



Introduction

We believe that the current Council Tax Reduction (CTR) scheme for 2017/18, which requires a minimum 15% Council Tax (CT) contribution from all working-age residents liable to CT and eligible for CTR, except those already in receipt of specific disability benefits, discriminates unfairly against some of the most vulnerable residents in the Borough. In addition, we argue that it is not based on a rigorous assessment of the impact of the scheme in operation for 2016/17 that required a minimum 5% CT contribution from non-exempted residents. We therefore set out in this report our objections to the current scheme and our recommendations for the council to consider for changes to the scheme for 2018/19.

Our objections to the financial justification for the minimum charge

We fully supported Richmond Council's principled position in retaining the original national Council Tax Benefit for the first three years from 2013/14 to 2015/16 when the responsibility for running Council Tax Support schemes (as they were termed) was devolved to local authorities despite the Government's decision to reduce by 10% the national grant to councils to support this fund. This decision was in line with the decision of several neighbouring London councils, including Hammersmith and Fulham, Kensington and Chelsea, Kingston upon Thames and Merton, to safeguard the national scheme's criteria for their local residents.

We are disappointed that, while these other London councils have retained this protection for all eligible local residents up to the current financial year, Richmond Council abandoned its previous position and introduced a minimum charge of 5% in 2016/17 which it then increased to 15% for the current financial year. Since neighbouring London borough councils have been able to adjust their finances to prioritise protection for local residents who are most vulnerable in financial terms, we consider that Richmond Council should review its policy for its CTR scheme and examine other ways of meeting the shortfall in national funding for the scheme that do not involve harming those local residents who are most vulnerable financially.

Our objections to the financial justification for a minimum charge of 15%

After the first year of operating the 5% minimum charge, the Council increased the minimum charge to 15% for the current year. One of the arguments presented to justify this increased charge was that the council's funding from central government would be further cut. It was assumed that the reduction in the funding included a further cut to the Council Tax Support element, even though this element is no longer shown separately in the overall statement of central government funding. However in various statements, government ministers have made it clear that the level of funding for Council Tax Support has remained the same since the initial 10% cut in 2013/14. There is therefore no basis for this part of the council's justification for further increasing CT contributions from households who would have previously qualified for full benefit.

The council simply decided to charge residents with the least income in the borough for a small amount of additional CT.

There is also the possibility that by raising the minimum charge to 15% more people subject to the charge will fail to pay it and the council will incur additional costs in taking court action or writing off the amounts charged. In a report prepared by independent researchers ([‘Too Poor to Pay’](#), Child Poverty Action Group/Zacchaeus 2000 Trust, 2015) looking at the experience of London councils in the second year following the devolution of Council Tax Support to local councils the authors noted that in response to data supplied by local councils, there had been a decline in the number of court summonses, except in the cases where the councils had decided to increase their minimum council tax payment in the second year. The researchers conclude that this suggests a link between a council’s decision to increase the level of the minimum council tax payment and the household’s decreasing ability to pay as evidenced by increased recovery work required to the stage of court action.

If the Council runs a report on the number of CTR recipients required to pay the 15% charge who are subject to recovery action at the same time of the year as was done for CTR recipients required to pay the 5% charge in 2016/17 it may be possible to check whether the 15% charge is generating more recovery action than the 5% charge did (see the response to question 3 of the FOI in Annex A); but because the number of CTR recipients subject to the minimum charge is very small compared with the number of all CT payers, any change in the council’s overall collection rates is bound to be marginal.

Consequently a comparison of overall collection rates between 2016/17 and the current financial year will not provide a reliable indication of the extra costs involved in recovery action for the 15% charge. To provide an accurate statement of the net contribution of the 15% charge to the council’s CT this year will require an in-depth analysis of all the costs that the council has incurred in pursuing those residents affected by the charge who are unable to pay it. Without such an analysis the council will be unable to demonstrate the financial value of the charge to set against the anxiety and hardship that it is creating for those residents who are struggling to pay it.

