing each authorities Council Tax requirement and offsetting partially or fully the reduction on the Council Tax base. Any deficit in collection would be managed within the collection fund
	<b>Funding</b>
16.	A grant will be allocated to billing and all major precepting authorities in advance to enable them to offer support for Council Tax. Government will set allocations on an annual basis for the first two years and will consider alternative funding mechanisms from 2014/15 if required. This means that not only will the funding drop but it will also be a fixed amount. The implication is that this cash limited budget will result in no protection for the Council to cover caseload numbers increases or Council Tax rises.
17.	These proposals are currently out to consultation and so they may change. It is also the case that the Government is proposing transitional arrangements to protect Councils from losing too big a proportion of their overall budgets. It is proposed that this should work in very much the same way as the spending power methodology that currently gives the Council access to transition funding. But members need to be aware that the overall cut in grant may be greater than the headline 10%.
	<b>Developing the Burnley Scheme</b>
18.	The Council currently has around 12,000 Council Tax benefit claimants and it is anticipated that the total benefit granted in the current year will be around £10M. A 10% reduction would therefore amount to £1M. Effectively this saving is shared between the Council and the precepting authorities in the same proportion as overall Council Tax levels as shown below:

	<p>£163k Burnley BC  £702k Lancashire CC  £95k Lancashire Police Authority  £40k Lancashire Fire &amp; rescue Authority</p>						
19.	<p>One option for the Council would be to adopt the existing benefit structure as the local scheme, achieve no savings and finance the cost to Burnley from accumulated reserves. There are some benefits to the Council from adopting this approach; at least for a period of two years. This timeframe would enable the Council to protect benefit claimants from the change during the current economic downturn. The scheme would be much more firmly aligned with Universal Credit which is not due to be launched until October 2013. There would be an opportunity to learn from the successes and failures of alternative schemes and allow time to respond to changes in IT systems. However, the fact that no savings will be achieved represents a significant problem for the County Council and they have made it clear that they do not support this option. In any event this approach is not sustainable indefinitely, and at some point in the future the issue would have to be addressed.</p>						
20.	<p>Of the total current caseload of 12,002, 4,665 are pensioner claimants who must not be adversely affected by the local scheme. Any reductions must be targeted at some, or all, of the 7,337 claimants who are of working age.</p>						
21.	<p>Of this total, 4,859 are what is described as “passported” claims. What this means is that the Department of Work and Pensions (DWP) has given the claimant access to particular benefits (such as income support) which automatically entitles them to full CTB also. This means that the Council does not have to verify their income and capital for a second time. The Council only carries out a full verification and assessment on the remaining 2,478 cases.</p>						
22.	<p>If the local scheme were to require a detailed assessment of all 7,337 cases the amount of administration involved would triple. The additional cost that this would involve is not insignificant and could be in excess of £100k per annum. In the context of needing to save costs of £163k as set out in 18 above, this is highly relevant and needs to be factored into consideration of the options involved. As the local scheme develops, the Council would in all likelihood want to move to a simpler scheme so changing the way in which the passported system currently works would represent a move away from this.</p>						
23.	<p>Another way of analysing the figures is to look at the amount of benefit given to different claimant groups. This can be summarised as follows:</p> <table border="0"> <tr> <td>£4.0M</td> <td>Pensioners</td> </tr> <tr> <td>£4.2M</td> <td>Working Age (passported claims)</td> </tr> <tr> <td>£1.8M</td> <td>Working Age (non-passported)</td> </tr> </table>	£4.0M	Pensioners	£4.2M	Working Age (passported claims)	£1.8M	Working Age (non-passported)
£4.0M	Pensioners						
£4.2M	Working Age (passported claims)						
£1.8M	Working Age (non-passported)						
24.	<p>If the Council wanted to carry out the changes by targeting support, but without increasing administration costs from increasing the complexity of assessment carried out, then the client group affected would have to be working age non-passported claims. But this would require a cut of more than half in the amount of benefit given to this claimant group (ie the total benefit awarded would have to drop from £1.8M to</p>						

