



Meeting: Council

Date: 6 December 2012

Wards Affected: All Wards

Report Title: Proposed Council Tax Support Scheme 2013/14

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1. Purpose of Report

1.1 The Local Government Finance Bill sets out measures that will require all Council Tax billing authorities to devise a local Council Tax Support Scheme to replace the current national Council Tax Benefit Scheme.

1.2 This report sets out the Council's proposed responses to the measures set out in the Bill and provides appropriate delegations that will allow implementation of proposals in accordance with the required timescales.

2. Proposed Council Tax Support Scheme

2.1 The proposed local scheme and its financial impacts have been calculated by changing specific variables that are used in the existing Council Tax Benefit Regulations 2006. As defined by the Department for Communities and Local Government (DCLG), all pensioners will be protected under the national framework.

2.2 Protection for vulnerable working age groups will be in line with the current Council Tax Benefit (CTB) legislation. In view of this a Vulnerable Policy has been developed, which is set out at Appendix C.

2.3 In order to mitigate the impact of the scheme on vulnerable groups it is proposed that an Exceptional Hardship Fund will be available to allow the Council to support the most vulnerable households on a case by case basis. Details of this fund are set out at Appendix A. Discretionary reductions are allowed under section 13A (1) (c) of the Local Government Finance Act.

2.4 The proposed changes are:

1. Council Tax Support is assessed on 75% of a household's Council Tax liability.

The Council currently assists households on the lowest incomes to pay up to 100% of their Council Tax. Under this proposal all working age households currently receiving Council Tax Benefit would have to pay an extra 25% of their Council Tax bill.

2. There will be no entitlement to Council Tax Support where the applicant has savings over £6,000.

In the current scheme working age households who have savings of £16,000 or more are not entitled to Council Tax Benefit. Under this proposal this will be reduced to £6,000 and households that have above this amount will not be entitled to Council Tax Support.

3. Second Adult Rebate will be removed.

The current scheme enables single people who are not entitled to Council Tax Benefit in their own right, because their income or savings are too high to claim a discount of up to 25% of their bill if they have another adult living with them on a low income. Under this proposal all working age people currently claiming Second Adult Rebate will not be entitled to Council Tax Support.

2.5 The implementation of the proposed new scheme of Local Council Tax Support, based on reduced levels of funding will affect all working age claimants. In designing the scheme the Council has performed an Equalities Impact Assessment and has had regard to:

- Detailed analysis of the Council's caseload data.
- Extensive consultation exercises performed with the public and other stakeholders, including the voluntary sector and representative groups.
- Consultation with major preceptors - Devon County Council, Police and Fire authorities.

2.6 The Equality Impact Assessment has highlighted a disproportionate impact on households where a Band D restriction combined with the 75% limitation applies.

2.7 As a result it is recommended that this proposal is delayed for the first year of the scheme and subject to a further review during 2013/14.

2.8 For further details of the impact assessment please refer to Appendix F, the Equality Impact Assessment report.

3. Action Needed

- 3.1 To agree a local scheme to calculate Council Tax Support from 1 April 2013 and the introduction of a discretionary fund that will allow the Council to mitigate the impact of the proposed scheme on the most vulnerable residents.

Proposed Decision

It is recommended that:

- (i) The proposed local Council Tax Support scheme as set out in Section 2 above be approved.
- (ii) The proposed Vulnerable policy, as set out at Appendix C, be approved.
- (iii) The proposed Exceptional Hardship Fund policy, as set out at Appendix A, be noted.
- (vi) That delegated authority be granted to the Executive Head of Finance, in consultation with the Executive Lead for Finance and Audit, to make any further adjustments (including those required by any changes to the regulations as approved by parliament) to implement the proposed Council Tax Support scheme, the proposed Exceptional Hardship Policy and Fund and the proposed Vulnerable policy.

4. Summary

4.1 The recently enacted (1 November 2012) Local Government Finance Act requires that all local authorities must approve their Local Scheme for Council Tax Support by 31 January 2013 prior to the Schemes inception on 1 April 2013.

4.2 In practice, local authorities need to have schemes designed, with supporting customer communication plan, business processes and information technology in place, ready for the 2013/14 Council Tax billing which occurs in early March 2013. It is therefore necessary that proposals for the new scheme arising from this report are approved at this meeting.

5. Introduction

5.1 The changes to Council Tax Benefit are part of a wider series of changes and reforms within the government's welfare reform agenda. This has a theme of consolidation and centralisation of rules based benefits and support, whilst discretionary benefits are localised or outsourced (with reduced budgets calculated from baseline spend at an agreed point in time).

5.2 As part of this agenda, the following changes will impact on the Council in terms of ownership and administration:

- Between 2013 and 2017, Housing Benefit (currently administered by the Council) will be phased out and help with housing costs will form part of a Universal Credit benefit that will be administered by the Department of Work and Pensions (DWP)
- On 1 April 2013, the national Council Tax Benefit scheme will be abolished and will be replaced with locally determined Council Tax Support schemes with funding of approximately 90% of current spend, (but detailed calculations are yet to be confirmed)
- From 2013, the Council's Discretionary Housing Payment (DHP) budget will only be available to support individuals with shortfalls in Housing Benefit. Therefore, if additional financial support is required to assist households suffering severe financial hardship and unable to pay their Council Tax a discretionary scheme will need to be introduced as a local arrangement

5.3 The Government has stated that it has two underlying principles behind the localisation of Council Tax Benefits in England:

1. Localised schemes should provide support for the most vulnerable, including vulnerable pensioners;
2. Localised schemes should assist with lifting the poorest off benefits and supporting them into work.

5.4 The government's ambition to put this legislation into effect is included in the Local Government Finance Act 2012.

Current Council Tax Benefit Scheme

5.5 The current Council Tax Benefit scheme has been in place since the introduction of Council Tax in 1993. It is a national scheme administered by local authorities but prescribed in extensive detail by the DWP.