Our objections to targeting the poorest residents in the borough

The council has recognised that some residents of working age who were previously entitled to full CTR should be regarded as “vulnerable” and be exempted from the minimum charge under the council’s scheme; but the only people who are regarded as vulnerable are those who are already receiving specific disability benefits. (For the full list see Annex B).

This does not mean that all disabled people of working age previously receiving full CTR will be exempt. Anyone who can show clear evidence of substantial mental or physical health problems but has not yet acquired one of these benefits will still have to pay. Even when residents are expecting a decision on a benefit that will confer exemption (such as Personal Independence Payment) the Council will not delay imposing the 15% charge before a final decision has been reached (as the seventh case summary In Annex C illustrates). Secondly the focus on disability premiums as a passport to exemption will need to be reviewed because some disability benefits previously linked to these premiums and therefore eligible for exemption no longer have these links. In particular claimants who are awarded ESA in the Work Related Activity Group will lose £29.05 a week previously added to the basic level of ESA and have no link to any disability

premiums. In our view residents receiving this benefit should continue to be exempt from any CT charge; so the criteria for exemption from the charge will have to be changed to cover them.

However the most serious omission in the criteria for exemption from the minimum charge is the failure to consider individuals' ability to pay it. For households who are dependent as their sole or main source of income on means tested DWP and HMRC benefits such as Universal Credit, Jobseekers Allowance, Employment and Support Allowance, and in many cases Child Tax Credits and Working Tax Credit, there is no provision within these benefit amounts to meet Council Tax costs. This is because these benefits, and benefit levels, were designed and set before Council Tax Benefit was devolved to local councils. When the benefit levels were set there was a separate Council Tax Benefit available to meet CT costs so that these costs would not have been included as a relevant cost of living to be met from means tested DWP and HMRC benefits.

Secondly following the General Election of 2015 the Government decided to freeze the level of welfare benefits until 2020 instead of providing for them to increase in line with inflation, and several recent studies have shown that the level of income provided by these benefits is not nearly sufficient to cover even basic living expenses. For example the report on [A Minimum Income Standard](#) for 2017 published by the Joseph Rowntree Foundation in July has calculated that a single person of working age needs an annual income of £17,700 to meet a minimum income standard, and a couple with two children need an annual income of £20,400 each. This standard is particularly relevant for consideration of the council's minimum 15% CT charge because although it excludes the cost of rent and childcare it includes the cost of 15% per cent of CT liability. On this basis the report finds that out-of-work benefits now provide only 36% of what single, working age people need to reach a minimum income standard, 50% of what lone parents with one child less than one year old need and 59% of what couples with two young children need. (For the details see Table 4 on page 9 of the report).

Consequently it is now virtually impossible for those who depend on out-of-work benefits to meet all their bills for day to day living expenses without falling into debt. In the experience of our clients this is not always because they have failed to budget for their expenses, but often simply because the money that they receive in benefits is not nearly enough to live on. To survive they have to juggle with unpalatable options: going without food or heating, seeking emergency grants from charities or, where possible, borrowing from friends.

Against this background the requirement to pay even an extra £3 or £4 a week for CT is a major concern. What may seem a small charge to most people, threatens to become yet another debt when you don't have enough money to live on. In previous reports to the council on the operation of the minimum CT charge evidence that the overall collection rate for CT has scarcely changed since the introduction of the charge has been taken to indicate that most households subject to the charge have managed to pay it without the need for recovery action; but this assessment ignores the fact that failure to pay CT becomes a priority debt with serious legal consequences if the debt is not paid. So we advise our clients to make sure that they pay their CT bills promptly even though this will mean that they will have to cut back even further on their daily living expenses and will have even greater difficulty paying off existing debts. Furthermore the council's determination to follow up any delay in payment with rapid resort to liability orders, court action and unsympathetic debt collectors causes clients fear, anxiety and desperation when they know

that they have not really got enough money to pay the charge on top of their basic living expenses.

