

November 2014

Overview and Scrutiny Committee

Council Tax Support (CTS) Scheme

Report from Scrutiny Challenge Panel

Members of the review group

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1. CHAIRMAN'S FOREWORD

The transfer of responsibility for Council Tax Benefit (CTB) from central government to local government forms part of the Coalition Government's sweeping welfare reforms as well as reflecting its broader commitment to localisation. Local Authorities were statutorily required to develop and implement a localised Scheme for Council Tax Support (CTS), to replace Council Tax Benefit (CTB). The CTB system fundamentally changed and Local Authorities were statutorily required to develop and adopt a localised Scheme to be implemented from 1st April 2013. Funding was also transferred from the Department of Work and Pensions (DWP) to Local Authorities, albeit at a level approximately 10% less than the historic local funding of CTB payments; it was left to Local Authorities as to what shape their local CTS Scheme would take, including how much (if any) of that 10% shortfall to charge to CTS recipients. Indeed, in the course of our research, CTS Schemes were found to range from fully-funded to previous CTB levels through moderate charging of recipients to Harrow's CTS Scheme, described as "the harshest scheme in the country".

Since the introduction of CTS Schemes, there has been some noticeable research undertaken by various organisations including charities highlighting the impacts on local people, especially those on low incomes, larger families and the disabled.

In light of this evidence and with Harrow's new administration consulting on changes to its current CTS Scheme, the Council's Scrutiny Leadership Group (SLG) decided to undertake a review of both the existing Scheme and the proposed changes. The CTS Scheme Challenge Panel, which took place on the 27th October 2014, drew upon this research and heard evidence from, and questioned a number of witnesses and organisations. I would like to thank them all for their time and participation in our Review.

During the Challenge Panel, we have sought to identify and understand the extent and significance of the impact of the Harrow's CTS Scheme on the residents of Harrow and with that knowledge to suggest a number of recommendations for the Council regarding both the operation of the current CTS Scheme and about the proposed changes to consider and take forward. With full Council scheduled to vote upon changes to Harrow's CTS Scheme in January, the Challenge Panel wanted to provide a report that would inform both the Cabinet and the wider Council in their deliberations about what Harrow should do on Council Tax Support.

I would like to thank all the witnesses who attended and provided evidence at the Challenge Panel. They provided us with valuable information, were open to discuss the difficulties identified during the Panel and joined us in thinking about potential solutions.

The officers of Harrow Council have been very supportive of our work. I would especially like to thank Mr Fern Silverio, the Head of Collections & Benefits for contributing his time and knowledge, and for attending the Challenge Panel throughout its exhaustive evidence-taking.

I would like to extend my appreciation, and that of the Challenge Panel, to Mr Mohammed Ilyas, our Policy Officer who has supported us in this Review. Mr Ilyas' hard work and dedication has produced a report that we are proud of and which we hope will influence Harrow's policy on Council Tax Support.

On behalf of the members of the review Challenge Panel group, I commend this report.

A handwritten signature in black ink, appearing to read 'B. Macleod-Cullinane', with a small dot at the end of the line.

Councillor Barry Macleod-Cullinane

Chairman, Council Tax Support (CTS) Scheme Challenge Panel

2. EXECUTIVE SUMMARY

The Challenge Panel gathered substantial evidence, heard from and questioned several key witnesses and considered evidence put before them to understand the impact of the Council's current CTS Scheme upon those residents affected by it. The Panel had particular regard to the impact Harrow's CTS Scheme is having on household debt. The Panel also sought to assess the likely impact of the Administration's proposed changes so as to produce a report that could inform councillors deliberating in both Cabinet and at full Council on implementing proposed changes to the CTS Scheme.

The Panel's key findings and unanimous recommendations (pages 18-40) put forward by the Panel are presented in the report, grouped by the following themes:

- Consultation
- Harshest Scheme in the Country
- Recovery, Collection Rates and Enforcement
- Access and Customer Service
- Mitigating the Impact

The Panel recommend that the Council overall makes a decision to prioritise alternative spending cuts above reductions to CTS, but that whatever the final state of the Scheme, to consider the series of important recommendations on consultation, collections, and the hardship fund.

Further, the Challenge Panel was acutely aware that its work was taking place in an evolving legal environment. A number of the witnesses drew the Panel's attention to the Supreme Court's Judgement regarding Haringey's CTS Scheme that was expected later that week and which was in fact published on 29th October, just two days after the Panel's evidence hearing. (Given its importance, a copy of the Haringey Judgement is included in an appendix to this report.) A further related challenge, this time on court costs, is also expected imminently.

Despite the acute financial pressures facing Local Authorities, the Challenge Panel hopes that its recommendations put forward will be considered favourably and taken forward and adopted by Cabinet. The Panel further hopes that its findings and recommendations will serve to better inform all councillors when Full Council considers proposed changes to the

CTS Scheme in January 2015. The Panel's aim is to both lessen the current impact of Harrow's extremely harsh CTS Scheme and to mitigate the impact of the proposed changes of the Scheme on some of our most vulnerable residents.

3. INTRODUCTION AND SCOPE

As part of the Spending Review 2010, the Government announced that it would localise support for Council Tax Benefit (CTB) from 2013/14, passing that budget over to local government but at a level 10% less than the CTB grant. Local Authorities were required to set up localised Council Tax Support (CTS) Schemes to provide support to low income households liable for council tax for implementation from 1 April 2013. Such localised CTS Schemes could continue to provide recipients with the full amount of council tax benefit that they would previously have been entitled to, finding the shortfall from elsewhere in the council's budget, or, as in Harrow's case, to pass on some or all of that shortfall in the form of a charge levied on council tax benefit recipients. Within a framework defined by the Government – most importantly, pensioners were exempted from charging under CTS – the exact form of a local CTS, and how it would be levied, was to be determined locally.

In light of proposed changes to Harrow's current CTS Scheme, the Scrutiny Leadership Group decided to review both the Scheme and the implications of the proposed changes recently consulted on. The CTS Scheme Challenge Panel took place on the 27th October 2014.

The main aims of the Panel were to:

- explore the impact on Harrow's residents of the introduction of the local Council Tax Support (CTS) Scheme and the contribution it may be making to household debt problems;
- understand how local residents affected by Harrow's current scheme are managing to make their Council Tax payments;
- consider the findings of the Council's CTS consultation to inform the development of the new scheme;
- consider how other schemes, both London-wide and nationally, compare to Harrow's and how these findings can influence the development of the new scheme.

The formal scope for the project is attached at **Appendix 1**.

The Challenge Panel invited submissions and heard evidence from Council Officers, the Portfolio Holder for Finance and Major Contracts, from representatives of several relevant local and national organisations and charities, as well as from a resident affected by local changes to Council Tax Benefit. The purpose was to identify the extent and significance of the impact of Harrow's CTS Scheme on the residents of Harrow.

4. POLICY BACKGROUND

In March 2012, the Welfare Reform Bill received Royal Assent and contained provisions for the abolition of Council Tax Benefit (CTB). In October 2012, the Local Government Finance Act became law and included the framework for localised Council Tax Reduction Schemes which is known as the Council Tax Support (CTS) Scheme.

Statutorily, Local Authorities were required to develop and adopt a Localised CTS Scheme by 31 January 2013 with implementation on 1 April 2013. To an extent, Local Authorities had been given autonomy to develop schemes that met the needs of their local area but were also prescribed a framework to work against including a national pension scheme. However, Local Authorities would only receive 90% of the funding received in the previous year (2012/13). It was up to Local Authorities to decide whether to absorb the ten per cent cut in funding or pass this onto CTS recipients.

To enable this activity to be taken forward, the Government provided Local Authorities with a statutory framework that included the following:

- Local Authorities must have their new schemes agreed by 31st January 2013;
- Financial help with Council Tax will now be seen as a discount and not a benefit;
- There will be no change to the amount of help claimants who are of pension credit age currently receive, i.e. pensioners would be exempted from being charged under local CTS Schemes;
- Councils can decide the rules for their new schemes within a prescribed framework, but should consider the impact on the most vulnerable under existing duties when designing their schemes;
- Guidance was given to encourage local authorities to ensure local schemes do not act as a disincentive to working.

The Government required that claimants of pension credit age should be protected and the cut in funding should not apply to them; therefore, working-age claimants would bear the full reduction in grant to cover future CTS Scheme expenditure. The Government also left it to each council's local choice as to whether their CTB recipients would continue to be fully-funded under the new local CTS arrangements or to introduce some level of local charging on all CTB households (except pensioners) to cover that local funding shortfall.

Financial Context

CTB was an income-related benefit payable to households with low incomes, where they are liable to pay Council Tax on a property in which they are resident. People receiving "passport benefits" (Income Support, income-based Jobseeker's Allowance, income-based Employment and Support Allowance, or the Guarantee Credit element of Pension Credit) were automatically entitled to the full level of CTB. For other claimants, the amount of CTB payable depended upon income. There was a taper of 20% for any income above an "applicable amount". Income rules were aligned with, or marginally more generous than, those in the "passport benefits". The structure of personal allowances and premiums making up the "applicable amount" was also aligned with these benefits. Deductions would also be made for any non-dependants because they were expected to contribute towards the Council Tax. An amount was deducted for each non-dependant aged at least 18, based on their gross weekly income, though there were some exceptions to this.

The Department for Work and Pensions (DWP) subsidised all Local Authority spend on CTB at a rate of 100%. However the DWP, from 2013/14, ceased subsidising expenditure and instead, Local Authorities were given an un-ringfenced grant as part of formula grant, to cover future CTS expenditure. The grant is based upon previous expenditure on Council Tax Benefits with a cut of 10% but uprated only by the same percentage as formula grant. This means that the Council had to manage the funding gap by putting in place an appropriate local CTS scheme, which gives out CTS awards only to the level of the budget available. However, given that when the CTB was transferred to councils it was permanently incorporated into their base-budget, any reduction achieved in level of demand for CTS – such as by assisting CTS claimants into (well-paid) work – would be a windfall gain for the authority and thus should act as a monetary incentive to councils to introduce local policies conducive to employment growth.