5.6 Claimants who receive the DWP means-tested benefits (income-based Jobseekers' Allowance, Income Support, income-related Employment & Support Allowance and Pension Credit that includes the Guarantee Credit) are entitled to maximum help with their Council Tax without further means testing; they are "passport" to full benefit (subject to any contribution needed from other people in their household). Others can receive help on the basis of a complex means test, assessed by the Council that provides a level of help proportionate to the claimant's circumstances and income. Council Tax Benefit pays the full liability for Council Tax for the poorest claimants.

5.7 The DWP fully fund local authorities with Council Tax Benefit expenditure; local authorities therefore do not carry the risk of changing caseloads or changes in the level of deprivation.

5.8 The number of people claiming Council Tax Benefit in October 2012 was just over 18,000, of which around 9,800 are working age and around 8,200 are pensioners. According to the 2011 Census there are 59,000 households in Torbay, which means nearly 1 in 4 households are financially supported by the current scheme.

5.9 In 2011/12 Torbay Council paid around £15.7m Council Tax Benefit.

Designing the Council Tax Support Scheme

5.10 The key issues and constraints facing local authorities in designing their local Council Tax Support schemes were and continue to be:

- At the time of designing, costing and consulting on a local scheme the detailed supporting legislation had yet to be agreed, however it is likely that any changes will be made
- The funding to be provided for the new provision will be cut by an envisaged 10%, although full details of this are not yet available
- Council Tax collection from those households that receive partial Council Tax Benefit is already more difficult than from those with incomes above the benefit threshold; the changes will mean that Council Tax collection will be even more challenging
- The risk of changing caseloads is transferred to local authorities; unlike now, funding will be determined in advance, not based on actual spend.
- The new scheme will need to be up and running, with existing cases assessed by early March 2013 so that claimants receive rebated bills where appropriate; the timescale for designing, consulting on and implementing a new scheme is therefore extremely challenging.
- If the Council doesn't introduce a local scheme by the due date then a default scheme developed by the DCLG will apply; as this will mirror the current DWP scheme in all material effects, it will lead to costs similar to those currently incurred and lead to a budget shortfall for the Council and the major preceptors – the Police and Fire Authorities

Financial Implications of the Council Tax Support Scheme

5.11 It should be noted that the Council and the major preceptors will bear the final cost of proposed scheme. Any attempt to best estimate the cost of the scheme and the accuracy of the estimates is limited by:

- *Activity levels* - the cost of the scheme will depend on the number of claims received which is dependant on the local economy
- *Impact on collection rates* – just over 70% of working age households currently claiming CTB will have to pay Council Tax for the first time. Any variation from the estimate will fall as a surplus or deficit on the collection fund, which will impact on the Council and major preceptors in the following year.

5.12 The features of the proposed local Council Tax Support Scheme are designed to offset reductions in government funding for Council Tax Support and create a financially sustainable arrangement for both Torbay Council and the major preceptors.

5.13 Firm details of grant funding are unlikely to be available prior to December 2012 when the Council's financial settlement will be published. The analysis below is therefore necessarily based on estimated amounts.

Torbay's Estimated Scheme Funding

Council Tax Benefit 2011/12 Expenditure (Torbay's Share)	£13.3m
Less Scheme Funding (to be confirmed December 2012)	£11.7 m
Funding Shortfall	£1.6m
Proposed Scheme Reduction	£1.9m
Allowance for Exceptional Hardship Fund	£80k
Loss in Collection	£220k
Net Reduction	£1.6m

6. Options

6.1 The Council has two principal options in designing a new Council Tax Support Scheme:

- I. Create a scheme that replicates existing arrangements as far as possible (known as the 'default' scheme since such a scheme will be imposed on Councils that fail to implement a local scheme)
- II. Introduce a 'new' scheme.

6.2 In considering options the Council needs to be mindful of key constraints:

- Government funding for the local schemes will be reduced compared to the existing national funding for Council Tax support; details are not yet available but in broad terms it is expected that the Council's grant funding for council tax support will only cover only 90% of the costs of the existing scheme based on current claimant numbers.
- It is a requirement that pensioners will be protected under the new scheme where the level of support will be no less than the amount of Council Benefit currently paid.
- The Council has a duty to consider the impact of the local scheme on vulnerable groups.

6.3 On 16 October 2012, the Parliamentary Under Secretary of State for Communities and Local Government, Brandon Lewis announced that a new £100 million transition grant would be available to "encourage best practise" in the design of local schemes.

6.4 This was followed up on 19 October 2012 with a document, Localising Support for Council Tax, Transitional Grant Scheme, that set out the following criteria that would need to be met for a grant to be paid in addition to a statement of the amount that would be available.

1. *Those who would be on 100% support under current Council Tax benefit arrangements pay between zero and no more than 8.5% of their council tax liability;*
2. *The Income Taper rate does not increase above 25%; and*
3. *There is no sharp reduction in support for those entering work – for claimants currently entitled to less than 100% support, the taper will be applied to an amount at least equal to their maximum eligible award.*

6.5 The grant is for one year only and there is no indication or expectation that further payments will be made in future years.

6.6 This option was considered, however due to the terms and conditions of the grant it would not be financially viable.

6.7 This report proposes that the Council will introduce a 'new' local scheme on the grounds of financial sustainability, a desire to support the government policy of incentivising work rather than benefits and having regard to the outcome of extensive consultations with the public and major preceptors (for whom the financial sustainability of local schemes is a major issue).

Devon Wide Scheme

6.4 Devon's Revenue and Benefit managers have been working together to design a Devon wide framework for the local schemes across the county. The over arching principle is to develop a cost neutral scheme, however due to different demographics of individual billing authorities there will be local variations within framework.

6.5 The major preceptors, Devon County Council, Police and Fire authorities have been fully engaged throughout this process. They have also indicated that provided schemes are cost neutral they would not object to the scheme details.

6.6 A detailed analysis of over 35 different financial models of reducing support were evaluated, based upon the principles of fairness, ease of understanding and ease of administration, taking into account the demographic profile of current Council Tax Benefit claimants.

