



Independent Review of local council tax support schemes

Zacchaeus 2000 Trust's response

January 2016

Introduction

The Zacchaeus 2000 Trust (Z2K) is a London-wide, anti-poverty charity providing an in-depth advice service and long term support for people struggling on low incomes. This service primarily focuses on those facing debt as a result of: over and under-payments of Social Security benefits; benefit sanctions; unmanageable debt repayment arrangements; enforcement agents; utility bills; Council Tax liabilities; rent arrears; and other non-commercial debt-related matters.

Since the abolition of Council Tax Benefit in April 2013, Z2K has monitored the varying Council Tax Support (CTS) schemes that have been introduced in London and their impact on claimants. Our findings were published, jointly with the Child Poverty Action Group, in two reports - *A New Poll Tax?* (June 2014) and *Too Poor To Pay* (July 2015). These examine the CTS schemes established by London boroughs and analyse their impact on low income Londoners.

We have used this research as a basis for engaging with a number of London boroughs and individual councillors, working with them to improve their collection and enforcement practices and highlighting areas where their schemes could be improved. This submission is based on that research and engagement, as well as our ongoing work to support CTS claimants unable to pay their charges.

Although the terms of reference for this review cover a number of areas, our submission primarily focuses on the impact that localisation has had on CTS claimants. To help set the context, it outlines the wide variety of schemes in London to show the differing expectations on claimants in different parts of the capital, before detailing how these have affected claimants.

Alongside research by Citizens Advice Bureaux in York and Camden, we believe our reports provide the most accurate picture of the difficulties many claimants are experiencing. However, it is no substitute for a nationwide analysis of the impact on claimants and we are disappointed that the Government has so far failed to commission any such research to help inform this review.

The introduction of minimum payment schemes, which was prompted by the funding cut attached to the localisation of CTS, made hundreds of thousands of low income households liable for bills they didn't previously have to pay. Some of those households became liable for Council Tax for the first time. It also exposed these households to enforcement action if they were unable to meet this liability. We therefore think it is essential that this review examines local authority collection and enforcement practices and will be including our findings in this area.

Overview of London schemes

Even before the new regime came into effect, it was apparent that the abolition of Council Tax Benefit would lead to a 'postcode lottery', with a wide variance among the CTS schemes proposed by the 33 London boroughs. In part, this was caused by the Government's late announcement of £100 million "Transition Funding" while many boroughs were in the midst of formal consultations. This complicated local decision-making processes and almost half the funding ended up being unclaimed and returned to HM Treasury. We believe that more boroughs would have set lower minimum payments or even decided against charging altogether in 2013/14 if ministers had given proper notice of the Transition Fund.

In spite of this botched implementation, ten London boroughs decided to introduce schemes which either exactly replicated the old Council Tax Benefit system or only made some minor changes, but in all cases retained 100 per cent support. Most of those explained their decision either as being because they felt it inappropriate to tax households in such low incomes, or because they estimated that the level of revenue generated would barely exceed the costs of collection.

In common with the rest of England, however, the majority of London boroughs decided to adopt 'minimum payment' schemes, which required all claimants to make minimum contributions to towards their council tax, regardless of their financial circumstances. These minimum payments ranged from 5 per cent in Redbridge to 22.5 per cent in Harrow. In monetary terms, this meant £69.93 annually for a Band D property in Redbridge and £344 in Harrow. In 2014/15, Harrow raised its standard Minimum Payment to 30 per cent – nearly £450 a year.

Ten of the boroughs that introduced minimum payments included exemptions for 'vulnerable' groups, where they are entitled to 100 per cent support or a reduced minimum payment. The most commonly exempted groups are war widows and disabled claimants. Some authorities, including Croydon and Ealing, also exempt lone parents with children under the age of 5. Within those boroughs exempting disabled claimants there is further variance in which disability benefits qualify claimants for an exemption, with some using only the higher rate of DLA/PIP and other exempting all DLA/PIP and ESA claimants.

However, the variance between schemes is not limited to the existence, or level, of minimum payment and exemptions. Authorities have also chosen to change the taper rate, savings and capital limit and non-dependent deductions. Most boroughs have maintained the 20 per cent taper rate that was set in the national scheme, but four have increased that rate to 25 per cent (Waltham Forest, Lambeth, Sutton, Wandsworth) and two to 30 per cent (Harrow, Brent). The Local Government Finance Act 2012 requires CTS schemes to ensure that 'work pays', but higher taper rates act as disincentive to working or working more hours.

Eight authorities have chosen to lower the savings threshold. This can create a strange situation where someone with £6,000 to £16,000 in savings would be entitled to housing benefit and jobseeker's allowance, but be expected to pay the full rate of her/his council tax. This not only complicates administration, it can lead to overpayments which add to a claimant's financial burden.

How schemes have changed

In the three years since the establishment of CTS schemes there has been a consistent reduction to the support available in London. After the first year four local authorities (Harrow, Bromley, Waltham Forest and Bexley) increased their minimum payments, with most giving the withdrawal of the government's transition grant as the reason for the increase. For 2015/16 a further seven authorities (Barnet, Bexley, Barking and Dagenham, Ealing, Havering, Sutton and Waltham Forest) also increased their minimum payments.