In 2011-12 **£19.827m** was spent on CTB in Harrow and **£20.3m** in 2012-13. Although Local Authorities received 90% of the funding received in the previous year to deliver the new scheme, in Harrow the funding gap equated to more than 10% due to the potential increase in caseload and council tax inflation, i.e. planned increases of 2% in both 2013-14 and in 2014-15 of a council tax which was already London's 3rd highest. Therefore, it was predicted that the Council had to find approximately £3.8m in the first year of operation, 2013-14 and approximately £5.1m in 2014-15.

Wider Welfare Reform Context

The localisation of CTB, with a 10% reduction in funding, must be set in the context of a national Welfare Reform programme through which the government hopes to save £18bn from the welfare budget in 2014-15 and a further £3.7bn in 2015-16. The Local Government Association (LGA) estimated in August 2013 that the average loss of income from benefits per claimant household in Harrow was £2,046, the 9th highest in the country.¹ A different study² estimated that Harrow would lose £453 per working age person, slightly less than the £470 national average, which can be accounted for by the moderate number of claimant households in the borough. The impact on any given household varied, with a small number losing more than £100 per week – or over £5,000 per year – from the Benefit Cap alone.³

Harrow's Council Tax Support Scheme

It was recognised at an early stage that changes to CTB would have a significant impact on Harrow residents. In order to understand these impacts and ensure Harrow residents were given the opportunity to shape the new localised CTS Scheme, a partnership driven structure was established. This included a Steering Group with a thirty-strong membership including Councillors from the administration, representatives from precepting authorities (Greater London Authority), local voluntary organisations such as MIND in Harrow, Harrow Mencap, Harrow Carers, Age UK Harrow, Harrow Citizens' Advice Bureau (CAB), Harrow Association for People with Disabilities (HAD), Harrow Equalities Centre, the Landlords Association, Harrow Association of Somali Associations (HASVO), and from Jobcentre Plus, the trade unions and Harrow Council officers. The purpose of the Steering Group

¹ LGA, 'The Local Impacts of Welfare Reforms', August 2013

² 'Hitting the Poorest Places Hardest', Centre for Regional Economic and Social History Sheffield Hallam University, 2013

³ The Benefit Cap on households is set at £26,000 which is equivalent of a pre-tax household income of approximately £41,000.

was to ensure that the consultation process for the localisation of Council Tax Benefit was effective, inclusive and transparent and to help the Council understand the impacts of any changes.

The Council undertook a fourteen week (11th June 2012 to 21st September 2012) consultation involving residents, representative groups and other stakeholders. The consultation was based on a number of principles and offered four proposed model schemes to demonstrate what a local scheme could look like.

The Steering Group played a key role in shaping the consultation approach and activity and participated and delivered workshops and other events which helped ensure the consultation reached as many of the residents as possible. Because of their support and their ideas Harrow had a particularly high response rate to the consultation. **Table 1** below summarises the types of consultation activity held:

Table 1 – Consultation Activity

Consultation Activity	Response
Telephone interviews	1,010 Residents 310 Council Tax Benefit recipients
Written survey to Harrow Council's Residents Panel	616 responses (55%)
Dedicated consultation web pages	4,086 hits on cover page 152 surveys completed on line
Consultation booklet and survey distributed widely with opportunity for comment through freepost/telephone/email and web	346 forms returned 52 telephone responses 16 emails
Face to face activity includes Roadshows/'Go to' days/events/community group meetings/workshops and discussion groups	71 different types of face to face activity held – over 4,000 people spoken to
Twitter	1,658 followers
Facebook	250 followers and updates reach 350 users

Formal feedback to the consultation was also received from the Greater London Authority (GLA), Harrow Association of Disabled People (HAD) and Harrow Mencap. As a result of the feedback, all proposed model schemes exclude Disability Living Allowance (DLA) and the proposed Scheme also reduces the liability cap for people with disabilities.

At the time of developing Harrow's CTS Scheme, the Council had approximately 88,000 domestic households of which 17,438 were CTB claimants. As of 30th September 2014,

there were 8,695 claimants in receipt of its CTS Scheme. The Government had concluded that claimants of pension credit age should be protected and the cut in funding should not apply to them. The Government had also published draft regulations laying out a prescribed scheme for pensioners, which ensured they received the same help with their Council Tax as they did under the CTB. However, this meant that working age claimants would bear the full reduction in grant to cover future CTS expenditure. Of the 17,438 CTB Claimants, 6,404 were pensioner households, leaving 11,034 working age claimant households to take the full brunt of the reduction in funding.

In developing Harrow's CTS Scheme and to understand the potential impact of the proposed actions, recipients were categorised into three groups (below).

Group A – a household where the customer, a partner or a dependant child is physically or mentally disabled and receives one of the following:

- Disability Living Allowance (any component)
- Employment Support Allowance (Support group)
- Incapacity Benefit
- Mobility Supplement
- Severe Disablement Allowance
- or anyone who receives War Disablement Pension or War Widows Pension

Group B – Lone parents/families with children/carers who do not fall into Group A

Group C – Anybody that does not fall into Group A or B

The potential impact on the above groups was closely monitored through consultation feedback, which not only helped to develop the proposed Model Scheme Options but informed the development of the Equality Impact Assessment (EqIA), which was an integral part of deciding the scheme to recommend to Cabinet.

Alternative Options

An alternative of absorbing the costs of the Scheme and funding the gap from revenue budget was considered. Due to the Council's financial position in 2012, funding the gap

from reserves, cuts in other services or increases in Council Tax were not considered as viable. This is because Harrow had low cash reserves, was already having to consider cuts to some services in order to manage the overall budget funding gap and increasing Council Tax was already scheduled within the MFTS to balance the budget in general. Funding could not therefore be identified from elsewhere within the Council.

This was evidenced by Harrow’s reserves at the time being only around £7m-£8m, the Council having already prepared cuts in services and reductions in budgets to contain the funding gap at that time as well as Council Tax increases of 2% already being scheduled to fund other financial gaps but also due to the Council having no time to carry out a referendum to increase Council Tax above the 2% scheduled (which could have raised extra funds) or having any certainty that residents would have voted for this, considering that 80% would not have benefitted from the scheme.

In December 2012, a report was submitted to Cabinet⁴ requesting it to agree and adopt Model Scheme shown below in **Table 2** as Harrow’s preferred CTS Scheme as this reflected the outcome of the consultation to the greatest extent practicable and could be implemented within the resources made available by the Government for Council Tax Support. In January 2013, full Council⁵ voted upon the Officers’ recommendations and the CTS Scheme was adopted.

Table 2: Harrow’s Council Tax Support Scheme 2014/15

Rule	Current Council Tax Support Scheme
Liability Cap	86% - Working age disabled (90% 2013/14)
	70% - Working age other (77.5% 2013/14)
Include disability benefits as income	No
Include Child Benefit as income	No
Keep additional earnings disregard	Yes
Minimum weekly Council Tax Support level	£2.00
Non-dependant deductions	£3.00 up to £19.80 per week

⁴ <http://www.harrow.gov.uk/www2/ieListDocuments.aspx?CId=249&MId=61074&Ver=4>

⁵ <http://www.harrow.gov.uk/www2/ieListDocuments.aspx?CId=288&MId=61392&Ver=4>

Liability Cap – Before 1st April 2013, the whole of a person’s Council Tax bill could be supported through Council Tax Benefit (CTB). By placing a cap on the liability, all working age recipients of Council Tax Support (CTS) benefit? is reduced by the amount of the cap.

Group A – is a household where the customer, a partner or a dependent child is physically or mentally disabled and receives specific benefits; e.g. Personal Independence Payment (PIP) 86% liability cap for **Group A**.

Group B – lone parents/families with children/carers and everyone else who does not fall into Group A. 70% liability cap for **Group B**.

Non-Dependent Deductions – for every adult household who is not the claimant or the partner, a deduction is made for the CTB, dependent on their income.

30% taper – every claimant or couple could have income up to the assessed needs of their family and still receive full CTB. If their income exceeded their needs allowance, their potential benefit would reduce from the maximum amount by 30p for every £1 per week in income received over the limit (or 30%).

£2 minimum weekly Council Tax Support – a minimum weekly CTS award of £2 was introduced from 1st April 2013. Therefore, after the means test has been determined, should an applicant’s entitlement to CTS be less than £2 per week, they would not qualify for any support.

5. IMPACT OF COUNCIL TAX SUPPORT SCHEMES

Since the introduction of CTS, a number of organisations have undertaken research to highlight the impact on claimants. Some of these include the following:

1. How have low income families been affected by changes to Council Tax Support?⁶ – Joseph Rowntree Foundation (31st March 2014)
2. A New Poll Tax – the impact of the abolition of council tax benefit in London⁷ – Child Poverty Action Group (CPAG) and the Zacchaeus 2000 Trust (Z2K) (July 2014)
3. Council Tax Support – Public Accounts Committee 2014⁸ (March 2014)
4. Council Tax Support Schemes in England: What Did Local Authorities Choose, and with What Effects?⁹ – Institute for Fiscal Studies (January 2014)

⁶ <http://www.jrf.org.uk/publications/low-income-families-changes-council-tax>

⁷ <http://z2k.org/wp-content/uploads/2014/07/Anewpolltax-final.pdf>

⁸ <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmpublicacc/943/943.pdf>

⁹ <http://www.ifs.org.uk/comms/r90.pdf>

5. The impacts of Council Tax Support reduction on arrears, collection rates and court and administration costs¹⁰ – New Policy Institute (September 2014)
6. London in the Red: an analysis of problem debt in the capital¹¹ – Consumer Credit Counselling Service (May 2012)

The research recognises the serious impact that the abolition of CTB has had on Local Authorities in several key ways. First and foremost, it is a cut to their income and therefore has required either making up the shortfall from other income, which has also been significantly reduced, or increasing the charges to residents previously deemed too poor to pay.