6.7 For the majority of Devon authorities the core scheme will consist of a maximum eligibility cap, set individually by each authority, ranging from 75% to 80% of the Council Tax liability, rather than the current 100% - Torbay's will be based on 75% when calculating Council Tax Support.

6.8 Devon's recommended schemes are set out at Appendix D.

Protecting the Vulnerable

6.9 In order to mitigate the impact of the scheme on other vulnerable groups an Exceptional Hardship Fund will be available that will allow the Council to support the most vulnerable residents on a case by case basis. A copy of the policy is set out in Appendix A and the fund in Appendix B.

Impact on Council Services

6.10 Introduction of the local scheme is likely to create additional demands on the Council's services, particularly in dealing with customer queries, debt collection and recovery. Much of the additional activity can be attributed to the features of the local scheme designed to deliver a financially sustainable arrangement.

7. Preferred Option

7.1 The Council has throughout its consideration of its options looked at the equalities impacts of any proposals that could be put forward. The Council's scheme is designed to minimise as much as possible the impact on particular groups. Likewise, regard has been made to wider decisions across the authority that may also impact on similar groups of service users for example, to assess any cumulative impact which should be taken into account in reaching the decision.

7.2 In light of the consultation responses and the impact assessment the proposed scheme has been designed to be financially sustainable and compliant with Government guidelines.

7.3 The proposed scheme will generate the required reductions based on current Council Tax Benefit data of approximately £2.2million for the whole scheme.

7.4 The Council's Vulnerable Policy and the Exceptional Hardship Fund are mitigating features of the new scheme to manage potential negative impacts on vulnerable groups. Detailed proposals in respect of the Hardship fund and Vulnerable Policy are appended.

8. Consultation

8.1 All Devon authorities consulted with public and key stakeholders on the proposed on the scheme between 6 August and 30 September 2012, as part of a coordinated county-wide approach.

8.2 The consultation approach aimed to ensure all residents in Torbay, including voluntary and representative groups, had the opportunity to have their say about the draft scheme proposals.

8.3 The consultation approach was as follows:

- The main public consultation was a web-based approach, initiated by a letter sent to all working age households, advising them of the proposed changes and the consultation. The letter explained that there would be an on-line survey and that paper questionnaires were also available, if required from Council reception areas
- The public consultation was supplemented with a stakeholder event specifically for representative groups and voluntary sector organisations
- The Council's Viewpoint panel members were contacted to make them aware of the consultation and were invited to take part
- Leaflets and posters were sent out to a number of different agencies, such as Westcountry Housing, Sanctuary Housing and the Citizen's Advice Bureau
- The major preceptors, Police and Fire authorities as well as Devon County Council, have been fully engaged through the workshops developing the county wide scheme.

8.4 For further details of the consultation please refer to Appendix E, the Consultation Feedback report.

9. Risks

In general, considerable uncertainty remains around important matters in respect of these proposals, principally around the detailed legislation and the Council's financial settlement which have yet to be determined. However, the timetable for implementation requires the Council to make decisions now.

The risks associated with the decision Full Council is asked to make and proposed actions to mitigate those risks are set out in the table below.

Risks	Likelihood	Impact	Mitigating actions
Failure to adopt a local scheme in time, which would lead to the Government imposing a default scheme	2	5	The establishment of the Devon Group and the development of a comprehensive plan will ensure that all areas of the project are scoped, analysed and executed
Adverse economic conditions may result in an increase in the current Council Tax Benefit caseload	2	5	Data analysis has been undertaken, based on caseloads and current trends in order to estimate annual growth
The Council's financial settlement grant to cover the new scheme maybe significantly below that assumed in the financial analysis	2	4	The proposed scheme is designed to be financially sustainable
Collection rates for those currently receiving Council Tax Benefits is likely to be significantly below current and previous levels	3	4	Proactive communications with affected households Review recovery procedures

1 = Little or no risk or impact

2 = Some risk or impact – action may be required

3 = Significant Risk or impact – action required

4 = High risk or impact – action necessary

5 = Near certainty of risk occurring, catastrophic effect or failure of project

Appendices

Appendix A – Proposed Exceptional Hardship Policy

Appendix B – Proposed Exceptional Hardship Fund

Appendix C – Proposed Vulnerable Policy

Appendix D – Devon's Recommended Council Tax Support Schemes

Appendix E – Consultation Feedback Report

Appendix F – Equality Impact Assessment

Appendix A – Proposed Exceptional Hardship Policy

1. Background

As part of the Spending Review 2010, the Government announced that it intended to abolish Council Tax Benefit and replace it with a localised support scheme from 1 April 2013. The Council is aware that these changes may exclude people who are unable to improve their circumstances in the short term, so an Exceptional Hardship fund has been also introduced.

The Exceptional Hardship scheme is based on the current Discretionary Housing Payments policy and will permit officers the discretion to provide reductions in Council Tax under the policy from 0% to 100% of the remaining Council Tax liable amount. It will provide further financial assistance for households who are entitled Council Tax Support, or were entitled to Council Tax Benefit on 31 March 2013, where payments of the Torbay scheme are insufficient.

The scheme will be locally funded and subject to a budget cap each year set by the Council.

The main features of the scheme are:

- Exceptional Hardship payments are not part of the Council Tax Support scheme.
- Anyone receiving Council Tax Support can make a claim.
- There is no statutory right to payment.
- Payments are made from a cash-limited fund.
- The Council determines how the scheme is administered.

2. Legislative Framework

The following legislation and regulations are relevant to this document:

- The Local Government Finance Act 2012
- The Local Government Act 1992 Section 13A(2)
- Child Poverty Act 2010
- Equality Act 2010 (incorporating the Disabled Persons Act 1986)
- Housing Act 1996
- Armed Forces Covenant
- The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012
- The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 Default Scheme
- Social Security Act 1992

2. Objectives

This policy aims to support local people experiencing financial hardship who are unable to pay their Council Tax, where payments of the Torbay scheme are insufficient. The discount will be known as the Exceptional Hardship Scheme but will operate under the legal framework outlined in Section 13A of the Local Government Finance Act 1992.