Nine London local authorities are currently in the process of, or have recently finished, consulting on further cuts to their CTS schemes for 2016/17. These include eight (Bexley, Bromley, Ealing, Enfield, Hounslow, Wandsworth, Richmond and Redbridge) proposing to increase their minimum payments while Kingston are considering making other cuts. Some London authorities have increased their minimum payments year on year. In Bexley for example, it has gone from 5 per cent in 2013/14 to 10 per cent 2014/15 to 15 per cent in 2015/16, and now the administration there is proposing to increase it to 20 or 25 per cent for 2016/17.

The most common reason given by authorities for cutting CTS is that the government funding they receive for it has been cut further. This is because the funding authorities receive for CTS was rolled into their Revenue Support Grant from 2014/15, without being separately identified. This means authorities have no idea how much funding they receive for CTS. Many have therefore claimed that because their RSG has been cut by a certain percentage, the amount they receive for CTS has been reduced by the same amount. The government however does not agree with his assumption:

“We provided £3.7 billion for localised council tax support in 2013/14 and 2014/15, and will be providing the same amount in 2015/16.”¹

In order to provide clarity on this situation, we suggest that the review recommend that if localised CTS is to continue, funding for it should be separately identified and ring fenced.

This gives us cause for concern for the future of CTS. With local authorities facing further deep reductions to their budgets many see CTS as an easy cut to make, but where will they draw the line? The majority of councils who have amended their schemes appear to have conducted little or no analysis of the impact of their schemes, instead making decisions on a purely financial basis. Before taking a decision to amend a scheme, councils should examine the experience of previous years, using evidence on arrears rates, cost of collection, other impacts on claimants and comparison with other local schemes. However, our examination of consultation documents and cabinet/council papers show that such information is largely lacking.

In summer 2013, Z2K’s founder, Rev Paul Nicolson helped to challenge the validity of Haringey’s consultation prior to introducing a minimum payment of 19 per cent. The case was lost in the High Court and Court of Appeal but in October 2014, the Supreme Court² overturned these decisions, finding that Haringey’s consultation had failed to provide the necessary objectivity in omitting any alternative other than the proposed minimum payment. Whilst Haringey was not required to revise its scheme, the Supreme Court’s judgment sent a clear warning to local authorities about the information given to the public. Despite this, some consultations still fail to meet these basic requirements, while others publish misleading information on their scheme’s impacts.

Impact

The introduction of minimum payment schemes alongside other changes meant that, in London, 313,796 CTS claimants were charged more council tax in 2013/14 than they were under the old benefit.³ The total amount of council tax owed by these claimants was over £91.5 million. That equates to around 1 per cent of the budgets of London’s 33 authorities, although the impact is obviously felt more keenly in those boroughs with high numbers of claimants.

Our research has demonstrated that these council tax payments have placed a substantial burden on low income Londoners. For the vast majority of CTS claimants the minimum payment has to come out of benefits, which are supposed be the minimum necessary to live on. This means that hundreds of thousands of Londoners were placed in the almost impossible situation of trying to cut down their food, utility bills or other house essential costs in order to pay their council tax.

Unsurprisingly a significant number of claimants have been unable to pay these bills. Collection from CTS claimants is governed by the same rules as all council tax collection. In total, 220,231 court summons for non-payment of council tax were issued to CTS claimants in the first two years after “localisation”. In 2013/14, the issuing of 118,027 court summons meant that nearly 40 per cent of all those claimants paying more under the new CTS schemes were unable to meet the increased charges.⁴ Our experience supporting Londoners who have been unable to pay show the receipt of a court summons is an intimidating experience that can have a significant impact of on the physical and mental wellbeing of someone in a vulnerable situation.

¹ House of Lords, *Hansard*, 14 January 2015, col WA247

² R (Mosley) v LB Haringey, 2014

³ *A New Poll Tax?* 2014

⁴ *Ibid*

While summons issued in 2014/15 were still worryingly high at 102,204, this represented a decrease on 2013/14. There are a number of potential explanations for this drop. Perhaps most significantly the number of CTS claimants across London has fallen in line with the increase in employment. With fewer claimants there are fewer households at risk of being summonsed. However, in boroughs that have increased minimum payments, there is a different picture, as court summonses have dramatically increased and collection rates have fallen. For example, in Bexley the number of summons issued jumped from 2,084 in 2013/14 to 5,612 in 2014/15, in line with that authority's increase in the minimum payment from 5 to 10 per cent. This suggests a clear link between increasing the level of the minimum payment and claimants' ability to pay.

Enforcement

When a local authority issues a court summons it is entitled to charge costs to the claimant. These are usually described as "court" costs, but are really just the fee an authority determines it will charge. In London, the level of these costs range from £65 in Southwark to £125 in Harrow. In 2013/14 and 2014/15, 164,000 CTS claimants were charged over £18.5 million in court costs. In the context of the relatively small amounts of council tax being charged, the level of these costs serves to significantly increase the debt and make it even more difficult for the claimant to pay.