The key findings show that:

- In 2013-14, 71% of the 326 Local Authorities in England chose to make up the shortfall by introducing 'minimum payment' schemes, requiring all working-age claimants to pay some Council Tax regardless of income;
- 133 Local Authorities offered no protection to vulnerable groups, other than those mandated;
- 114 local authorities implemented Council Tax support schemes with minimum payments greater than 12 per cent and up to 33 per cent;
- 18% of Local Authorities in England maintained the same level of support as the old CTB system and the remaining 11% chose to make other changes.

Overview of London Schemes

The CTS Schemes adopted by the 33 London Local Authorities vary quite significantly:

- Six (City of London, Hammersmith and Fulham, Kensington and Chelsea, Merton, Tower Hamlets and Westminster) adopted Schemes which made no change to the previous CTB system and maintained 100 per cent reduction in Council Tax liability
- Four (Havering, Kingston Upon Thames, Wandsworth and Richmond Upon Thames) made minor changes, such as abolishing the second adult rebate, altering

¹⁰http://npi.org.uk/files/7014/1163/6932/The_impacts_of_CTS_reduction_on_arrears_collection_rates_and_court_and_admin_costs.pdf

¹¹http://www.stepchange.org/portals/0/Documents/media/reports/additionalreports/London_in_the_red_2012.pdf.

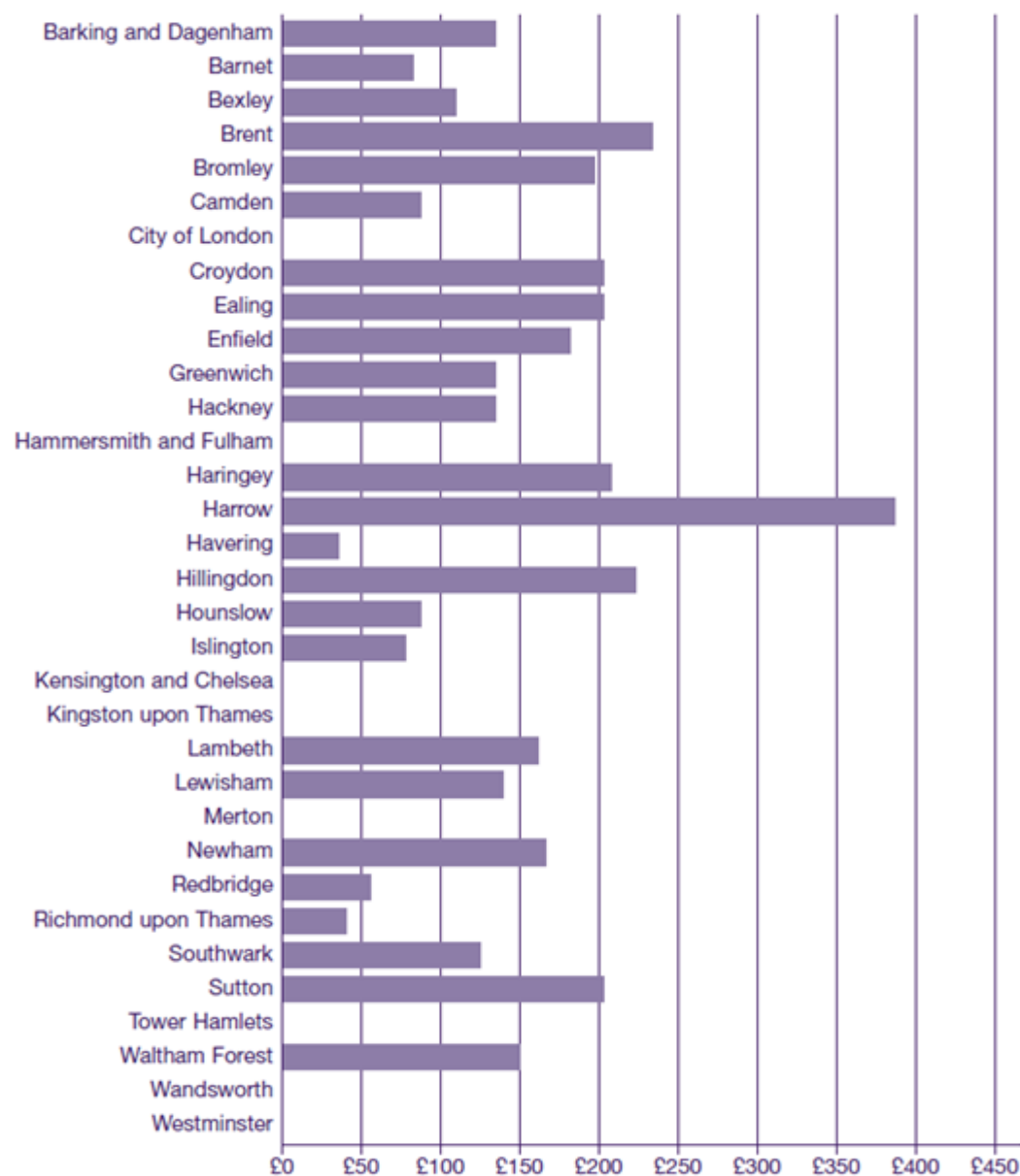
non-dependant deductions or capping support to a particular Council Tax band, but did not introduce a minimum payment

- The remaining 23 councils chose to establish Schemes with a minimum payment
- In 2014-15, these sums range from the relatively small (5% in Redbridge) to the considerable (30% in Harrow) for low income working age families and individuals;
- In monetary terms, these minimum payments equate to £69.93 annually for a Band D property¹² in Redbridge and up to £454 in Harrow.

¹² Harrow Band D property 2014/15 £1,509.28, Redbridge Band D property 2014/15 £1,394.53

Figure 2.1

Average annual loss per claimant, 2014/15



Source: Monetary impacts of CTS in English local authorities 2014/15, New Policy Institute

Changes in April 2014

According to www.counciltaxsupport.org¹³, since April 2014, CTS Schemes have been amended in the following ways:

- 45 councils have continued to provide the same level of support to residents as they did under the former Council Tax benefit system.

¹³ <http://counciltaxsupport.org/schemes/>

- 192 councils changed their system in the first year it was introduced and have not made any further changes for April 2014.
- 13 councils continued with the former Council Tax Benefit system in April 2013, but started to cut support in April 2014.
- 76 councils changed their system in the first year it was introduced and have also made further changes for April 2014.
- Of the 89 councils to change their CTS schemes in April 2014, 79 reduced the levels of support for recipients, 4 increased support and 6 councils made only small changes.

According to the website **counciltaxsupport.org**, in 2014-15, 2.34 million low-income families will pay on average £149 more in council tax per year than they did under CTB. (See Table 3, below.) For 1.69 million families this cut in support is the same as in 2013-14. But for 70,000 families their support will be cut for the first time with an average increase in Council Tax of £114 per year. There are a further 580,000 families whose entitlement has been changed for two consecutive years, paying on average £97 more per year in Council Tax in 2013/14 and around £151 in 2014/15.

Harrow

- In 2013/14: 7,052 claimants were previously entitled to full Council Tax Benefit and of these, the average annual contribution from 1/4/13 was £247.
- In 2013/14, 11,208 working age claimants were affected by the Harrow CTS scheme, average annual payment was £322.24
- In 2014/15, 10,883 working age claimants were affected by the Harrow CTS scheme, average annual payment is £385.86

The report (A New Poll Tax – the impact of the abolition of council tax benefit in London¹⁴) highlights that the introduction of minimum payment schemes alongside other changes has meant that at least 313,796 of the 566,850 working-age CTB claimants in London in 2012/13 paid more Council Tax under their local CTS Scheme in 2013-14 than they would have done under the previous CTB scheme.

¹⁴ <http://z2k.org/wp-content/uploads/2014/07/Anewpolltax-final.pdf>

At the time of developing Harrow's CTS Scheme, the Council had approximately 88,000 domestic households of which 17,438 were CTB claimants. Of the 17,438 CTB Claimants, 6,404 were pensioners, leaving 11,034 working age claimants to take the full brunt of the reduction in funding and therefore paying more Council Tax. Almost a third of households who claimed CTB in 2012-13 had children. Eighty per cent of those affected by the change were non-working Employment and Support Allowance (ESA) or Jobseeker's Allowance (JSA) claimants. JSA is £72.40 per week for over-25-year olds, meaning that the average loss of £151 equates to two weeks' income per year.

Table 3: Council Tax paid and Families Affected

Region	2013/14 compared to CTB		2014/15 compares to CTB	
	Extra Council Tax paid	Families Affected	Extra Council Tax paid	Families Affected
North East	£120	134,300	£122	134,300
North West	£133	387,000	£140	387,000
Yorkshire & the Humber	£149	253,200	£168	265,600
East Midlands	£110	189,400	£141	189,400
West Midlands	£136	214,600	£133	252,900
East of England	£158	207,900	£171	215,300
Inner London	£138	178,600	£138	178,600
Outer London	£153	250,400	£157	266,700
(Harrow)	(£280)	(11,034)	(£370)	(9,345)
South East	£112	254,700	£141	268,300
South West	£185	164,600	£177	184,600
All CTS Schemes	£139	2,234,700	£149	2,342,700

Source: <http://counciltaxsupport.org/impacts/>

6. FINDINGS AND RECOMMENDATIONS

The Challenge Panel was presented with a range of useful and interesting evidence from a number of witnesses including Harrow Council's Head of Service for Collections & Benefits, Zacchaeus 2000 Trust (Z2K), Child Poverty Action Group (CPAG), MIND in Harrow, Harrow Association of Disabled People (HAD), Harrow Citizens' Advice Bureau (CAB), Harrow Law Centre, a resident of Harrow affected by the CTS Scheme and the Council's Portfolio Holder for Finance and Major Contracts.

