

## TRAFFORD COUNCIL

**Report to:** Executive  
**Date:** 26<sup>th</sup> June 2017  
**Report for:** Decision  
**Report of:** Executive Member for Corporate Resources

### Report Title

**Discretionary Relief and Exemption Policies**

### Summary

The Localism Act 2011 and the Welfare Reform Act 2012 abolished provides new freedoms and flexibilities for local government in terms of discretionary discounts for Council Tax and Business Rates. Exchequer Services administers a number of discretionary policies on behalf of the Council. The majority of the existing policies have been implemented, or last updated, following the introduction of the Localism Act 2011 and Welfare Reform Act 2012. Since then, there have been further changes in legislation, case law and funding that mean these policies need to be updated to ensure they are delivering the Council's outcomes. In terms of the administration, decision making, review and appeals process, it will also be much more effective to administer the policies as an amalgamated combination of policies but with overarching processes which allow a holistic view and an improved customer journey.

Nationally it has been recognised that Care Leavers require additional support in relation to their financial responsibilities once they leave care and one way it has been identified to do this is through Council's exempting them from the Council Tax charge. In Trafford, Care Leavers who are students or have no income other than state benefits already receive an exemption or full Council Tax Support thus meaning they have nothing to pay. The Council wants to take this a step further and financially support it's Care Leavers more as they transition out of care and in to adulthood and the world of work, by introducing a full exemption for all Care Leavers from 1 April 2017 up to their 25th birthday. This will be funded through a combination of the Council Tax Support Scheme and the Discretionary Council Tax Support Scheme.

In addition, it is clear that in a small number of cases our Care Leavers are not aware of how they can claim the financial support that is available to them and quickly find themselves with enforcement notifications. It is therefore important to ensure the relevant policies are explicit in relation to support our Care Leavers, in particular changes will be made to the Discretionary Council Tax Support policy to remove the need for a formal application to get this much needed support as well as

the Discretionary Housing Payments policy to financially support prior foster carers who may be impacted in their Housing Benefit for allowing the young person to remain in their household. This will ensure that the Council can direct the support the policies to where they were, and still are, intended to help.

It is also imperative that the Council maximises the new funding available to support local businesses facing the steepest increase who are struggling to pay their business rates bills as a direct result of the 2017 revaluation.

**Recommendation(s)**

To recommend:

1. That from 1<sup>st</sup> April 2017 all Care Leavers receive a full exemption from Council Tax up until their 25<sup>th</sup> birthday.
  
2. That the Executive notes and approves the proposed amendments to the existing policies to take account of new guidance and case law, as well as the wider changes to the welfare system and new business rates discretionary funding.
  
3. That Exchequer Services amalgamates all its discretionary policies and has one combined policy, separated by sections for each function, but with amalgamated decision making and appeal scheme of delegation governance.

Contact person for access to background papers and further information:

Name: Louise Shaw  
 Extension: 3120  
 Background Papers: None.

<p>Relationship to Policy Framework/Corporate Priorities</p>	<p>Key Priorities:          Improving health and wellbeing of residents          Value for money and low Council Tax          Valuing our people          Strong economy          Using time and money wisely.</p>
<p>Financial</p>	<p>All of the discretionary policies are either fully funded through a government grant or have a budget provision. None of the proposals require additional funding in 2017/18 but will require an</p>

	additional estimated £8k in 2018/19 and beyond. It is anticipated that in some cases administrative savings can be made and used towards funding future years discretionary awards. In 2018/19 and beyond amendments will be made to the Council Tax Support scheme and therefore the costs will met through the Council Tax general fund
Legal Implications:	The Localism Act 2011 and the Welfare Reform Act 2012 provides local government with greater flexibility with regards to discretionary relief and exemptions for Council Tax and Business Rates.  There are no legislative restrictions that would prevent the Council from implementing the amendments made as proposed in the report.
Equality/Diversity Implications	The proposal will have positive outcomes and ensure government and/or Council funding is targeted at those with the most need whilst ensuring the cost does not adversely impact on the Council Tax payers of Trafford.
Sustainability Implications	If the government funding either amounts or guidance changes then the Council will need to re-evaluate its policies to ensure compliance and cost implications.
Resource Implications e.g. Staffing / ICT / Assets	None
Risk Management Implications	None
Health & Wellbeing Implications	All the policies have a positive impact on the health and well-being of the recipients and their support networks.
Health and Safety Implications	Not applicable