There is no doubt therefore that the imposition of the minimum CT charge is now causing some of our clients serious financial hardship as well as risking damage to their health if they have to cut back on food or heating or face the stress of additional debt and possible court action. We refer briefly to examples of these clients in Annex C. In addition we have submitted several applications for our clients to the council for discretionary reduction of CT liability on grounds of hardship under Section 13(1)(A) (c) of the Local Government Act 1992; but more than five months later we have no evidence that any of these applications has even been considered, let alone decided upon.

Potential conflict with the council's homelessness policy

Some tenants dependent on benefits who are subject to the 15% minimum CT charge may already be struggling to pay off rent arrears. This can be a particular problem for those who are receiving HB at the rate of the Local Housing Allowance for private tenancies or have had their HB reduced because of the benefit cap and have been unable to make up the rest of the rent, so that mounting rent arrears may lead to their eviction. With the new requirements of the Homelessness Reduction Act 2017 for the council to take more responsibility to help tenants served with Section 21 notices to avoid becoming homeless, the imposition of the CT charge risks adding a further priority debt to the rent arrears, hampering council staff's efforts to rescue the tenancies and so adding to the council's eventual costs in dealing with homelessness.

The need to make provision for discretionary reduction of CT

Whatever rules are applied for CT there are likely to be cases of exceptional hardship not covered by the rules where liability to pay CT should be reduced or cancelled. This seems to be the purpose of the powers conferred on local authorities by Section 13(A)(1)(c) of the Local Government Act 1992. If our recommendations for changes to the council's CTR scheme are accepted it will not be necessary, as it has been in 2016/17 and this year, to apply for discretionary reduction of CT independently of the CTR scheme. However we understand that every local authority must make provision to implement the powers conferred on local authorities to exercise discretion under the 1992 Act, and we have noted that many local authorities advertise their Discretionary Council Tax Reduction schemes on their websites.

It is not clear whether Richmond Council has yet made any such provision. Although local authorities are expected to consider applications for discretionary reduction on grounds of hardship within eight weeks, the five month delay in deciding applications submitted for our clients casts doubt on whether the council has staff resources in place to consider these applications. Secondly it is clear from the response to the fourth question in our recent FOI (at Annex A) that there is currently no budget for discretionary Council Tax Reduction under the provisions of the 1992 Act.

OUR RECOMMENDATIONS

1. We do not accept that it is either necessary or fair to require residents who would previously have been entitled to 100% reduction of CT under the national scheme to pay a minimum CT charge as a minor contribution to offsetting reductions in the Council's funding from central government.

We therefore recommend that:

- the council examine the steps that neighbouring councils have taken to offset reductions in their RSG while maintaining 100% reduction of CT for their residents who would previously have been entitled to that level of benefit under the national scheme and
- restore 100% reduction of CT for 2018/19 for residents who would previously have been entitled to that level of benefit under the national scheme.

2. If however the council does not accept this recommendation we recommend that:

- the minimum CT charge should revert to 5% for 2018/19 and
- the criteria for exemption from the charge should be extended to include:
 - (a) all residents otherwise subject to the charge who provide clear medical evidence of long term illness or disability whether or not they are currently receiving a recognised disability benefit and
 - (b) all residents otherwise subject to the charge who are receiving one or more of the following means tested benefits as their sole source of income:
 - Jobseekers Allowance
 - Employment Support Allowance (with and without premiums)
 - Universal Credit- standard allowance
 - child amount
 - work capability amount
 - (c) all residents otherwise subject to the charge who are receiving Child Tax Credit and/or Working Tax Credit and have savings of less than £6,000.

3. We also recommend that:

The Council provide sufficient resources to implement effectively a scheme to consider and decide applications for discretionary reduction of CT liability on grounds of hardship under the provisions of Section 13(A)(1)(c) of the Local Government Act 1992.

ANNEX A

RESPONSE TO FOI REQUEST FOR INFORMATION ABOUT THE MINIMUM CT CHARGE

Email: foi@richmond.gov.uk

Our Ref: richmond21205

Re: Request for information under the Freedom of Information Act 2000

Your request for information which was received on 8th August has been considered.