The evidence presented highlighted the emergence of a number of key themes. The following section therefore looks at these highlighting the evidence provided and recommendations put forward by the Panel.

Consultation

The Council had just completed a ten week (7th July – 12th September 2014) consultation on four proposed models to develop the 2015/16 CTS Scheme. This included a postal survey and mail shot to all 15,000 recipients of CTS and 5,000 Council Tax payers, a consultation booklet circulated widely across the Borough, 31 face to face events/workshops and discussion groups, Twitter and Facebook. The feedback included 230 questionnaires (hard copy or online), feedback from 31 face to face events, formal feedback received from five organisations and a petition with 411 signatures opposing the proposals.

The key points emerging from the evidence presented and discussion under this theme included:

- The consultation material was very complex and difficult to understand and vulnerable people including those with language barriers would find it difficult to engage, hence the poor response rate.
- Good practice undertaken in Adults with regard to their public consultation and suggested this approach should have been adopted for the CTS consultation too;
- Haringey Council had been challenged regarding their consultation and Harrow should be cautious of this.

The panel overwhelmingly agreed that the response to the consultation was very poor and a number of witnesses and panel members pointed out the complexity of the consultation material used in the consultation. Another panel member highlighted the good practice undertaken in Adults with regards to their public consultation and suggested this approach should have been adopted for the CTS consultation too.

“People find it difficult to engage with the Council. Vulnerable people don’t understand the changes being proposed or even open their post due to fear regarding debt. People should be able to speak to the Council and get help

with reducing payments, but they can't get through. Instead they receive summons and their debt is increasing".

Raksha Pandya, MIND in Harrow

On Wednesday 29th October 2014[?] the Supreme Court found that the London Borough of Haringey's 2012 consultation on the establishment of a Council Tax Support (CTS) scheme was unlawful¹⁵. In a unanimous decision the Court found that Haringey's consultation was unlawful because it failed to provide alternative options for meeting the funding shortfall other than a reduction in support. As such it misleadingly implied that the only option available was to pass on the cut to its poorest residents. A summary of the Judgement has been included at Appendix 2.

Following the panel, CPAG and Z2K have submitted further evidence regarding the above case.

"We would like to highlight Harrow's consultation only offers a number of options that all involve cutting support, it does not include the option to maintain the current level of support, let alone increase support. On this basis we believe that Harrow's consultation is also unlawful and we will be writing to Cllr Sachin Shah to bring this to his attention".

Recommendations

¹⁵ http://www.google.co.uk/search?sourceid=navclient&aq=&oq=haringey+council+tax+judgement&ie=UTF-8&rlz=1T4ADRA_enGB455GB470&q=haringey+council+tax+judgement&gs_l=hp...0i22i30.0.0.11328.....0.0tM_RhrN4Kg&safe=active

1. That the Council adopts the pre-consultation exercise undertaken by Adult Services as a principle of best practice for all future CTS consultations.
2. That the Council ensure better engagement with vulnerable groups including those with language barriers.
3. That the lawfulness of the recent consultation is reviewed in light of the Haringey Judgment as well as the lawfulness of any of the proposed changes.
4. That the Council identify the most vulnerable groups affected by any future proposed changes to the Scheme through consultations, with a view to exempting them from charges, and highlight this in consultation and Cabinet reports.

“Harshest Scheme in the Country”¹⁶

The Government’s decision to abolish CTB and the accompanying 10% cut in funding placed a dilemma on local authorities who were faced with either absorbing the cut in funding or passing it on to working-age claimants. Local authorities had flexibility to develop and adopt their own CTS Schemes.

The key points highlighted through the presentation of evidence and discussion include:

- Harrow’s CTS Scheme is particularly harsh when compared to others and there were concerns that the proposed changes in the current consultation will only make matters worse for people who are already struggling financially.
- If any of the proposed models from the current consultation were taken forward, the impact on the most vulnerable and poor in Harrow would be huge (although positive that Disability Living Allowance is not included as an income). The Council was urged to rethink the proposals as the Council’s scheme was one of the harshest already.
- Harrow’s CTS Schemes taper rate of 30% is the highest in the country.

¹⁶ Harrow Observer July 2014

- CAB deal with around 3,500 debts for local residents a year. In the first six months of this financial year, 29% of these were for Council Tax arrears.
- In recent years, the amount of Council Tax debt CAB manage has accounted for around 4.5% – 5% of the total level of debt CAB clients present to them. In the first six months of this financial year it had doubled to 9.3%.
- CAB were seeing people on CTS with arrears for 2013-14 who now have Liability Orders for 2014-15. If support is cut again in 2015-16 it will be the third year when they could be expected to pay even more when they were still trying to clear old arrears.
- Harrow's CTS Scheme had made a surplus of £1.3 million in its first (2013-14) year and was expected to make another surplus in its second (2014-15) year.
- The surplus was due to an anticipated increase in claimants which did not actually happen. However, the surplus was not ringfenced to be used for the CTS and was put towards the Council's general budget.

The Citizens' Advice Bureau (CAB) noted the work which had gone into the development of Harrow's CTS Scheme since the early planning stages and valued the opportunities given to the voluntary sector to have a say on this and Council Tax recovery. However, all the witnesses present agreed that Harrow's CTS Scheme is particularly harsh when compared to others and although Harrow Council are facing tough financial decisions, there were concerns about the proposed changes in the current consultation, which could only make matters worse for people who are already struggling financially

"Harrow's CTS Scheme is the worst in the country and some people have to choose between eating and paying their Council tax".

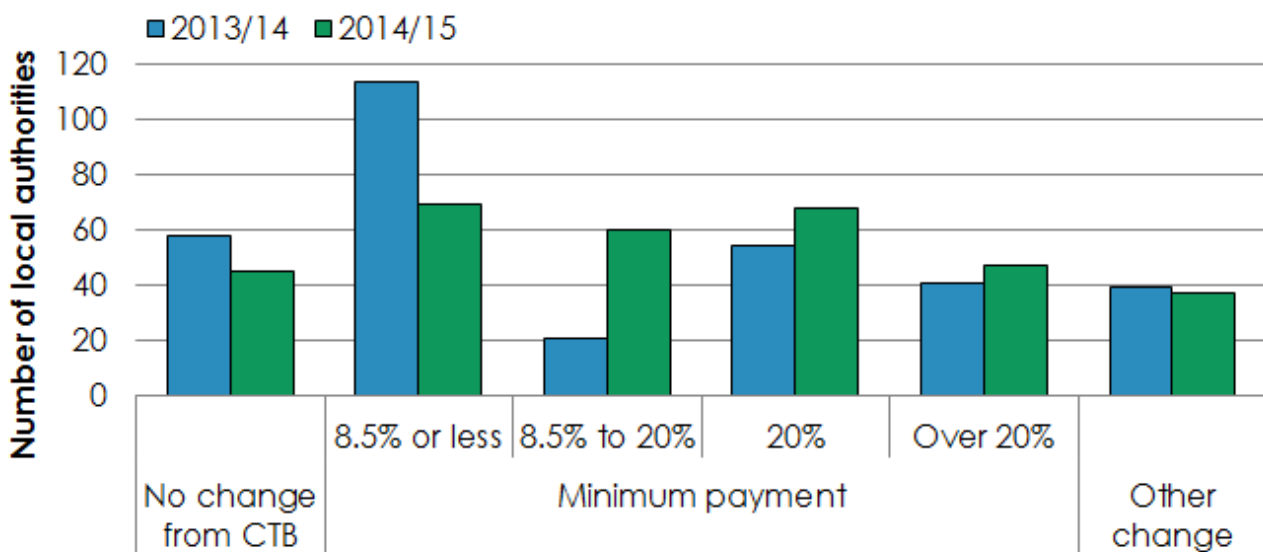
Joanna Kennedy, Chief Executive Z2K

The income taper rate is the rate at which CTS is withdrawn as income increases, and is very important to the work incentive objective: the lower it is, the higher the proportion of extra income the claimant keeps.

The graph below shows the number of different Councils by the level of minimum payment.

- There has been a large drop in the number of councils with smaller minimum payments levels (of 8.5% or less); from 113 in April 2013 to 69 in April 2014.
- The number of councils with a minimum payment of between 8.5% and 20% in April 2014 was 60, 39 more than in April 2013.
- 68 councils had a minimum payment of 20% in April 2014, 14 more than in April 2013.
- 47 councils had a minimum payment over 20% in April 2014, 6 more than in April 2013
- Only 19 local authorities (6%) nationally have increased the taper rate above 20%. Four of those authorities (including Harrow) are in London. 14 of these local authorities increased the taper to rate to 25%, and just 4 (including Harrow) to 30%.

In Harrow, where the minimum payments are now 30 per cent - £454 per year for a Band D property, these payments are the equivalent of losing six weeks' income per year, or 12 per cent of income.



Example

Atif is an unemployed man renting a band D property in Harrow

He has to pay 30% of his council tax £1,513.28 out of his JSA of £3,764.80

This is over **40%** of his annual income.

“Harrow Council has opted for one of highest minimum payments of council tax for poorest residents compared to any other LA in the UK”

Jo Silcox, Harrow Law Centre

Work Incentives

The key principles for incentivising people to work that underpin the Government’s Welfare Reform programme are:

- People should get more overall income in work than out of work
- People should get more overall income from working more and earning more
- People should be confident that support will be provided whether they are in or out of work, that it will be timely and correct, and that claiming will not be a complicated and frustrating experience.