## 1.0 Background

- 1.1 The Department for Communities and Local Government (DCLG) describes one of the main objectives of the Localism Act 2011 was to give new freedoms and flexibilities for local government which included the power shifting from central government to local government in terms of discretionary discounts for Council Tax and Business Rates.
- 1.2 The Welfare Reform Act 2012 abolished the national Council Tax Benefit scheme and replaced it with a local Council Tax Support scheme. It also introduced Universal Credit which replaces Housing Benefit with a housing cost element in a combined benefit.

- 1.3 In the Government's care leavers' strategy, Keep on Caring, published in July 2016, local authorities were encouraged to consider exempting care leavers from Council Tax using the discretionary powers already at their disposal. At a national level there could be an amendment to the Children and Social Work Bill currently going through Parliament to include an exemption for care leavers from Council Tax as part of the 'National offer for care leavers' contained within the Bill.
- 1.4 Through its Council Tax Support Scheme, Trafford Council – which has retained one of the most generous schemes for the 5<sup>th</sup> year running - already awards maximum reliefs from Council Tax to its Care Leavers who have no income (other than state benefits). However, it is clear that the process to apply for such reliefs can be a barrier and can result in unclaimed awards and consequently unnecessary enforcement. Currently, Care Leavers in work above the qualifying criteria are expected to contribute towards their Council Tax
- 1.5 Universal Credit was rolled out in Trafford in June 2014 on a very small cohort of claimants, but is now set to expand from July 2017. Housing Costs within Universal Credit is calculated differently and where additional support is required with housing costs claimants will be referred to Trafford for support.

## **2.0 Introduction**

- 2.1 Exchequer Services (ES) administers a number, and variety, of discretionary awards; the main ones are as follows:
  - a. Discretionary Housing Payments (DHPs)
  - b. Discretionary Council Tax Support (DCTS)
  - c. Local Welfare Assistance aka Trafford Assist (TA)
  - d. National Non-Domestic Rates Discretionary Rate Relief Policy (DBRR)
  - e. Discretionary Council Tax Discounts (DCTD)
- 2.2 Note, ES also administers discretionary decisions on behalf of CFW but those are policies owned by CFW and therefore not included in this proposal.
- 2.3 The governance surrounding each of the above is different, mainly because of the way in which they are funded, but also because there is differing levels of guidance and criteria, for example DHPs are funded nationally by the DWP and therefore they issue guidance to follow, whereas the LWA scheme is funded solely by the Council and therefore it's policy is entirely its own making.
- 2.4 Most of these policies have been in place for a number of years now and due to the number of changes that have happened in this time, they are no longer fit for the purpose and by default the funds are no longer being maximised.
- 2.5 In addition, although the policies do support Trafford's Care Leavers, not every Care Leaver is exempt and as they are not specifically referred to in these policies and changes around the application process need to be made to ensure discretionary awards reach this vulnerable group quicker than it does now.

2.6 As the policies are discretionary, they are open to challenge by way of judicial review. Councils have been challenged and often the outcome not favourable for them, it is important therefore that the policies are reviewed. A number of FOIs are received requesting these policies, all of which are publicised on the Council's website.

### **3.0 Discretionary Housing Payments (DHPs)**

3.1 Discretionary Housing Payments (DHPs) are payments which are awarded if a claimant's Housing Benefit or Universal Credit (UC) Housing Element is less than the full amount of rent they are charged.

3.2 The scheme is funded by the Department of Work and Pensions (DWP) and Trafford are advised yearly of their allocation.