The Government has prescribed a national pension age scheme that will ensure that pensioners are not worse off under the Council Tax Support scheme.

The Government has not prescribed any vulnerable groups, having regard to local authorities' defined responsibilities in relation to, and awareness of, the most vulnerable groups and individuals in their areas through an Equality Impact Assessment.

The Exceptional Hardship Policy will specify those individuals and groups who are eligible to access the fund and explain the claim process.

The Exceptional Hardship Policy will be mindful of the directive to incentivise work. Incentivising work will reduce worklessness and dependency on benefits in line with the Government's expectation.

It should be noted that where the Council has a discretionary power, it must not restrict its discretion by having a set of rules that are inflexible. Each case must be considered on its own merits, determined within the budget provided and administered under the framework set out in this policy.

3. Criteria

Fundamental to the Exceptional Hardship Policy is a clear indication of the groups or individuals that can be considered eligible to claim additional Council Tax Support from the Exceptional Hardship Scheme.

The fund has financial limitations and, as such, awards can only be made based on eligibility, whilst having regard to the level of funding available or remaining within the Exceptional Hardship Scheme each financial year.

Before any award will be considered, the taxpayer must require further financial assistance with Council Tax due to the conditions in section 5.

Unless specified, all criteria and conditions that apply to the Council's Council Tax Support Scheme 2012, will also apply to The Exceptional Hardship Policy.

4. Equalities

The Council is committed to equality and fairness. Equality is about ensuring people are treated fairly and given fair chances. It is also about ensuring that people receive fair outcomes in the standard of service they receive from the Council and equality of access to Council Services. This incorporates everyone, regardless of their race, gender, age, religion or belief, sexual orientation, marital or civil partnership status and/or disability in line with the principles set out in the Equalities Act 2010.

A number of groups have been defined as being eligible to submit a claim for Exceptional Hardship, detailed below:

Vulnerable Groups

- A household with a claimant, partner or dependent child in receipt of the middle or higher rate of Disability Living Allowance (DLA), or its equivalent (PIP)
- A household where a disabled adult is living in supported living accommodation, who have carers and are who unable to work due to their health
- Where the applicant, or applicant's partner, is in receipt of Employment Support Allowance (ESA) with support component
- Where the applicant, or applicant's partner, is a care leaver up to the age of 22 years
- Where the applicant , or applicant's partner, is deemed vulnerable through drug or alcohol dependency who are attending a rehabilitation programme
- The applicant or household has suffered domestic violence and is being supported by accredited local schemes to move into permanent accommodation
- Where the applicant or household is a foster carer and has current foster child placements
- Where the applicant or household has dependent children under the age of 5 and is in receipt of Income Support
- Applicants or households who provide care who are single or a couple, and have no other income (other than Income Support), where they are in receipt of Carer's Allowance
- The applicant or household is a foster carer (child or adult) and is in between foster care placements
- Where the applicant or household has parental care responsibility for non-resident children
- Where the applicant or household is a hostel leaver where they were resident in a hostel engaging with support while resident. Minimum period of hostel residency is 3 months

There may be a number of vulnerable individuals who do not fall into any of the above categories. In this event awards may be considered due to severe financial hardship – please refer to section 5.

5. Severe Financial Hardship

Applications will be considered on the basis that the applicant or household would suffer severe financial hardship if financial assistance were not given.

Individuals in this group will not be defined, but need to be able to demonstrate their circumstances and that they have exhausted other sources of income that are available to them.

Each case will be considered on its own merits.

Care will be taken to ensure that the applicant or household has access to independent financial advice and support.

Examples of applicant or households who may potentially be awarded Exceptional Hardship are:

- Recently bereaved and income disrupted due to suspension of other benefits
- Terminally ill and unable to contribute to the household income
- Recovering from a serious illness and unable to contribute to the household income
- Recently released from prison and under probation

This list is not exhaustive.

Each case will be treated on its own merits and applicants will be expected to have explored and secured any lawful entitlement to other benefits, incomes and reductions in preference to claiming Exceptional Hardship. Applicants will need to ensure they are able to satisfy the Council that they have taken all reasonable steps to resolve their own situation prior to application.

Applications will be considered if the above apply and:

1. There is evidence of financial hardship or personal circumstances that justify an award
2. The applicant or household has supplied all evidence requested by the Council in respect of their claim for the Local Council Tax Support Scheme
3. The applicant or household must have applied for any appropriate discount or exemption and supplied any evidence requested by the Local Authority in respect of that application
4. The applicant or household does not have access to any other financial assets that could be realised to pay the Council Tax
5. The applicant or household must not be avoiding outstanding Council Tax due to wilful refusal or culpable neglect
6. The Council's finances must allow for an award to be made

6. How to Claim

A claim should be made in writing or online using the approved claim form together with supporting evidence as required.

Claims can also be made by a referral process – see section 9 'Referrals from other sectors'.

The applicant must be the person liable to pay the Council Tax, or be their representative with authority to act on their behalf e.g. Power of Attorney. Claims can only be made to and accepted by Torbay Council, who issues the taxpayer their Council Tax Demand Notice.

If an applicant or household needs advice and support to complete a claim form, the applicant or household will be signposted to an appropriate service that offers support relevant to the needs of the applicant or household.

The applicant must set out the reasons for applying, including explaining any special circumstances or hardship being experienced.

7. Information Required

Evidence will be required to substantiate a claim for Exceptional Hardship.

Evidence can include, but is not limited to:

- A household income statement; using a prescribed form
- A household expenditure statement; using a prescribed form
- Supporting evidence may be requested such as utility bills
- Evidence of seeking debt advice, if appropriate

Evidence may be requested that is relevant to the nature of the claim e.g. medical certificates as evidence of illness. It should be noted that no costs will be borne by the Council in circumstances of this nature.

Failure to provide supporting information and evidence that is requested may lead to a refusal.