In its recent report on CTS, the Public Accounts Committee (PAC) criticised the increase in Taper Rates, highlighting that it could severely weaken work incentives by creating an effective marginal tax rate of nearly 97p in the £1:

The effects on work incentives of such an increase can be significant when the withdrawal of CTS is combined with the withdrawal of Housing Benefit, Income Tax and National Insurance, a person will lose 93 pence of every additional pound he or she earns under a taper rate of 25 per cent, which increases to 97 pence for each additional pound if the taper increases to 30 per cent.

Source: Council Tax Support – Public Accounts Committee 2014

Proposed Models for Consultation for 2015/16 CTS Scheme

Table 4 below summarises the proposed models which have just been out to consultation to help develop the proposed CTS scheme for 2015/16. The Head of Collections and Benefits informed the panel that proposed Scheme 3 received the highest number of ‘yes’ responses. However, there were still less than 50% in favour of the Scheme indicating that it was the least disliked out of the four proposed, rather than the favoured Scheme.

Table 4: Proposed Models for Consultation for 2015/16 CTS Scheme

Rule	Current Council Tax Support Scheme	Proposed Model Scheme 1	Proposed Model Scheme 2	Proposed Model Scheme 3	Proposed Model Scheme 4
Liability Cap	86% - Working age disabled	70% - All working age	75% - Working age disabled	80% - Working age disabled	75% - Working age disabled
	70% - Working age other		70% - Working age other	70% - Working age other	70% - Working age other
Include disability benefits as income	No	No	Yes	No	No
Include Child Benefit as income	No	Yes	Yes	Yes	Partly -Only for families with more than one child
Keep additional earnings disregard	Yes	Yes	Yes	No	No
Minimum weekly Council Tax Support level	£2.00	£7.50	£6.50	£6.50	£10.00
Non-dependant deductions	£3.30 up to £19.80 per week	Increased to the next whole £	£5 up to £25 per week	£5 up to £25 per week	£5 up to £25 per week

Minimum Council Tax Support

The minimum support in Harrow's current CTS Scheme is £2.00. This means that any claimant whose support eligibility is under £2.00 will not receive any CTS. All the proposed models in the current consultation propose to increase this and the preferred option (Model 3) raises this to £6.50.

This was raised as a concern at the Panel and the Council were urged to reconsider this.

Recommendations

1. That the Council (Portfolio Holder) writes to the Secretary of State and the Department for Work and Pensions (DWP) expressing concern regarding the long-term sustainability of the CTS Scheme with consideration given to cyclical and single shocks.
2. That the Council write to the DWP requesting reduction of the Housing Benefit Taper which contributes to the Taper rate as a whole.
3. The Council pro-actively encourages local businesses to pay the London Living Wage which has a knock on effect on residents' ability to pay their Council Tax.
4. That the Council Tax collection policy is corrected and the assumption that all persons "can pay and won't" is removed as an approach. This Panel would like to see a debt recovery policy based on an individual's ability to pay rather than a fixed point that they must pay by a certain end-point (31st March of each year).
5. That it is recognised as unacceptable that Harrow has the highest minimum payment (30%) of any London Borough and that the Scheme must be revised to bring the threshold down to the London average as a minimum.
6. That the Council should prioritise reducing the taper applied to working-age claimants as much as possible as it is a disincentive to work and encourage as many people as possible into jobs which will then reduce the cost of the Scheme and to the Council.
7. That the proposed collection rate should be set at 85% as opposed to the assumed 70% and the resulting planned increase in funds be used to reduce the taper down from 30%. This would support the Council's efforts to make work pay and assist

workless or claimant households into (better) paid work.

8. That future reports to Cabinet and Council and future consultations include examples of what these changes would mean for the daily, weekly, monthly and yearly finances of households in receipt of CTS so that councillors can better appreciate the consequences of the CTS Scheme and proposed changes.
9. That research is carried out as to why other comparable boroughs introduced no CTS changes (e.g. Merton) or more minimal ones than Harrow (e.g. Redbridge).
10. That the Council identifies the level of cost-shunting onto other Council services e.g. Housing and Adults'/Children's social care as a result of the CTS Scheme and steps be taken to mitigate or avoid this.
11. That the Council identifies the level of cost shunting to other parts of the Public Sector, e.g. NHS as a result of our CTS Scheme and steps be taken to mitigate or avoid this.

Recovery, Collection Rates and Enforcement

Most of the Local Authorities that introduced minimum payment CTS Schemes did so in order to maintain fiscal neutrality and pass on the Government's funding cuts to residents. The challenge of achieving fiscal neutrality was made harder by councils needing to predict collection rates from residents paying for the first time.

The methodologies and policies to recover the payment of Council Tax was one of the main themes emerging from the evidence presented by witnesses and through discussion. The key points highlighted through the presentation of evidence and discussion are:

- The report by CPAG highlights that, based on information provided by London boroughs, it would appear that the collection rate for council tax owed by CTS claimants with an increased liability in 2013-14 was, on average, 81%. However, this figure disguises significant variation among authorities, from a low of 69% in Lambeth to a reported high of 96% in Newham.
- Harrow's in-year collection for 2013-14 for council tax was 97.5% and in the top quartile, which was acknowledged by both CPAG and Z2K. However, it needs to be recognised that collection rates vary widely by claimant category ranging from 81%

for claimants on JSA and ESA to 89% for claimants on low incomes to 99% for pensioner claimants.

- Harrow's CTS collection rate was 86%, significantly higher than the planned 70%.
- Harrow not only had an exceptionally good collection rate, but were in the lowest quartile for the number of reminders and notices sent out in comparison to other London Boroughs.
- Harrow however has the most expensive summons costs (£130), some authorities have very low costs for people on CTS and others (Bexley, Camden) are not charging at all.
- Haringey Council is being legally challenged over their costs; Harrow should consider freezing their costs as this may be unlawful.
- The receipt of a court summons is an intimidating experience that can have a severe impact on the physical and mental wellbeing of someone in a vulnerable situation.
- The use of Bailiffs seemed to be the most popular method for Local Authorities to collect Council Tax debt. In 2013-14 Harrow referred 665 cases to the Bailiffs.
- The Council needs to understand the difference between someone who 'won't' pay and someone who 'can't' pay.
- The Council needs to understand the impact on other Council services as well as the local public sector due to cost shunting as a result of the CTS Scheme

Collections

Collection from CTS claimants is governed by the same rules as all Council Tax collection. If the claimant household fails to pay an instalment of Council Tax, the Local Authority issues a reminder, asking for payment within seven days. If payment is not forthcoming within this period, the household loses the right to pay by instalments and becomes liable for the full year's Council Tax bill. If this is not paid within the next seven days, the Local Authority has the right to serve a court summons and ask the magistrates' court to issue a liability order.

Once a Local Authority has obtained a liability order it is entitled to attempt to enforce the debt in a number of ways. If the claimant is in receipt of Income Support (IS), Employment and Support Allowance (ESA) or JSA, the local authority can ask the DWP to deduct the arrears directly from the claimant's benefits or, if s/he is working, it can apply for an attachment of earnings order. It can also engage bailiffs to attempt to recover the debt, potentially by seizing goods to the value of the amount owed. Finally, if all other means of enforcement have been exhausted, the local authority can ask the magistrates' court to send the debtor to prison.

Arrears

Overall, 235 English councils (72%) saw council tax arrears increase¹⁷ in 2013-14. Councils that introduced changes that reduced CTS entitlement were more likely to see arrears increase. 78% of councils that introduced changes in 2013-14 saw arrears increase compared to 47% of councils that made no change. An increase in arrears was more common amongst councils that introduced a minimum payment, particularly amongst those with high minimum payments. Those councils with higher minimum payments were more likely to see a larger increase in arrears (see table below).

Table 5: Arrears

Size of minimum payment	Number of Councils in group	Proportion of Councils where arrears increased	Proportion of Councils where arrears increased by at least 25%
No minimum payment	97	52%	14%
8.5% and Under	111	73%	32%
8.5% - 20%	21	86%	57%
20%	53	85%	55%
20+ %	43	95%	84%
All Council's	325	72%	39%

Source: *The impacts of Council Tax Support reduction on arrears, collection rates and court and administration costs – New Policy Institute*

Increases in arrears tended to be greater in councils with higher cuts in support (linked to the size of the minimum payment). For example, arrears increased in 87% of councils where the average cut was at least £2 per week, compared to 73% of councils making smaller cuts.

¹⁷ To allow for annual fluctuation, changes in the level of arrears were only counted as an increase if they were up by more than 10% on the previous year.

In contrast to the national picture, arrears in Harrow have not risen, and specifically after the introduction of the localised CTS Scheme on 1 April 2013, arrears levels for the preceding year as at 1 April 2014 are very similar to the historical levels. This needs to be read in conjunction with the performance of in-year collections where historically 97.5% has been collected in-year and slightly over 98% has been collected for at least the past six years.

Local authorities in England achieved a national average in-year collection rate for council tax of 97.0% in 2013-14, which is a decrease of 0.4 percentage points over 2012-13. Harrow achieved 97.5% in year for 2013/14 which is well above the national rate (97%) and above the average for London of 96.2% and for outer London of 96.6%

Table 6 – Council Tax Collection 2014/15

COUNCIL TAX 2013/14					
	Net Collectable Debit	Amount Collected	%	Amount not collected	%
All London Boroughs	3,542	3,408	96.2	133	3.8
Inner London boroughs (including City of London)	1,154	1,102	95.4	53	4.6
Outer London boroughs	2,387	2,306	96.6	81	3.4
Metropolitan districts	4,122	3,931	95.4	191	4.6
Unitary authorities	5,421	5,243	96.7	177	3.3
Shire districts	11,036	10,803	97.9	232	2.1
England	24,120	23,386	97.0	734	3.0

Source: QRC4 returns

As can be seen from the graph below, this translates into very low arrears. As at 1/4/2014 Harrow had only £6.8m arrears which equated to around 5.7% of the yearly council tax raised and compared favourably with the national average of around 10.5%.