3.3 To qualify for a DHP, a claimant must be entitled to Housing Benefit (HB) or Universal Credit (UC) – inclusive of housing costs - and requires further financial assistance with housing costs.

3.4 DHPs are important to support the transition for claimants whilst they make the necessary changes to adapt to welfare reform changes. The funding for DHPs is specially aimed at a number of groups who are likely to be particularly affected by welfare reforms. These include (but are not limited to):

- Those in temporary accommodation;
- Individuals or families fleeing domestic abuse;
- Those with kinship care responsibilities;
- Individuals or families who cannot move immediately for reasons of health, education or child protection;
- Households moving to, or having difficulty finding more appropriate accommodation;
- Those with dual liability for housing costs;
- Women within 11 weeks of the expected week of childbirth;
- Households with a child aged 9 months or under.

3.5 The Council's existing policy was last updated in January 2013 and largely followed the DWP guidance available at that time. Since then Trafford has seen a number of further welfare reforms, including the introduction of UC, as well as key landmark court cases which has resulted in the national guidance being amended.

3.6 To ensure the policy maximises rental liability for Trafford's most vulnerable claimants it is proposed that the policy is amended to include the following:

- Those affected by:
  - The benefit cap;
  - The removal of the spare room subsidy in the social rented sector;
  - Changes to Local Housing Allowance (LHA) rates, including the 4 year freeze.

- Support with Housing costs, including:
  - Rent in advance;
  - Deposits; and
  - Other lump sum costs associated with a housing need such as removal costs.

3.7 It is also proposed to remove the length of time over which a payment is made (currently a maximum of 26 weeks) from the policy, as it may be appropriate to make longer awards which will give the claimant time to organise their financial or housing circumstances, such as disabled claimants who need an overnight carer, rather than having to make repeat claims.

3.8 It is further proposed that the decision making, appeal and review rights within the policy should also be amended to ensure that they align with the combined Exchequer Services policy.

#### **4.0 Discretionary Council Tax Support (DCTS)**

4.1 Discretionary Council Tax Support (DCTS) is used to credit Council Tax accounts to residents who are experiencing severe financial difficulty due to a shortfall in their Council Tax liability and the amount of Council Tax Support (CTS) they receive.

4.2 The scheme was set up from 1 April 2013 when Council Tax Benefit (CTB) was abolished and replaced with a local scheme, CTS, which directly resulted in some residents having to pay Council Tax for the first time or more than they did under the old scheme. The scheme is fully funded by the Council.

4.3 The discretionary policy was originally set up help people who do not receive as much help under CTS scheme as they would have done under CTB, i.e. to offer transitional short-term support. However, the main beneficiaries of this award has been those who have failed to claim CTS on time, usually due to being unaware that a separate application to the Council needs to be made even if they are in receipt of a DWP benefit, as there is no backdating in the CTS scheme.

4.4 Similar to DHPs, it is proposed that this policy should be amended to take in to account the changes that have happened over the last 4 years and the further changes to come.

4.5 It is proposed that the DCTS policy be amended as follows:

- To remove the references to the comparisons between CTB and CTS when determining an award as the transitional arrangements are no longer relevant now the CTS scheme is in its 5<sup>th</sup> year of operation;
- To include a provision to award to a Care Leaver a full award (or part award if jointly and severally liable with a non-Care Leaver) without the need for a formal

application where a request is made from their social worker/personal advisor and enough personal data and financial information is known about them to make a decision;

- To remove the need for a formal application where there is already an open CTS claim and the request (which should come from an internal team or one of the Council's stakeholders/partners) is to cover a backdated period where a DWP means tested benefit has been awarded;
- To insert a maximum 13 week period of award, except in exceptional circumstances where a maximum period of award of 12 months may be instead; and
- To amend decision making, appeal and review rights to ensure that they align with the combined Exchequer Services policy.