Please find our response below.

Your request:

- 1. In the report to Cabinet dated 3 December 2015, the council estimated that the proposal to introduce a 5% minimum council tax charge for all non-exempted residents would raise an additional income of £100,000 for the council's share of council tax income in a full year. What was the actual additional income raised in 2016/17 for the council following the decision to introduce a 5% minimum charge for all non-exempt households?*
- 2. In the report to Cabinet dated 17 November 2016 it was stated that the collection rate for Council Tax measured prior to that report was within 0.04% of the 2015/16 figure. For the full year of 2016/17, what collection rate was achieved for the 5% council tax levy compared to the 2015/16 figure?*
- 3. In paragraph 4.4 of the report to Cabinet dated 17 November 2016, the table included in the text detailed the number of cases of recovery action involving all working age, non-vulnerable recipients of council tax reduction relief up to a certain point in time prior to the publication of the report. What are the up-dated figures for the number of cases of recovery action taken involving all working age, non-vulnerable recipients of council tax reduction relief as at the 31st of March 2017 for the whole of financial year 2016/17?*
- 4. How many applications has the council so far received for discretionary council tax relief on the grounds of hardship for 2017/18? How many of these applications have been decided and how many of these have been granted? What is the budget in 2017/18 for this discretionary assistance?*

Our response:

- Looking at the Council Tax Reduction (CTR) schemes that incorporated the 5% minimum charge, there was a drop of £602,000 in CTR awarded between 2015/16 and 2016/17. However, approximately £350,000 of this could be attributed to a 10% drop in number of claims for these schemes, leaving a £252,000 drop in comparable CTR awarded. The council's share is 83%, which is approximately £208,000. Although it is thought this can most likely be attributed to the 5% minimum charge, this cannot be totally confirmed without checking the 2,800 claims in the relevant CTR schemes for 2016/17, when s12 (please see Appendix 1 below) exemption would apply to this part of the FOI.
- Not known as firstly, we did not calculate the collection rate for just the 5% minimum levy in 2016/17 and also there wasn't a 5% scheme in 2015/16 to compare against.
- The figures for the report were obtained by running a report at the time, which gave up to date results. As this report was not run at the end of 2016/17, we do not have the figures for the complete financial year, as the report cannot be run retrospectively.
- The Council has received 11 Section 13a applications since April 2017 on the grounds of financial hardship, of which none have been granted to date. The budget for 2017/18 for discretionary assistance is zero.

ANNEX B

CRITERIA FOR EXEMPTION FROM THE CT MINIMUM 15 %CHARGE

The definition of **vulnerable** working age clients who are entitled to 100% maximum CTR taken from para.3(2)(c) of the Council's statement of its CTR policy on its website www.richmond.gov.uk:

"In this scheme a person who is "**treated as vulnerable**" is "**a person who is not a pensioner**" under part (2) (b) above and at least one of the following applies:

(i) his applicable amount includes any of the following under Part 6 and Schedule 3 of this scheme:

(aa) a Disability Premium

(bb) a Severe Disability Premium

(cc) an Enhanced Disability Premium

(dd) a Carer premium

(ee) a Disabled Child Premium; or

(ii) he qualifies for a Disabled Earnings Disregard under Schedule 7 of this scheme; or

(iii) his council tax is reduced under the Council Tax (Reductions for Disabilities) Regulations 1992;
or

(iv) he or his partner receives a War Disablement Pension or a War Widows Pension."

ANNEX C

Examples of hardship caused by the 15% minimum CT charge

The cases below concern clients helped by Citizens Advice Richmond between January and March 2017 who were notified of a 15% CT charge for 2017/18.

Client 1, aged 34, has 3 children aged between 7 and 11, and she was widowed in 2014 after looking after her husband who had cancer for 5 years. She was placed in her current housing association (RHP) accommodation by Richmond Council after the loss of her husband. Now subject to benefit cap and has to pay an extra £50pw towards rent. Additional extra £3.50pw towards 15% Council Tax causing extreme hardship.