	<p>£0.8M). As these claimants are in work it would be directly counter to the policy objective of creating incentives to work. Disabled claimants also fall into this category and that would present problems in terms of the Council's duties under the Equality Act.</p>
25.	<p>This demonstrates the stark choice facing the Council. Is it better to target any changes to particular categories of claimants by creating further categories of vulnerability or should the Council achieve the reduction by requiring <b>all</b> working age claimants to accept a reduction of some sort? Reasons to adopt the latter course of action include:</p> <ol style="list-style-type: none"> <li>1) The additional amount that an individual claimant would have to pay in Council Tax is kept to a minimum</li> <li>2) The need to carry out additional administration on assessments is kept to a minimum.</li> <li>3) There is no need to commission costly upgrades to IT systems. System suppliers have already confirmed that wholesale changes to IT systems are unachievable in the time available.</li> </ol>
26.	<p>If the Council were minded to adopt a targeted approach then it would be necessary to identify the claimant groups that are to be protected by a local definition of vulnerability. However, assessments of vulnerability have already been carried out by the DWP with the award of a range of additional benefits to reflect the additional needs of claimants. These include Disability Living Allowance, Child Benefit, War Pensions, Carer's Allowance and many others. Vulnerable claimants are deemed to need a greater level of weekly income and this is reflected in the calculation, eg a single person aged over 25 is deemed to have weekly needs of £71. This is increased to £101.35 if that person is in receipt of a disability benefit and this leads to a more generous assessment of weekly benefit. The current system also allows for further protections for vulnerable people and those in work through a comprehensive series of earnings and income disregards that apply to these claimants and increase their entitlement. It must be questionable whether there is a need to carry out further assessments and make further awards on this basis and the government does not intend to offer greater incentives to those receiving Housing Benefit whose entitlement we will be assessing concurrently at least until the transition to Universal Credit is complete in 2018.</p>
27.	<p>It is therefore recommended that, given the existing CTB scheme and other DWP benefits takes account of disability, young children, and applies a disregard to earned income, no further targeted protection should be offered under the Burnley scheme. This would enable the level of support provided to be applied equally amongst the vulnerable groups, with the key factor in setting the scheme being the resources available. The Council will need to consider setting aside resources to develop and finance a discretionary scheme to mitigate, on a temporary basis, those suffering exceptional hardship as a result of the changes.</p>
28.	<p>If the Council were to adopt a scheme that reduces benefits across the board there are two basic ways this could be achieved.</p> <ul style="list-style-type: none"> <li>• Option 1 is to limit CTB entitlement by applying a percentage reduction to all claims at the end of the calculated assessment i.e. the final benefit awarded figure. This achieves proportional equality across all working age claimants who</li> </ul>

	<p>would all have benefit reduced by the same percentage. Indicative calculations suggest a 20% reduction would achieve the overall savings required.</p> <ul style="list-style-type: none"> <li>• Option 2 is very similar but applies the overall reduction at the beginning of the calculation rather than the end effectively placing a cap on the maximum amount of council tax on which a claim can be calculated. For claimants on full benefit the outcome would be identical to option 1. However, this option reduces CTB for those who do not receive full benefit at a higher rate. For this reason, a smaller percentage reduction of 17.5% may be achievable. However, those claimants in receipt of part benefit are often those in work or those who are disabled. This option would result in a higher overall percentage reduction in benefit entitlement for those claimants and this may be considered to disadvantage those groups.</li> <li>• Illustrative examples of the additional extra amount to pay based on typical Band A Council Tax charges for Option 1 and Option 2 will be tabled at the meeting</li> </ul> <p>For these reasons, Option 1 would be the recommended 'in principle' approach for members to prefer pending the full public consultation and final decision by Council prior to January, 2013</p>
29.	<p>A further option that could be considered is to restrict eligibility for Council Tax Support to that applicable to a Band A property. This prevents claimants in properties of a higher vale receiving higher levels of benefit. However, in Burnley, 89% of claimants live in a Band A property in any case. Applying such a restriction would have a disproportionately large impact on a very small number of claimants. It would be perceived as unfair while achieving little additional financial saving for the Council.</p>
	<p><b>Council Tax Collection</b></p>
30.	<p>All the figures quoted above assume that any additional taxes levied as a result of the adoption of a local scheme are collected in full. In practice this will not happen. Any payments that are made will be from limited household budgets and in many cases the individuals involved are making no payments at all at the moment. Establishing a pattern of regular payments will be far from easy and it would be unwise to assume a non-collection rate of 1.8% which is the overall figure assumed at the present time.</p>
31.	<p>There are three possible ways in which the Council could address this problem. The first would be to create a non-collection contingency by increasing still further the proportions deducted from existing benefit claims. This could be achieved, for example, by increasing the % reduction figures to 25%. However, this might well be counter-productive as it would increase the amounts to be collected from this client group still further and just make matters worse.</p>
32.	<p>The second approach would be to increase the overall allowance for non-collection from the current 1.8%. However, this would result in lowering the overall yield from Council Tax and the lost income would have to be made good from another source. In essence, therefore, this option is no different from the one where the Council stands the cost which is detailed in paragraph 19 above.</p>