Net balance outstanding

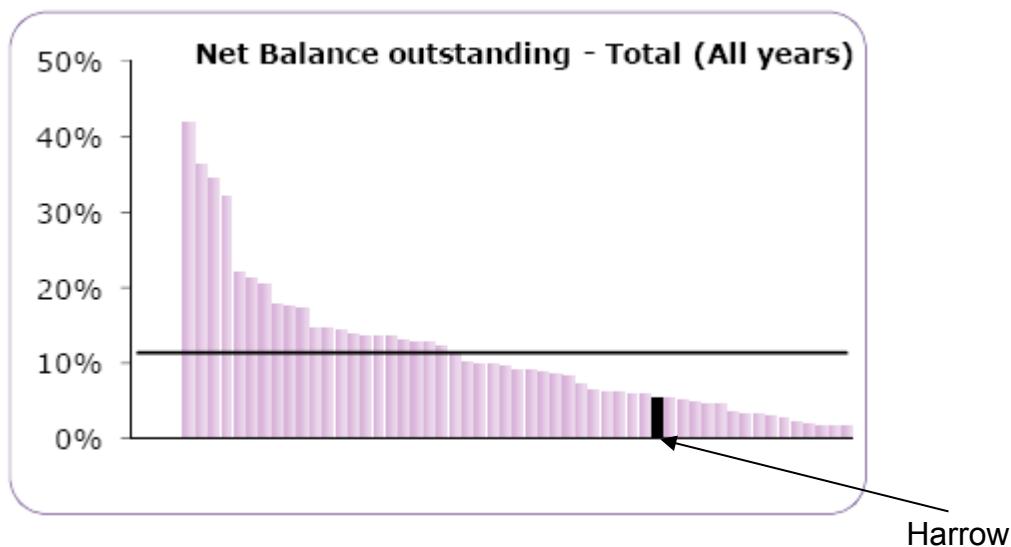


Table 7 below also shows collection rates over the last few years, all exceeding the national average for council tax in year collection, but also exceeding the averages for both inner and outer London.

Table 7 – In-year collections

In-year Collection		
	%	Avg
2008/09	97.1%	96.4%
2009/10	97.3%	96.4%
2010/11	97.1%	96.6%
2011/12	97.8%	96.8%
2012/13	97.7%	96.7%
2013/14	97.5%	96.4%

Court Summons

According to the report by CPAG and Z2K, in 2013-14 118,027 CTS claimants in London were issued with a court summons and 90,488 had a liability order issued against them. Of those summonsed, at least 60,284 were still in arrears on 31 March 2014, although the real number is likely to be substantially higher, as 11 councils were unable to provide us with figures.

This means that 39% of claimants – nearly four in 10 – who are paying more Council Tax under the new CTS Scheme were issued with a court summons in 2013-14 as a result of being unable to pay some or all of the new charges. Of those claimants paying more, at least 20% were still in arrears in March 2014.

“We recently saw a typical client with two years’ of arrears, which were due to be collected from her Income Support, leaving her with less to live on. Bailiffs were now chasing her for a 2014-15 debt and the Council were expecting her to come to an arrangement with the bailiffs to clear the CT debt of around £300, plus court costs and bailiff fees which made it £741.85. Although we understand that added costs are used as a stick to encourage payment and are not always collected, these extra costs are very real to debtors and just add to their debt burden”.

Vicki Phillips, Harrow Citizens Advice Bureau

Bailiffs

A pilot was conducted by Lewisham Council, comparing the effectiveness of bailiffs to Council officers where 50 cases were referred to bailiffs, while another 50 were visited by a council tax officer. The success rate with bailiffs was 18%, while council tax officers had a 42% success rate.

The question was asked why Harrow could not adopt this approach?

The Head of Collections and Benefits advised the panel that using officers to collect CTS debt was very costly and “using bailiffs was an effective way to maintain collection rates”. Using Bailiffs was also cheaper for the Council and the cost to the Council was borne by debtors. He also pointed out that there had been a change in Bailiffs’ behaviour and a reduction in complaints against them.

The CAB requested the Council to stop using bailiff action for people with full CTS entitlement as these claimants almost invariably have nothing to offer and now get further costs added to their arrears. Harrow moves to issuing a summons at an early stage rather than considering other options such as deductions from benefits which is the preferred option to avoid putting people below the Government’s recognised poverty line.

¹⁸ <http://z2k.org/wp-content/uploads/2014/07/Anewpolltax-final.pdf>

The report¹⁸ from CPAG highlights the maximum weekly amount that can be deducted through attachment of earnings is £3.60, and therefore many claimants will take more than a year and a half to repay the debt, by which time payments for the following year will be long overdue. These claimants will effectively be forced to pay two bills simultaneously, and if they fall behind the Councils will be unable to request further deductions from their benefits.

The Head of Collections and Benefits advised the Panel that using Attachment of Earnings risked the Council Tax payer being sacked by their employers and confirmed it would take longer to clear the arrears.

Hardship Relief and Policy re power under s13A(1)(c)

Under s13A(1)(c), the Council could exercise this power in some instances (e.g. individual hardship, in cases where the taxpayer was not eligible for Council Tax Benefit, where the dwelling was not their sole or main residence), or it may determine classes of cases in which liability is to be reduced (i.e. the equivalent of the Council determining exempt dwellings classes, or reductions in circumstances other than those prescribed in regulations under section 13 of the 1992 Act). This has been done, for example, by some authorities creating an additional exempt class so victims of floods did not have pay Council Tax until the flood damage was repaired and the house made habitable.

Whilst Harrow has a policy to exercise its discretion under this power, the policy having been agreed on the 3/8/2006, Cabinet elected that the Council would use s13A(1)(c) only in exceptional circumstances and that any use of this power in future would be subject to a Cabinet decision. Whilst this may ensure that the Council's intentions in relation to s13A of the 1992 Act are explicit, a more transparent policy should be adopted which sets out and defines hardship and the circumstances where it may be desirable to exercise such discretion.

Costs

The costs charged by Local Authorities vary (table below). Charging £130.00 Harrow is the most expensive Authority in terms of costs relating to the recovery of Council Tax. There is also variance with regard to charging, for example some Councils choose to charge costs to all claimants summoned, while other Councils withdraw costs for claimants agreeing a payment plan. Bexley Council on the other hand has a policy not to charge costs to summoned CTS claimants.

A common agreement emerging from the discussion was that the Council needs to understand the difference between someone who 'wont' pay and someone who 'can't 'pay.

Table 8: Court Costs

Borough	Costs* 2014/15	CTS Collection 2013/14		
		No of CTS claimants summoned	No of CTS claimants charged	Total costs charged
Harrow London Borough Council	£130.00 (£125 2013/14)	3,705	3,704	£463,000
Bromley London Borough Council	£129.00	3,895	3,606	£459,449
Lambeth London Borough Council	£127.00	8,933	7,324	£1,030,084
Redbridge London Borough Council	£126.00	2,256	2,256	£284,256
Haringey London Borough Council	£125.00	8,508	5,732	£716,500
Hillingdon London Borough Council	£125.00	4,231	4,231	£528,875
Islington London Borough Council	£125.00	8,087	Not Held	Not Held
Barking and Dagenham London Borough Council	£123.00	Not Held	Not Held	Not Held
Royal Borough of Kingston upon Thames	£123.00	852	852	£104,796
Wandsworth Borough Council	£123.00	1,208	1,208	£148,584
Brent London Borough Council	£120.00	5,845	5,045	£582,743
Waltham Forest London Borough	£120.00	1,304	503	£57,888
Ealing London Borough Council	£116.00	Not Held	Not Held	Not Held
Havering London Borough Council	£115.00	2,809	2,809	£294,945
Westminster City Council	£115.00	n/a	n/a	n/a
Hounslow London Borough Council	£113.00	4,094	3,684	£360,667
Croydon London Borough Council	£110.00	5,009	4,162	£552,192
Merton London Borough Council	£110.00	n/a	n/a	n/a
Sutton London Borough Council	£110.00	2,165	2,165	£276,910
Hammersmith and Fulham London Borough Council	£108.00	2,304	2,019	£215,610
Bexley London Borough Council	£105.00	2,084	0	£0
Newham London Borough Council	£105.00	8,413	6,982	£452,897.90
Richmond upon Thames	£100.50	Not Held	Not Held	Not Held

London Borough Council				
Barnet London Borough Council	£97.00	4,101	4,101	£295,272
Enfield London Borough Council	£95.00	5,695	5,695	£398,650
Greenwich London Borough Council	£95.00	6,428	6,428	£610,660
Southwark London Borough Council	£95.00	7,486	5,562	£361,530
Tower Hamlets London Borough Council	£90.00	n/a	n/a	n/a
City of London	£85.00	2	2	£170
Camden London Borough Council	£80.00	4,360	3,432	£318,810
Hackney London Borough Council	£78.00	7,502	6,651	585,156
Kensington and Chelsea Royal Borough Council	£75.00	n/a	n/a	n/a
Lewisham London Borough Council	£75.00	6,751	6,751	909,825

*This is the cost of the initial summons and liability order together

Source: A New Poll Tax? The impact of the abolition of Council Tax benefit in London

Recommendations

1. That the Council should adopt a flexible approach at collection point offering residents affordable payment arrangements as every stage (after reviews) as an alternative to imposing a summons or referring a case to Bailiffs where a vulnerable person defaults once.
2. That the use of Bailiffs should be approved on a case by case basis by the Portfolio Holder responsible for Council Tax collection, and that this approval be granted on the basis of auditable evidence that a debtor can pay but is unwilling to pay, and has assets worth distraining upon.
3. That, considering the legal challenge to Haringey regarding their costs, the Council should reduce its unjustified (summons/liability orders) costs for CTS arrears to the actual court costs to the Council and defray other Council costs to the general fund.
4. That the Council should never seek committal where a person cannot pay.
5. That the Council reviews its policy relating to Section 13A(1)(c) regarding its ability to remit debt.
6. That the incentive structure of Harrow's bailiff contract be reviewed both by Cabinet and by Scrutiny as a matter of urgency.