Care will be taken by staff to ensure that the applicant or household is treated fairly and respectfully and that only relevant information and evidence is requested.

All information and evidence provided will be treated in confidence and in accordance with the Data Protection Act 1998.

Where the Council requires additional information or evidence it will write to the applicant requesting the information is supplied within one calendar month.

The applicant is required to report any changes in their circumstances or of the circumstances of household members immediately in writing to the Council. A failure to report changes may lead to a loss of Exceptional Hardship, resulting in an overpayment which will be recoverable from the Council Tax account and lead to prosecution where appropriate.

8. Notification of an Award

The Council will notify the outcome of each application for Exceptional Hardship Fund payments in writing. The notification will include:

1. The amount of the award (if any)
2. The period of the award (if any)
3. Provide details of how to appeal or obtain more information about the decision
4. Provide details of how the award (if any) will be made

On the provision of all satisfactory requested information, a decision will be made where practicable within 14 working days.

9. Referrals from Other Sectors

The Council will accept referrals from:

- Torbay Council Social Services Team

- Registered Social Landlords
- Torbay Council's Housing Needs department
- Third sector organisations i.e. Citizens Advice Bureau, welfare rights advisors

The approved referral form should be completed and returned to the Council.

10. Alternative Sources of Funding

Various alternative sources of financial assistance exist with the public, private and voluntary sectors. If support from the Exceptional Hardship scheme is not awarded, applicants or households will be signposted to alternative sources of financial assistance.

11. Debt Advice

It is recognised that debt and poverty are linked. In most cases the Council will expect the applicant or household to seek debt/money management advice as a long term solution to financial problems.

Working age applicants or households are also expected to move into work if they are able to, which will reduce their dependency on support. With this in mind applicant or households should receive more income from work than out of work. Work incentives will be a factor when determining awards from the Council's Exceptional Hardship Scheme.

The Council will signpost applicant or households to debt advice service, evidence of taking and adhering to advice may be requested from the applicant or household when making an application for Exceptional Hardship.

12. Backdating

Applications for Exceptional Hardship may be backdated up to 1 calendar month from the date the written application is received where continuous good cause exists throughout the period for the delay in making the application.

13. Determining Awards

The Council will consider each application on its own merits. This will ensure that each application is treated in an open and consistent manner, whilst considering individual circumstances.

The Council will be under no duty to assess applications not made in the approved manner. Where information or evidence requested has not been received within one calendar month, the Council will determine the application on the basis of the evidence and information in its possession. The Council will make a decision on applications where any requested information or evidence not supplied by the applicant within the one calendar month time limit. This may result in the Council making an adverse inference, which may mean that the application is refused.

Nothing in this policy shall permit the Council to reduce the Council Tax charge for any day to less than NIL.

Exceptional Hardship may only be awarded in respect of Council Tax liability.

The order of discounts will be maintained in line with the Local Government Finance Act; therefore the maximum amount of Exceptional Hardship that can be claimed for any day will be net of other discounts and reductions already awarded.

Awards will have a defined start and end date. This information will be provided to the applicant or household when the decision is made.

Awards may be a one off payment; an award for a short period of time; until the applicant or household's circumstances change; or for a full financial year. This will be detailed when a decision is made.

Awards will stop immediately if the applicant or household, or their representative, has misrepresented or failed to disclose a material fact, fraudulent or otherwise. The authority may seek to recover any overpayment of award. In instances of proven fraudulent activity, the authority will seek to recover in all cases.

14. Method of Payment

Awards will be credited directly to the applicant or households/liable persons' Council Tax account. This will have the effect of reducing the Council Tax liability.

Taxpayers may find that the award does not reduce their council tax to zero. If taxpayers have Council Tax to pay, they should contact the recovery section as early as possible and make arrangements to pay the sum due.

15. Appeals

Applicants may appeal against a decision within one calendar month of the decision notice where:

1. They have not been awarded Exceptional hardship for a period to which they feel they should be entitled; or
2. Where they feel the award should be increased

Appeals must be:

- Be submitted in writing;
- Received at the Council offices within one calendar month of the date of the decision notice;
- Signed by the applicant;
- Outline the grounds for appeal.

Applicants will not have the right of appeal:

1. Where their appeal is received by the Council more than one calendar month after the date of the decision notice;
2. Where the Council has already made a determination of appeal in respect of the matter;
3. For any day for which they have received 100% discount or exemption;
4. For any request to backdate the award for more than one calendar month from the date of application;
5. Where the Council has no remaining budget provision;
6. In any case where the Council was under no duty to make a decision;
7. Council Tax Support scheme suspensions where there is doubt about entitlement;

8. Shortfalls caused by the recovery of overpaid Council Tax Support.

Any appeal under this scheme will be determined within one calendar month of receipt of the appeal or as soon as reasonably practicable.

Appeal decisions are final and may not be further challenged except where legislation permits. The Council will write to the applicant once their appeal has been considered and will explain:

1. The amount of the award (if any);
2. The period of the award (if any);
3. Provide details of how the award (if any) will be made;
4. Provide a summary of the factors considered in reaching the decision.

16. Recovery of Overpaid Exceptional Hardship

The Council may recover any overpayment of Exceptional Hardship that has been paid by removing the funding from the account.

17. Fraud

The Council is committed to protect public funds and ensure funds are paid to the people who are rightfully eligible to them.

A customer who fraudulently claims Exceptional Hardship by falsely declaring their circumstances or by providing a false statement or evidence in support of their application, may have committed an offence.

Where the Council suspects that such an offence may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

18. Data Sharing

The Council may use any evidence and information supplied to it in respect of Exceptional Hardship to check the eligibility of the applicant in respect of this scheme or any other welfare benefit, discounts or exemptions.

The Council takes part in data matching exercises to assist in the prevention and detection of fraud. Data matching involves comparing sets of our data, such as Council Tax or benefit records against other records held by the Council or other bodies to see how far they match. Data matching allows potentially fraudulent claims, reductions and payments to be identified. Where a match is found it indicates that there is an inconsistency that requires further investigation. No assumption can be made as to whether there is fraud, error or other explanation until an investigation is carried out. The processing of personal information by the Council for data matching exercises is carried out in accordance with the Data Protection Act 1988; specifically under section 29 of that act. This means the Council does not require the consent of the individuals concerned.