Client 2 is a single parent with a child living at home in a housing association rented property. She has had a history of irregular work, including on zero hours contracts and depends on benefits such as job seekers allowance (JSA) and child benefit and child maintenance as her main sources of income. She has accrued a number of debts, such as rent arrears, utility arrears and council tax arrears which are being added to by the imposition of new Council Tax charges at the rate of 15% of the full Council Tax rate for her property while she is still dependent on JSA.

Client 3 is a 24 year old single man living in a housing association tenanted property who suffers from a number of learning and social - related disabilities. His only income is Job Seekers' Allowance (JSA) benefit against which a number of deductions have been made to pay back a Social Fund loan and previous CT arrears from when he was working. He has had difficulties managing his affairs, including his finances, partly because of his cognitive difficulties compounded by difficulties of dealing with other people. He has other debts on which he has sought our assistance. After current deductions, the client is left with just over £54 per week JSA to meet his living expenses, and the 15% Council Tax charge puts a further weekly financial burden of £5 on his budget.

Client 4 is a 57 year old woman, separated from her husband living alone in housing association accommodation. She was working as an intensive care nurse but is not working at present due to ill health and receives Statutory Sick Pay (SSP) and Universal Credit. She has credit card & other debts amounting to £8,491, excluding amounts borrowed from friends, and has no savings. She has a debt repayment plan for non-priority debts with Moneysure Plus of £22pm. She is currently struggling to survive on UC and is unable to pay £38pm extra towards Council Tax. She is relying on loans from friends and food-bank vouchers.

Client 5 is a 60 year old woman with long term mental health problems living in social housing and who has substantial priority debts. Although we have helped her to get a Debt Relief Order the 15% CT charge of £19.24 per month puts great pressure on her because she is on an extremely low income of £77.33 per week and still has to pay £4.38 a week for rent arrears. She simply does not have enough money left for basic essentials.

Client 6 is a 55 year old single woman living in social housing. Although rent and service charges are covered by Housing Benefit she struggles to make ends meet on JSA of £73.10 a week. In 2016/17 she had to pay the 5% CT charge.

In that year she managed to avoid falling into debt by making drastic economies in her living expenses, including:

- never using the central heating in her flat- bill for gas/electricity for 3 months Jan-March 2017 was £57
- restricting her expenditure on food/housekeeping to £25-30 a week so that in some weeks she had to apply for food bank vouchers because she had to use her JSA to pay other bills
- walking everywhere in the borough to avoid having to pay for public transport
- not buying any clothes or shoes
- doing without TV to avoid having to pay a TV licence
- using her mobile phone only in an emergency

However for 2017/18 she was faced with a 15% CT charge of £184.33 or £15.36 a month. This means that her monthly expenditure, including the 15% CT charge is now £11.63 more than her total monthly income. She will not be able to cope with this without falling into debt unless somehow she cuts back even further on her essential living expenses. Her health has deteriorated and as a result, she is now applying for ESA and PIP.

Client 7 is a 41 year old married man who has long term physical and mental health problems as a result of war injuries. He is virtually housebound and has extra heating costs. His wife cares for him full time. After struggling with refusals through the claiming process he was granted DLA and ESA on appeal, and because of his DLA was exempt from the CT minimum charge. However when the time came for him to be assessed for transfer from DLA to PIP he was not awarded PIP either for daily living activities or mobility. As a result his DLA payments stopped and his wife no longer received Care Allowance so that the couple struggled to manage on a severely reduced income.

We applied on his behalf for Mandatory Reconsideration(MR) of the PIP decision, and Council staff were aware of this. Nevertheless without waiting for the MR decision or considering our client's long history of substantial disability the Council sent him a bill for 15% CT for the rest of the financial year. This action was soon shown to be premature. The review of his disabilities at MR resulted in him being awarded a standard level of PIP for both daily living activities and mobility so that he is now once again exempt from the CT minimum charge.