Access and Customer Service

The panel recognised that Local Authorities are under pressure to make financial savings and are moving forward with the push to encourage people to use online forms/services. However it also acknowledged the importance for Councils to ensure customers are able to contact them with ease to discuss arrears with their Council Tax and difficulty making payments.

The key points highlighted through the presentation of evidence and discussion included:

- The push to encourage people to use on-line services and make appointments to claim benefits or report a change of circumstances is making it more difficult for vulnerable residents and those with limited English.
- Although the CAB could usually easily contact the Council to discuss CTS debt on behalf of their clients, this was not the case for other agencies.
- It can take anything up to an hour to get through on the phone to speak to someone, which can also be very costly for people on very low incomes/benefits who do not have contract phones.
- Residents of Harrow face lengthy queues on trying to call the Council and can only be seen by appointment now, however the recovery does not stop.
- Questions were raised about the level of customer service and accountability by the Council where its own errors resulted in severe distress to residents.

The witness from CAB advised the panel they could quite easily contact officers at the Council to discuss CTS debt on behalf of their clients. However, this was not the case for the Law Centre. The Law Centre confirmed that in some cases it had taken up to 40 minutes' wait to get through to an agent and then be told they could not help

"The Council had miscalculated my Council Tax. I tried calling the Council for weeks, at one time I waited for 40 minutes and then got cut off. I then contacted Cllr Hall (who was the Leader at the time) who arranged for someone to call me. By this time I'd received court summons and additional charges had been applied to the balance. Eventually, when I spoke with someone they were adamant that the calculations were correct whilst I was convincing them they were incorrect. Finally, I received a cheque from the Council for the Council Tax which I had overpaid, without an acknowledgement or an apology".

Harrow Resident

Recommendations

1. That the Council review the code of practice for communication to customers when errors are identified (e.g., ensure there is an up-front apology) and consider paying compensation to CTS recipients
2. That the lack of accessibility to Council Tax collection staff for those in debt be urgently reviewed with a view to improving access and debt advice. All research has demonstrated that the most effective system of collecting debt is to communicate early and work with debtors with a supportive approach unless it is clear that the debtor can pay and won't.
3. That the Council ensures a sufficient number of benefit operators to reduce the waiting times for residents with CTS arrears to contact the Council
4. That the Council becomes more accessible to customers/CTS claimants trying to engage with the Council to discuss their CTS arrears with a special consideration given to the phone (pay as you go) costs to individuals trying to contact the Council.
5. That the Council establishes a direct line (contact) for organisations such as the Citizens' Advice Bureau and the Law Centre etc supporting CTS claimants to be able to engage with the Council and get a rapid response.

Mitigating the Impact

In order to mitigate the impact, some authorities have established Council Tax specific hardship funds to help those unable to pay their new Council Tax bills. However, questions are raised regarding how well these are publicised and accessed as well the criteria of such schemes.

The key points highlighted through the presentation of evidence and discussion under this theme include:

- Harrow's Emergency Relief Scheme and other mitigation initiatives to help individuals are not well publicised

- Harrow's Emergency Relief Scheme is underused but that is the case nationally too.
- 50% of applicants to the Emergency Relief Scheme are turned down because they do not meet the criteria of receiving means tested benefits

The CPAG report (A New Poll Tax – the impact of the abolition of council tax benefit in London¹⁹) highlights that 14 boroughs set up such schemes in 2013-14, ranging in budget from £25,000 to more than £150,000. However, a combination of stringent qualifying criteria and poor promotion has meant that most of the funds appear to be significantly under-spent. For example, Islington established a hardship fund with a value of £125,000 in 2013-14, but only nine awards were made in the entire year, with a total value of £425, while 43 applications were refused. In contrast, Enfield has awarded a total of £48,982 of its hardship fund to 244 successful applicants. Southwark has allocated £400,000 to support disabled residents affected by welfare reform, including the change from council tax benefit to council tax support. Of the 5,800 council tax support claimants summonsed by Southwark in October 2013, around 600 were disabled. However, only 20 of those were awarded hardship fund support at the hearing. Most disabled residents were clearly unaware that they might be eligible for support from the fund.

Harrow Council is working with partners and the Voluntary and Community Sector (VCS) to set up and support a number of initiatives/projects to help mitigate the impact of Welfare Reform. These include:

Discretionary Housing Payments: For 2014-15, Harrow Council received £1.1m in Discretionary Housing Payments (DHP) to support residents in receipt of Housing Benefit with their housing costs; mainly rent or deposits.

Investment in the XCITE Programme: £75k has been invested in the Xcite program to support residents to gain vocational skills and qualifications, which in turn will enable clients to progress in employment and increase their earning power, and therefore their ability to pay more towards their Council Tax.

Investment in the delivery of face to face advice by the CAB: Investment of an additional £130k to support the continuation of face-to-face advice services provided by Harrow CAB over the next 18 months.

¹⁹ <http://z2k.org/wp-content/uploads/2014/07/Anewpolltax-final.pdf>

Hardship Fund: Under the Help programme, Harrow Council allocated £100k to the Hardship Fund. The Hardship Fund commissioned services from the Voluntary Sector to assist residents impacted by Welfare Reform. The projects began 1st October 2014 and will run for a year; a requirement that projects aim to become self-sufficient after a year of funding was included in the Fund's bid criteria.

Investment in Harrow Emergency Relief Scheme (ERS) to cover the ceasing of DWP grant in 2015/16: Understanding that some residents need “support of last resort”, Harrow has invested £480k ERS Scheme for 2014-15 and is reviewing the scheme for 2015-16. The Emergency Relief Scheme is a discretionary service that provides ‘in kind assistance’ to people experiencing a crisis in their lives who cannot get help elsewhere. The Emergency Relief Scheme went live on the 2nd April, 2013. Take-up was very slow initially but in the past year application numbers and take-up has increased. The service will therefore continue into 2015-16 to ensure it mitigates the CTS proposed changes.

Supporting You Event: Harrow Council is hosting the ‘Supporting You’ event in November 2014. An event which brings together a broad range of organisations from across the borough to give residents access to holistic advice and support. The event is targeted at people impacted by welfare reform, but all residents are invited to attend.

The services provided include financial management advice, benefits information and CV writing workshops. Organisations attending include:

- Age UK Harrow/Community Click
- Christians against poverty
- Harrow Association of Somali Voluntary Organisations
- Harrow Citizens Advice
- Harrow College
- Harrow Mencap
- Job Centre Plus

- Mind in Harrow
- NatWest Business Banking
- NHS Health Checks
- StepChange Debt Charity
- Westminster Drug Project
- Harrow Council Services including Children's Services, Xcite, Housing, Housing Benefits

Recommendations

1. That the Council review the eligibility criteria of the Emergency Relief Scheme, Hardship Fund and the Discretionary Housing Payment schemes and publicise these widely to ensure people are aware of them and increase the number of applications to these schemes.
2. That, if we cannot be confident that the fund will be spent on the right people at the right time, the Council considers transferring at least half of the fund from the Emergency Relief Scheme (which is underspent) back into the CTS Scheme to reduce the direct burden on some of the most vulnerable residents of Harrow.
3. That, in line with the Portfolio Holder for Finance & Major Projects' comments regarding ring-fencing of funds for the Hardship Fund, that all monies raised through the CTS Scheme beyond covering the CTB-CTS shortfall be ring-fenced and used to reduce the overall CTS charge on households that fall within the scope of Harrow's CTS Scheme.
4. That the impact on households with children (e.g. going into care, child poverty) be clearly identified and steps taken to better assist those households.
5. That in keeping with the Council's corporate priority of 'Making a difference to the vulnerable', a review of what is meant by 'vulnerability' is undertaken and that every Cabinet and Council paper include a section (like Equalities and Financial

Implications) outlining the impact any proposed policy decision would have upon those deemed 'vulnerable'.

7. CONCLUSION

The Panel appreciate the financial pressures on Local Authorities and the Public Sector as a whole. However, Local Authorities do have a choice in developing their own localised CTS Schemes and it has been recognised that Harrow has one of the harshest Schemes in the country. This was supported by the evidence provided by witnesses to the Panel highlighting the impact Harrow's Scheme is having on the some of the most vulnerable residents of the Borough.

Despite limited budgets and many competing priorities, Members have put forward a number of recommendations to lessen the impact of the Council's CTS Scheme on some of our most vulnerable residents.

Appendix 1 – Council Tax Support Challenge Panel Scope

OVERVIEW & SCRUTINY COMMITTEE

COUNCIL TAX SUPPORT SCHEME CHALLENGE PANEL

October 2014

1	SUBJECT	Review of the current Council Tax Support Scheme
2	COMMITTEE	Overview & Scrutiny Committee
3	REVIEW GROUP	<p>Councillors:</p> <ul style="list-style-type: none"> • Cllr Barry Macleod-Cullinane (Chairman) • Cllr Chika Amadi • Cllr Jo Dooley • Cllr Pamela Fitzpatrick • Cllr Barry Kendler • Cllr Paul Osborn • Cllr Kanti Rabadia • Cllr Norman Stevenson • Cllr Adam Swersky <p>Co-optees:</p>
4	AIMS/ OBJECTIVES/ OUTCOMES	<ul style="list-style-type: none"> • To explore the impact on Harrow's residents of the introduction of the local council tax support scheme and the contribution it may be making to household debt problems • To understand how residents affected by the scheme are managing to make their Council Tax payments • To consider the findings of the CTS consultation to inform the development of the new scheme • To consider other schemes both London wide and nationally in relation to lessons learnt and how the findings can influence the development of the new scheme
5	MEASURES OF SUCCESS OF REVIEW	<ul style="list-style-type: none"> • Understand the impact of the current scheme on Harrow's residents which are then considered to inform the development of the new scheme. • To support the development of an informed Council Tax Support Scheme taking into consideration the findings of the review. • Recommendations are made which if accepted would help prevent residents falling into severe debt problems.
6	SCOPE	The challenge panel will address how the current Council Tax support Scheme affects the residents of Harrow, especially those who are the most vulnerable and families. It will seek to understand how they are managing to make the payments and what the impact of having to make these payments is.