19. Publicity

The Council's Exceptional Hardship scheme will be publicised in the Torbay area.

The following methods of communication may be used:

- Leaflets and posters
- Information with decision notices for the Council Tax Support Scheme where there is a shortfall
- Face to face and verbal when visiting or telephoning the council offices
- Information on billing authority websites
- Information for third sector organizations and referrers
- Claim forms available to download or complete online
- Information with Council Tax reminders notices where the taxpayer is in receipt of Council Tax Support

20. Administration

Applications will be subject to the Council's usual quality control procedures and audit.

Home visits will be made available to applicants or households who are unable to attend the Council's offices and have no-one else to assist them.

Awards will be recorded and reported on monthly basis to Senior Management at Torbay Council. Statistical information will be made available on the Torbay Council's website, personal data (e.g. individual's names and addresses) will be withheld and not published in accordance with The Freedom of Information Act 2000.

Reports will record the following, for both successful and unsuccessful claims per financial year:

- Name of applicant or household
- Address of applicant or household
- Ward of applicant or household (if relevant)
- The start/end date of the award
- The amount of the award
- The reason for the award/refusal/eligibility criteria
- Equality data to monitor the effectiveness of the EIA

The authority may from time to time conduct a survey of all applicants to seek opinions, satisfaction levels and to shape the scheme for future years.

21. Policy Review

The Exceptional Hardship Policy will be reviewed annually by the end of January each year.

Any major changes will be subject to consultation in accordance with best practice.

The Exceptional Hardship Policy will be published and available to view on the Council's website.

22. Budget Considerations

The Council's Exceptional Hardship scheme will have a fund set each financial year for each local authority.

Once available funds have been exhausted from the fund, no further awards will be made until a new financial year.

23. Legislation

Awards under this scheme are made in line with the Local Government Finance Act as outlined below:

1. Section 13A and 76 Local Government Finance Act 1992 – The award of discretionary discounts.
2. Section 4 Local Government Finance Act 1992 - Dwellings may be exempt from Council Tax if they fall within one of the specified classes.
3. Section 11 Local Government Finance Act 1992 - The amount of Council Tax payable may be subject to a discount under where there is no resident, or all but one of them fall to be disregarded.
4. Section 13 Local Government Finance Act 1992 - The amount may be reduced where it is occupied by disabled person(s).

Appendix B – Proposed Exceptional Hardship Fund

Background

Under existing arrangements, residents can be eligible for help with their housing costs from three principal areas:

- Crisis Loans - helps families or individuals cover immediate short term needs (such as residential charges for a hostel)
- Social Fund Loans – covers ongoing living assistance (such as household equipment)
- Discretionary Housing Payments – mostly supports the payment of rent

Both Crisis Loans and Social Fund Loans are administered by Jobcentre Plus at present but administration is due to pass to local authorities from 1 April 2013. Discretionary Housing Payments (DHPs) are currently administered by local authorities, an arrangement which will continue, but will not cover local Council Tax Support schemes.

Fundamentally, while the detail of future national funding to assist vulnerable residents with their housing costs is not yet available, at best it is likely to be restricted to existing levels. However, the impact on vulnerable residents will be increased significantly due to the impact of the new Local Council Tax schemes.

Overall, it is likely that demand for financial support for residents will continue in 2013, and there is an expectation that this demand will increase as a series of changes to Welfare and Benefits rolls out.

In response to the above, Devon authorities are therefore proposing that a new Exceptional Hardship Fund is created to support financial hardship related to the new Local Council Tax Schemes.

Eligibility

The Hardship scheme will be administered through the use of 'eligibility' criteria, in similar manner to the existing Discretionary Housing Payments (DHP). A detailed policy setting out the proposed eligibility criteria for the new fund is set out at Appendix A.

Administration

Administration of the new fund will be undertaken by the Council's Revenue and Benefits department, who currently administer the existing DHP scheme. This will be undertaken alongside the administration of the new Council Tax arrangements. Appropriate functionality to record Exceptional Hardship payments is being developed by the Revenue and Benefits software providers.

Funding

The proposed scheme will be funded by the Council and the total fund will be 0.5% of the total estimated expenditure in 2013/14 - £16 million resulting in a fund of £80,000.

Justification of proposal:

The nearest equivalent fund existing at present is that for Discretionary Housing Payments. DWP provide 0.5% subsidy to each local authority based on the total benefit paid out in the preceding year. On this basis a total contribution of 0.5% of the Council Tax Benefit paid appears reasonable.

Appendix C – Proposed Vulnerable Policy

1. Introduction

Section 13A of The Local Government Finance Bill 2012 requires all local councils, working within this legislative framework, to design their own Council Tax reduction scheme. Torbay Council's scheme is called the Council Tax Support scheme.

With effect from 1 April 2013 a local Council Tax Support scheme will replace the national Council Tax Benefit as the method of supporting low income households to pay their council tax. In designing this new scheme, the Council has adopted the core elements of the council Tax Benefit scheme, which is a proven and robust system of support and which affords financial support to the most vulnerable.

The Government has been clear that, in developing local Council Tax Support schemes, vulnerable groups should be protected. Other than providing statutory protection for low income pensioners, the Government has not prescribed the other groups that local councils should support. Each council must tailor their scheme to take into account the various legislation that currently protects vulnerable people.

2. Purpose of the Vulnerability Policy

This policy sets out the council's approach to defining and assisting those deemed vulnerable. In doing so it seeks to:

- Protect those who have reached state pension credit age
- Help those who are trying to help themselves
- Encourage and support people in and into employment

3. Accessibility of the Council Tax Support Scheme

To ensure that all customers have equal access to Council Tax Support, the Council has utilised the principles from its internal Communications and Consultation Policy. This policy has been adapted so that we are able to engage with all vulnerable and hard to reach customers in our communities.