33.	<p>The third way is to make good the anticipated non-collection by other adjustments to Council Tax. The Government has consulted on various changes that give local authorities more discretion in this area and it is likely that these powers will be available from next April. By reducing the discounts or exemptions available for owners of the various categories of empty properties, additional Council Tax income can be generated to bridge the gap. This is the recommended course of action; details can be firmed up once the necessary alterations to Council Tax regulations have been made by the Government later in the year.</p>
	<p><b>Consultation</b></p>
34.	<p>The local council tax support scheme will be a new policy for the Council. What is proposed is a fundamental change to the benefit system for 7,000 households, one in five across the entire Borough. In developing the policy, the Council must undertake full public consultation. The Council is committed to ensuring that people have an input into matters that affect them. A programme of consultation and engagement is being designed as part of the development of the scheme. The Council will use all of the channels available to it including</p> <ul style="list-style-type: none"> <li>• Direct communication with benefit claimants affected by the change</li> <li>• On line and postal surveys for benefit claimants and general council tax payers</li> <li>• Focus groups</li> <li>• Presentations and surveys to stakeholder and partner organisations</li> <li>• Road shows</li> </ul> <p>Publicity will be co-ordinated to support all of the above activity. All feedback will be taken into consideration as the scheme is finalised with a focus on mitigating negative impacts where possible.</p>
	<p><b>Legal duties</b></p>
35.	<p>As part of the development process, the Council must take into account its statutory duties under the Equality Act 2010 and other legislation. In particular, s 149 of the Act refers to</p> <p><i>(1) A public authority must, in the exercise of its functions, have due regard to the need to –</i></p> <p><i>(a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this act</i></p> <p><i>(b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</i></p> <p><i>(c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it</i></p> <p><i>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</i></p> <p><i>(a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;</i></p> <p><i>(b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;</i></p> <p><i>(c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is</i></p>

	<p><i>disproportionately low</i></p> <p>The equality impact of financial proposals must therefore be robust and the impact on equality groups thoroughly considered before decisions are arrived at.</p>
36.	<p>The Council must also take into account its duties under the following legislation :-</p> <ul style="list-style-type: none"> <li>• The Child Poverty Act 2010 which imposes a requirement on local authorities and their partners to reduce and mitigate the effects of child poverty in their areas</li> <li>• Disabled Persons (Services, Consultation and Representation ) Act 1986 and Chronically Sick and Disabled Person’s Act 1970 which include a range of duties relating to the welfare needs of disabled people</li> <li>• Housing Act 1996 which gives local authorities a duty to prevent homelessness with special regard to vulnerable groups</li> </ul>
	<p><b>Equalities Impacts</b></p>
37.	<p>In assessing the options to be considered by the Council, a high level equality impact assessment has been prepared. This document is available as a background document to this report. Each amendment proposed to the current scheme will require Equality Impact assessed. More detailed analysis around the impacts on groups and how this impact can be mitigated by the Council will be updated and developed at regular intervals through the course of the consultation process and in moving towards the adoption of a local scheme</p>
	<p><b>Risk</b></p>
38.	<p>Whatever decision the Council takes on this issue is likely to involve a significant degree of risk and many of these factors have been set out in the body of the report.</p>
39.	<p>If the Council decides to proceed with the recommended option, the key risks are considered to be:</p> <ol style="list-style-type: none"> <li>1. That the new scheme cannot be delivered on time. This is considered unlikely given that our software supplier has indicated that the changes can be incorporated.</li> <li>2. That claimants are unaware of the impending change. As part of the consultation process it is intended that all existing claimants are written to outlining how the changes are likely to affect them. They will then be contacted again once a final decision has been taken.</li> <li>3. That the Council's scheme is challenged in the courts.</li> <li>4. That the Council faces greater difficulty in collecting the additional taxes than anticipated.</li> <li>5. That the cost to the Council increases due to rises in the number of claimants of working age.</li> </ol>
40.	<p>An outline timetable that sets out key dates is detailed in Appendix 2</p>



## **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

41 As set out in the report.

## **POLICY IMPLICATIONS**

42 As set out in the report.

## **DETAILS OF CONSULTATION**

43 There has been detailed consultation on a county wide basis on this issue. It appears to be the case that most Councils are likely to adopt a local scheme that is similar to the one recommended in this report. However, it is probable that there will be Councils who decide to make no change initially and absorb the cost.

Before finalising the draft scheme, the Council is required to consult the three major precepting authorities. Responses will be reported at the meeting.

## **BACKGROUND PAPERS**

44 Equality Impact Assessment July 2012

## **FURTHER INFORMATION**

**PLEASE CONTACT:**

**Nick Aves, Director of Resources**

**ALSO:**

**Caroline Lee, Head of Revenues & Benefits**