		Through the challenge panel, it is hoped that the future Council Tax support Scheme is developed taking into consideration the findings of the review to minimise the impact on those affected.
7	SERVICE PRIORITIES (Corporate/Dept)	This review relates to all four of the Corporate Priorities 2014/15, including: <ul style="list-style-type: none"> • Making a difference for the most vulnerable • Making a difference for communities • Making a difference for families • Making a difference for local businesses
8	REVIEW SPONSOR	Fern Silverio
9	ACCOUNTABLE MANAGER	Rachel Gapp, Head of Policy
10	SUPPORT OFFICER	Mohammed Ilyas, Policy Officer
11	ADMINISTRATIVE SUPPORT	Policy Team
12	EXTERNAL INPUT	The input of the following may be useful for the challenge panel: <p>Stakeholders:</p> <ul style="list-style-type: none"> • Staff involved in the development and delivery of the scheme • Relevant corporate director(s) • Relevant portfolio holder(s) • Benefit recipients affected by the scheme <p>Partner agencies:</p> <ul style="list-style-type: none"> • Charities and voluntary groups assisting and supporting those affected by the scheme <p>Experts/advisers:</p> <ul style="list-style-type: none"> • Representative interest groups, housing associations, tenants and Landlords association
13	METHODOLOGY	The challenge panel will involve three phases. A desk-based research phase gathering evidence from various local and national studies, the results of the current CTS consultation exercise, data, and written evidence from partners. The Challenge Panel would also like to receive evidence or case studies from ward Councillors if at all possible. <p>This will then inform the structure and lines of questioning for the Challenge panel itself which will take evidence from key officers, managers, and the Portfolio Holder from the Council and key voluntary sector organisations and housing associations.</p> <p>The report and recommendations will then be written up and submitted to Cabinet</p>

14	EQUALITY IMPLICATIONS	<p>The introduction of the local council tax support scheme has implications on some of the most vulnerable members of the community including those from minority ethnic groups, the elderly and those who are disabled. The local economy, health and social care facilities in the borough are also affected as a result of the council tax scheme as residents have less to spend.</p> <p>The challenge panel will consider during the course of its work, how equality implications have been taken into account in current policy and practice and consider the possible implications of any changes it recommends.</p> <p>In carrying out the challenge panel, Members will also need to consider its own practices and how it can facilitate all relevant stakeholders in the borough to have their voices heard.</p>
15	ASSUMPTIONS/ CONSTRAINTS	<p>The success of the challenge panel may be dependant on the ability and willingness of officers, partners and stakeholders (as relevant) to participate and contribute fully in this work.</p> <p>Recognising financial reality is another consideration that should be considered as part of the challenge panel.</p>
16	SECTION 17 IMPLICATIONS	<p>The challenge panel will have regard to the possible community safety implications of any recommended changes to policy or practice.</p>
17	TIMESCALE	<ol style="list-style-type: none"> 1) Agree panel members and scope virtually – Sept 2) O&S 7th Oct agree scope 3) Challenge panel 27 Oct 4) Panel agree report by 10th Nov 5) O&S agree report and fwd to Cabinet 18th Nov 6) Cabinet receive report 20th Nov or 11th Dec 7) Response to report at Dec/Jan Cabinet
18	RESOURCE COMMITMENTS	<p>To be met from existing scrutiny budget. No significant additional expenditure is anticipated.</p>
19	REPORT AUTHOR	<p>Mohammed Ilyas, as advised by the review group.</p>
20	REPORTING ARRANGEMENTS	<p>Outline of formal reporting process:</p> <p>To Divisional Director [✓] throughout the course of the challenge panel and when developing recommendations and as a witness at the challenge panel</p> <p>To Portfolio Holder [✓] as a witness at the challenge panel and when developing recommendations</p> <p>To CSB [✓] TBC</p> <p>To O&S [✓] TBC</p> <p>To Cabinet [✓] TBC</p>

Appendix 2 – Press Summary of Judgement

29 October 2014
PRESS SUMMARY

R (on the application of Moseley (in substitution of Stirling Deceased)) (Appellant) v London Borough of Haringey (Respondent) [2014] UKSC 56
On appeal from [2013] EWCA Civ 116

JUSTICES: Lady Hale (Deputy President), Lord Kerr, Lord Clarke, Lord Wilson, Lord Reed

BACKGROUND TO THE APPEALS

Until 1 April 2013 central government operated a Council Tax Benefit ('CTB') scheme whereby residents in local authority areas in England were granted relief from paying council tax on a means-tested basis, for which the local authorities were reimbursed in full [4]. For the year 2013-2014, reimbursement to each local authority was fixed at 90% of the sum it had received in the previous year [6] and each local authority was required to devise its own Council Tax Reduction Scheme ('CTRS') to provide relief from council tax to those whom it considered to be in financial need [7]. It was a requirement that each local authority consult interested persons on its CTRS in draft form before deciding on a final scheme: Paragraph 3(1)(c) of Schedule 1A of the Local Government Finance Act 1992 (added by Paragraph 1 of Schedule 4(1) to the Local Government Finance Act 2012) provides that "*Before making a scheme, the authority must... consult such other persons as it considers are likely to have an interest in the operation of the scheme.*"

The Respondent published a draft CTRS on 29 August 2012 under which it was proposed that the shortfall in central government funding would be met by a reduction in council tax relief of between 18% and 22% for all CTB claimants in Haringey other than pensioners [9-10]. The consultation document for Haringey residents explained the reduction in funding, and stated "*That means that the introduction of a local [CTRS] in Haringey will directly affect the assistance provided to everyone below pensionable age that currently receives [CTB].*" There was no reference to other options for meeting the shortfall, for example by raising council tax, reducing funding to council services or deploying capital reserves [19]. The consultation document also included a questionnaire asking how the reduction in relief should be distributed as among CTB claimants [21]. Following the consultation exercise, the Respondent on 17 January 2013 decided to adopt a CTRS under which the level of council tax relief was reduced by 19.8% from 2012-2013 levels for all claimants other than pensioners and the disabled [14].

The Appellant is a resident of Haringey who until 1 April 2013 had been in receipt of full CTB, and thereafter had to pay 19.8% of full council tax. She was not originally a claimant in the judicial review proceedings which were brought by two other similarly-circumstanced Haringey residents to challenge the Respondent's consultation process. Underhill J dismissed their application for judicial review on 7 February 2013. One claimant, Ms Stirling, appealed to the Court of Appeal and that appeal was dismissed on 22 February 2013. Ms Stirling subsequently became ill and the Appellant was by consent substituted for the purposes of this appeal. Ms Stirling has since sadly died [3].

JUDGMENT - The Supreme Court unanimously allows the appeal and declares that the consultation exercise was unlawful [31]. However, it declines to order the Respondent to

undertake a fresh consultation exercise because this would be disproportionate in the circumstances [33].

Lord Wilson (with whom Lord Kerr agrees) gives the main judgment. Lord Reed gives a concurring judgment. Lady Hale and Lord Clarke agree with both judgments.

REASONS FOR THE JUDGMENT

Lord Wilson considers that where a public authority has a duty to consult before taking a decision, whether such duty is generated by statute, as in this case, or arises as a matter of common law, the same common law requirements of procedural fairness will inform the manner in which the consultation should be conducted [23]. The requirements of a fair consultation are as summarised in the case of *R v Brent London Borough Council, ex p Gunning*, (1985) 84 LGR 168: “*First, that consultation must be at a time when proposals are still at a formative stage. Second, that the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response. Third,... that adequate time must be given for consideration and response and, finally, fourth, that the product of consultation must be conscientiously taken into account in finalising any statutory proposals.*” [25]. Fairness may require that interested persons be consulted not only upon the preferred option but also upon discarded options [27].

In this case, fairness demanded that the consultation document should briefly refer to alternative methods of absorbing the shortfall in government funding and to the reasons why the Respondent had concluded that they were unacceptable [29]. In fact, the purported consultation was premised on the assumption that the shortfall would be met by a reduction in council tax relief and no other option was presented [17, 18, 21]. Neither was it reasonably obvious to those consulted what other options there may have been and the reasons why such options had been discarded. Indeed, only an infinitesimal number of responses to the consultation (approximately 20 out of 1287 responses) alluded to other ways of meeting the shortfall. Therefore, the consultation exercise was unfair and unlawful [31]. However, it was not unlawful that the Respondent had failed to consult on the possible adoption of a Transitional Grant Scheme announced by central government only 5 weeks before the completion of the draft CTRS consultation [32].

Lord Reed allows the appeal for slightly different reasons. In cases such as this where the duty to consult is imposed by statute, the scope of the duty varies according to the statutory context [36]. The purpose of this particular statutory duty was to ensure public participation in the local authority’s decision-making process [38]; it was not to ensure procedural fairness as under the common law. Meaningful participation in these circumstances required that those consulted be provided with an outline of the realistic alternatives [39]. In the absence of specific statutory provision, reference to alternative options will be required where this is necessary in order for the consultees to express meaningful views on the proposals [40].

Lady Hale and Lord Clarke give a brief joint judgment agreeing with both Lord Wilson and Lord Reed’s judgments [44].

References in square brackets are to paragraphs in the judgment

NOTE

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at:

www.supremecourt.uk/decided-cases/index.html