In doing this, we will ensure that:

- All information about Council Tax Support is available in alternative formats and languages.
- Application forms for Council Tax Support will be available on line or by visiting one of our offices or remote offices.
- Customers can contact us by telephone or email.
- Additional information about Council Tax Support will be available on our website and will be publicised in leaflets.
- We will work closely with all agencies that support vulnerable clients, including welfare agencies, to ensure that they assist us in ensuring that customers can access their maximum level of Council Tax Support.

4. Statutory Framework and Other Considerations

In developing this policy the council has taken into account the following statutes:

- Local Government Finance Bill 2012 (protection for low income pensioners)
- Equality Act 2010 (public sector Equality Duty)
- Child Poverty Act 2010 (the duty to mitigate the effects of child poverty)
- Housing Act 1996 (the duty to prevent homelessness)

It also takes into account:

- The Welfare Reform Act 2012, which seeks to provide work incentives to benefit recipients
- Armed Forces Covenant 2011

5. Local Government Finance Bill 2012 - Pensioners

5.1 Definition

The Local Government Finance Bill 2012 sets out that the requirement to fully protect the support provided to low income pensioners in the Council Tax Support Scheme:

5.2 Eligibility Under the Local Government Finance Bill

- Those applicants in receipt of Guaranteed Pension Credit will receive full Council Tax Support, subject to non-dependent deductions
- If a pensionable age applicant's income exceeds their applicable amount, 20% of the excess income will be deducted from the maximum support and will also be subject to non-dependent deductions. This is in line with the current Council Tax Benefit Regulations for Persons who have attained State Pension Age

6. Equality Act 2010 (Protected characteristics including applicants defined as Chronically Sick and Disabled)

6.1 Definition

As part of the Equality Act 2010 (section 149) the council has paid 'due regard' to the following in designing its Council Tax Support scheme:

- Eliminate unlawful discrimination (harassment, victimisation and any other prohibited conduct)
- Advance equality of opportunity between those people who share a relevant protected characteristic and people who do not share it
- Foster good relations between those who share a relevant protected characteristic and people who do not share it

The relevant protected characteristics, as defined by the Equality Duty, are:

- Age (including children and young people)
- Disability
- Gender reassignment

- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage or civil partnership status (in respect of the requirement to have due regard to eliminate discrimination)

In developing the council Tax Support scheme and this policy the council has undertaken an Equality Impact Assessment (EIA) (<http://www.torbay.gov.uk/index/yourcouncil/equalopportunities/eia.htm>) and given due regard to its findings to ensure it does not lead to unlawful discrimination

The definition of disability is set out in the following statutes:

- Disabled Persons (services, consultations and representation) Act 1986
- Chronically Sick and Disabled Persons Act 1970
- Equality Act 2010

6.2 How the Council's Policy Addresses the Issues of Disability

Torbay Council's Council Tax Support scheme will maintain the key elements of the Council Tax Benefit scheme and, as such, provides protection in the overall calculation of support for disabled customers.

Our support scheme will not include income received specifically relating to disability in the financial assessment, as is the case currently. This means that all income received from Disability Living Allowance and Personal Independence Payments will be disregarded. The effect of this is that more disability related income will be retained before their Council Tax Support is reduced.

In addition to this, the calculation of support will also include all of the premiums which existed under Council Tax Benefit, these are:

- Disability Premium – awarded when a customer or their partner (if any) is disabled
- Severe Disability Premium – awarded when both customer or their partner (if any) are both severely disabled in accordance with the scheme
- Enhanced Disability Premium – award where either the customer or their partner (if any) are in receipt of the High Rate of the Care Component of Disability Living Allowance (DLA High Care), or where the customer receives the support component of Employment and Support Allowance;
- Work related activity component – where a similar component is awarded within a customer or partner's Employment and Support Allowance
- Support component – where a similar component is awarded within the customer or partner's Employment and Support Allowance

No non-dependant deductions will be made where the customer or partner is blind or where they are in receipt of the care component of Disability Living Allowance/Personal Independence Payments.

7. Child Poverty Act 2010

7.1 Definition

The Child Poverty Act 2010 places the following duties on local authorities and their partners to:

- Cooperate to tackle child poverty in their area
- Prepare and publish a local child poverty needs assessment
- Prepare a joint local child poverty strategy
- Take child poverty into account when preparing or revising their Sustainable Communities Strategy

In developing the Council Tax Support scheme and this policy the council has taken into account our local child poverty needs assessment and draft Child Poverty Strategy.

Furthermore, the council has taken account of the Government's National Strategy for tackling child poverty: *Tackling the causes of disadvantage and transforming families' lives published in April 2011*. The Council Tax Support scheme therefore supports the key measures within this strategy to strengthen families, encourage responsibility, promote work and guarantee fairness and provide support to the most vulnerable.

Under the Act and from 2011 each local strategic partnership is required to have a Child Poverty Strategy to meet the targets and report on annual progress.

The definition used within this policy (which will be subject to change as Central Government) is as follows:

Households with children in which income is less than 60% of the national median

The authority is mindful of the proportion of dependant children within its area who live in households whose income is below 60% of the national median.

7.2 How the council's policy addresses the issue of child poverty

The Council recognises the importance of maintaining the components within the Council Tax Benefit scheme which afford additional protection to families.

These allow for the following income types to be disregarded in the financial assessment of Council Tax Support:

- All Child Benefit
- All Child maintenance
- All other income payable to dependant children*
- Up to £175.00 per week for one child and £300.00 per week for two or more children towards childcare payments, for working families.

*there may be some, very rare, exceptions

When assessing a claim for Council Tax Support a family's income will be compared with the specific applicable amounts (living allowances). The applicable amounts (living allowances) will mirror the provisions within the Council Tax Benefit scheme and are higher for people with children. The living allowances will contain the following elements:

- Dependants Additions – an allowance for each child is used within the calculation
- Family Premium – where a customer has at least one child

- Disabled Child Premium – where a child is in receipt of any component of Disability Living Allowance or a comparable component of Personal Independence Payments or is blind or is treated as blind.
- Enhanced Disability Premium – where a child is in receipt of the highest rate of the care component of Disability Living Allowance.