## **5.0 Local Welfare Assistance aka Trafford Assist (TA)**

5.1 Trafford Assist is Trafford's Local Welfare Assistance scheme designed to help residents:

- By meeting immediate short-term needs in an emergency or as a result of a disaster;
- To return to or remain in the community and help them to live independently in their own home; and
- by meeting essential travelling expenses e.g. to attend a funeral of a close relative.

5.2 The scheme was originally funded by the DWP as the responsibility moved from them to Local Authorities but since 2015/16 it has been fully funded by the Council.

5.3 The budget is largely split in to administration costs and the purchasing of the furniture, food parcels and fuel vouchers. CAB Trafford are paid to run a helpline and operate the food bank (which includes the running costs of Partington Youth Centre where the food is packaged up). Rainbow, which is part of Trafford Housing Trust, are paid to provide the furniture. There are no formal contracts in place with these providers.

5.4 The existing policy was devised in 2012 and approved for its start date of 1 April 2013. It specifically names CAB Trafford and Rainbow as Council partners in the policy.

5.5 It is proposed that the TA policy be amended as follows::

- to remove reference to individual providers to allow goods and services to be awarded to providers based on the outcome of a procurement exercise or bringing the front line service in-house if that is more cost effective;

- To remove the existing phone line service, which is provided by CAB, and offer an online only application service. Residents who are unable to access the online service will be able to make a telephone application and would also be referred to existing Council services and partners for online assistance for future applications and/or access to national benefits;
- To remove the funding of Partington Youth Centre running costs (the staff are currently employed by the CAB) but work closely with the staff employed there and their social enterprise to help them relocate and be self sufficient; and
- To include a fast tracked referral for internal teams i.e. Stronger Families, Social Workers, Care Leavers, Revenues and Benefits etc. where a formal application may not be required if there is enough personal and financial data already held by the Council to make an award.

5.6 It is also proposed that the decision making, appeal and review rights should be amended to ensure that they align with the combined Exchequer Services policy.

## **6.0 National Non-Domestic Rates Discretionary Rate Relief Policy (DBRR)**

6.1 The Council can grant discretionary rate relief to charities, certain not-for-profit organisations, community amateur sports clubs and certain properties within rural settlements. It can also grant discretionary rate relief where a business is suffering severe financial hardship, this would be over and above a business struggling to pay and is the exception not the rule.

6.2 Other than the mandatory charitable rate relief, where 80% is funded centrally, the Council funds any reliefs granted, though where a national policy is set, funding is received back in full from central government.

6.3 The DBRR policy works largely as intended and it is not proposed to change what already exists, however, the Council will need to set a policy in relation to the new funded discretionary rate relief scheme introduced from April 2017.

6.4 The DBRR scheme is designed to help those most affected by an increase in rating valuations as a result of the 2017 revaluation. Funding has been calculated based on the following criteria:

- the rateable property has a rateable value for 2017-18 that is less than £200,000;
- the increase in the rateable value is more than 12.5%;
- a discretionary award must only be applied after all other reliefs;
- applicants must declare that the relief awarded will not exceed applicable State Aide limits.

6.5 However, although the funding calculation is determined by the above parameters, the guidance issued by the DCLG has been clear that Council's can and should be creating their own schemes to take account of their local business issues and



priorities. No more funding, however, will be granted other than as determined by the parameters above.

6.6 In addition, as announced in the Spring budget, other reliefs are being introduced as follows:

- Those ratepayers who, as a result of the change in their rateable value no longer qualify for small business or rural rate relief, will have a £50 per month cap applied to their bill
- Office space occupied by local newspapers will receive relief of £1,500 up to a maximum of one discount per local newspaper title and per hereditament
- A relief for pubs with a rateable value of less than £100,00 of £1,000 – still awaiting final guidance on the operation and scope of the scheme

6.7 Based on the above, the Council needed to determine how to operate its scheme to ensure the reliefs are targeted to those who most need it and equate scheme costs with the amount of funding available. It is therefore proposed that the policy is amended to include the qualifying criteria are as follows:

- the rateable property has a rateable value for 2017-18 that is less than £200,000;
- the rateable value has increased by more than 12.5%;
- the ratepayer must have been in occupation continually since pre 1 April 2017
- after all other reliefs have been applied, the increase in the billing amount is more than 12.5% in 2017-18;
- businesses who will benefit from the small business rate relief cap of paying no more than £50 per month when compared to last year will not be eligible;
- businesses whose increase in the amount in what they are paying compared to last year is less than £50 per month will not be eligible (to mirror the maximum protection for small businesses as above);
- pubs with a rateable value of less than 100k as they will get the £1k detailed in 6.6 above;
- the ratepayer must have employees based in the hereditament on which relief is being sought;
- Ratepayers operating an intermittent occupation tax mitigation/avoidance scheme will not be eligible for any relief;
- Ratepayers with an outstanding appeal will not be eligible for any relief (as the Council will be unable to determine the financial impact on the business until the appeal is concluded) – any backdated requests once the appeal has been settled will be limited to the financial year in which the application is received due to the way in which the government is funding the scheme;
- National companies, national charities and public bodies will not be eligible for any relief;
- Multiple property owners and/or occupiers will not be eligible for any relief; and
- Hereditaments wholly or mainly being used as betting shops, payday loan shops, pawnbrokers or shisha bars will not be eligible for relief.

6.8 It is also proposed that, subject to the above qualifying criteria being met, a relief of £1000 in year 1 and £500 in year 2 will be awarded. It should be noted that the limit of £50 per month still applies and therefore some business may qualify for some but not of the amounts stated.

6.8 It is further proposed that the decision making, appeal and review rights should be amended but due to the direct impact on Council funding and the large amounts involved over a number of financial years, it will not align with the combined Exchequer Services policy. Instead, the Head of Exchequer Services and Head of Financial Management will make joint decisions and appeals will be considered by the Chief Finance Officer.

## **7.0 Discretionary Council Tax Discounts (DCTD)**

7.1 Discretionary discounts were introduced into Council Tax regulations in April 2013 under section 13a of the Local Government Finance Act 1992. These Regulations allow the Council to reduce the amount of Council Tax payable.

7.2 The Council has the right to choose whether to use its discretionary powers on a case by case basis or to specify a class of use, where several taxpayers may fall into a group due to similar circumstances.

7.3 No specific DCTD policy has been created other than the Council's decision to award discount to Special Constables serving in the borough.

7.4 As this is a local discretionary discount, the scheme is fully funded by Trafford Council through the Council Tax base.

7.5 It is proposed that the Council creates a formal DCTD policy which sets out the governance for the consideration and the approval of discretionary awards. It is also proposed that the policy should take in to account:

- If it's in the Council's best interest having taken in to account the burden on the tax payers;
- Cost to the Council;
- Reasonableness of the award; and
- Provisions for Care Leavers (who are unable to claim CTS or DCTS) to award a full exemption ((or part award if jointly and severally liable with a non-Care Leaver)

7.6 It is further proposed that the DCTD policy includes decision making, appeal and review rights that align with the combined Exchequer Services policy.

## **Other Options**

The Council could maintain its existing policies and not introduce a discretionary business rates policy, however, this would mean the Council is not spending it's limited discretionary

funding in the most effective way and/or not granting business awards when it has the funding to do so.

**Consultation**

All the existing policies were consulted upon at the time of their introduction where appropriate and as there is no intention to reduce funding to residents or businesses, therefore further consultation is not required to make the changes proposed.

**Reasons for Recommendation**

The reason for the recommendations is as set out at the beginning of the report

**Key Decision** Yes

**If Key Decision, has 28-day notice been given?** Yes

**Finance Officer Clearance** (type in initials).....NB.....

**Legal Officer Clearance** (type in initials).....DA.....



**[CORPORATE] DIRECTOR'S SIGNATURE** (electronic).....

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.