Child Care Disregards

To support families in work and into work, allowances will be made from earnings and other benefits in respect of eligible childcare costs provided by registered childcare providers or after school clubs.

If the customer is a lone parent this will be applied if they work 16 hours or more a week. If the customer is part of a couple then the childcare disregard will be applied if they both work 16 hours or more, or where one member of the couple is incapacitated and the other works 16 hours. A maximum level of weekly disregard will be set annually.

Where a customer is lone parent or part of a couple and either the lone parent works 16 or more hours or both members of the couple work 16 hours or more or where one of the couple is incapacitated. A maximum weekly disregard will be set annually.

8. Housing Act 1996

8.1 Definition

Taking into account the threat of homelessness is not a prerequisite of the local Council Tax Support scheme, but the Council has given consideration to the potential impact on the Torbay area.

The Act gives local authorities the duty to prevent homelessness with special regard to vulnerable groups. Where people apply to local authorities for assistance, the authority must give careful consideration to the circumstances that have led to homelessness before deciding whether they are intentionally homeless. There is a limited duty to support those found to be intentionally homeless. Further information can be found in the Council's Homelessness Policy.

Under the legislation a person becomes homeless intentionally or threatened with homelessness intentionally if:

- The person's occupation of the accommodation ceases as a direct result of a deliberate act or omission on behalf of the person
- If the accommodation is available for the person to occupy
- If it would have been reasonable for the person to continue to occupy the accommodation

8.2 How the Council's Policy Addresses the Issues within the Housing Act

- Torbay Council will ensure that any applicant who is found to be unintentionally homeless as part of our duty will be encouraged and supported in their application for Council Tax Support once they have secured accommodation
- The council will ensure that any applicant at risk of homelessness and who is vulnerable are assisted with any application for Council Tax Support

9. Armed Forces Covenant 2011

9.1 Definition

In 2011 the Government launched the tri-service Armed Services Covenant which is intended to enshrine in the Armed Forces Bill

The covenant is a statement of the moral obligation which exists between the Government and the Armed Forces. Its core principle is that members of the Armed Forces Community do not suffer disadvantages as a result of their service. Special treatment may be provided as appropriate in order to improve the support to the Armed Forces Community.

Torbay Council has signed up to the Armed Forces Covenant and has considered this obligation in developing the Council Tax Support scheme

9.2 How the council's policy meets the Armed Forces Covenant

Applicant or partner in receipt of War Disablement Pension or War Widows payment will have this payment disregarded in the calculation of income when assessing entitlement to Council Tax Support. This mirrors the provisions of the local scheme within Council Tax Benefit.

10. Work incentives

10.1 Definition

As part of the Council Tax Support scheme, the council wishes to provide incentives for applicants to return to work or to increase the hours they work and to support those who do, wherever possible.

The principles of work incentives are as follows and these are reflected in the Council Tax Support scheme:

- 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; will be timely and correct and that claiming will not be a complicated and frustrating experience.

10.2 How the Council's Policy Provides Work Incentives

Torbay Council is keen to support applicants back into work. The Council Tax Support scheme does this in supporting all customers on a low income, not just those in receipt of benefits.

The council is retaining core elements of the Council Tax Benefit scheme. This means support is reduced based upon a 20% withdrawal rate; where a customer's income exceeds their living allowance a deduction of 20p for every £1 will be made from Council Tax Support.

- When calculating weekly earnings only the income less tax, National Insurance and half of any pension contributions will be taken into account.

- In addition to this further amounts of earnings will not be taken into account in the weekly assessment of earnings. These are:
 - First £5.00 of weekly earnings for single customers
 - First £10.00 of weekly earnings for couples
 - First £20.00 of weekly earnings for people who are disabled or long term sick, carers or part-time fire fighters, auxiliary coast guards, part-time life boat workers and member of the Territorial Army
 - First £25.00 of weekly earnings for lone parents
- Where the applicant or their partner is able to undertake work for an increased number of hours per week then an additional earnings disregard may be applied;
- Where the applicant incurs childcare charges to allow them to go to work, the council will make a disregard from weekly earnings of up to £175.00 for childcare for one child or up to £300.00 for two or more children in childcare
- Where a customer moves into work of 16 hours per week or more and certain conditions of entitlement prior to employment are met, an additional 4 weeks of support at the rate prior to employment.

11 Council Tax Support Exceptional Hardship Fund

The council recognises that there may be exceptional circumstances where customers are unable to meet the shortfall between their Council Tax Support and their Council Tax liability.

Those in greatest need can access additional financial assistance from the Exceptional Hardship Fund. Additional information about this fund is contained with the council's Exceptional Hardship Fund Policy.

Appendix D – Devon’s Recommended Schemes to Members

Based on information provided by Devon authorities on 7 November 2012

All proposed schemes are based on using the current Council Tax Benefit rules but with the changes identified below.

Name of Authority	Limit liability	Stopping Second Adult Rebate	Band restriction	Capital limit	Vulnerability / Hardship fund	Other options
East Devon District Council	80%	Yes	Band D	£8,000	Yes	N/A
Exeter City Council	80%	Yes	No restriction	£6,000	Yes	N/A
Mid Devon District Council	80%	Yes	Band D	£8,000	Yes	N/A
North Devon District Council	75%	Yes	Band D	£6,000	Yes	Increase earnings disregards
South Hams District Council	Not confirmed					
Teignbridge District Council	Not confirmed					
Torrige District Council	75%	Yes	Band D	£6,000	Yes	N/A
West Devon District Council	100%	Yes	No restriction	£16,000	No	N/A
Unitary Authorities						
Torbay Council	75%	Yes	Delayed until 2014	£6,000	Yes	N/A
Plymouth city Council	75%	Yes	Band E	£6,000	Yes	N/A