Most councils claim that direct deduction from benefits is their preferred means of enforcement from CTS claimants. However, the figures provided in response to our Freedom of Information requests reveal that, in practice, enforcement agents are used more frequently than deductions in London. Between April 2013 and March 2015, over 28,000 claimants were referred to enforcement agents by London boroughs, while in the same period, deductions from benefits were sought for only 24,000 claimants.

Z2K believes that enforcement agents are a totally unsuitable enforcement method for CTS claimants. A referral to an enforcement agent immediately adds £75 to the claimant's debt, quickly followed by a further £235 on the first visit. This simply inflates an already unpayable debt. But enforcement agents not only serve to increase the claimant's debts, they frequently act in an aggressive and intimidating manner which can cause serious emotional and mental distress. Despite new regulations the behaviour of enforcement agents had not improved. A recent nationwide survey of debt advisors that showed 75 per cent of respondents felt that enforcement agent behaviour had either not changed or had got worse.⁵ The Government has failed to take any action to dissuade local authorities from using enforcement agents to recover arrears from CTS claimants.

Best practice

There are however a number of authorities that recognise the impact that enforcement agents and the charging of court cost can have on claimants. Four London boroughs (Bexley, Brent, Islington and Southwark) now have a policy of not referring CTS claimants to enforcement agents, in addition Islington and Bexley do not charge court costs to claimants. These authorities clearly recognise the negative impact of enforcement agents on potentially vulnerable CTS claimants and instead utilise other means of enforcement. It is interesting to note that these authorities' collection rates are close to the London average. This shows that it is perfectly possible for authorities to refrain from enforcement agent use for CTS claimants without undermining their collection rate.

⁵ *Has enforcement agent behaviour improved since April 2014?* - Summary of adviser survey findings June 2015

Hardship funds

In an attempt to mitigate the impact of their minimum payments a number of authorities nationally have established council tax 'hardship funds' to provide extra support to those claimants having difficulty paying. There are now ten authorities in London with such funds, some of which were established in response to concerns about the impact of increasing their minimum payments. Unfortunately these funds are largely failing to provide support to those who need it.

In total, £1.4 million was allocated by these ten authorities for their hardship funds in 2014/15. However, only around £600,000 of this was actually awarded to claimants. These figures mask significant variations. In Waltham Forest for example, only four successful applicants were awarded a total of £1,658, out of a £150,000 budget, while in Southwark 368 applicants received £85,953. In Barnet, where a hardship fund was established in 2015/16 to mitigate the impact of its increased charges, only 6 awards were made in the first eight months of the year.

The performance of these London boroughs contrasts to that of Sheffield, which awarded £410,000 to 8,281 applicants in 2013/14. The fund's remaining £90,000 that year was rolled over and in 2014/15 the £590,000 fund was spent in full. This further illustrates the postcode lottery of localised CTS – some authorities proactively encourage CTS claimants to apply, while others simply use hardship funds as a fig leaf to increase charges. Those authorities with hardship funds must take meaningful action to ensure that those claimants who need this financial support actually receive it.

Capturing the impact

We are concerned that this review will not be provided with the necessary information from local authorities in order to capture the full impact of the policy. While conducting our research, a number of boroughs told us they were not collecting the data we requested. For example, Barking & Dagenham always tells us it does not hold any information on the number of CTS claimants summonsed, charged costs or referred to enforcement agents. Local authorities are required by the Local Government Finance Act to assess their schemes and take a decision whether to amend them on an annual basis. It is impossible to understand how these authorities are properly fulfilling this function if they lack basic information on the impact of their scheme. The nature of local democracy rarely allows such bad practice to be challenged. This review should recommend that the Department for Communities & Local Government should urgently issue guidance to local authorities to collect data on the impact of their CTS schemes.

Effectiveness & efficiency

In Z2K's opinion the rationale for Council Tax Benefit localisation was fundamentally flawed as it does not meet a need that varies significantly under different authorities. There is no reason why the same household might have a greater ability to meet their council tax liability in one part of the country compared to another.

Localisation therefore produced very limited scope for authorities to innovate or respond to particular local needs. Indeed, any room for innovation was greatly reduced by the 10 per cent funding cut, which meant authorities struggled to design schemes whose cost did not exceed their specified funding, rather than look for ways to innovate.

Localisation with the funding cut has led to a system in which small sums of money have to be collected from a large number of low income households struggling to pay. This is particularly inefficient, especially when the introduction of Universal Credit means CTS this will be separated from housing benefit administration.

Universal Credit

The stated purpose of Universal Credit is to simplify the benefits system and increase efficiency while strengthening work incentives. The localisation of CTS runs counter to those objectives. At present almost all CTS claimants also claim housing benefit. This makes the administration of CTS relatively straight forward for local authorities and claimant alike as it is usually passported when a household qualifies for housing benefit and thus it not always necessary to make a separate application for CTS. However when housing benefit is rolled into Universal Credit this will no longer be the case. CTS awards will have to be calculated separately by local authorities, creating a significant administrative burden that increases costs and reduces efficiency.

The continuation of localised CTS will also serve to weaken Universal Credit's work incentives by maintaining the problematic effect of combined taper rates, particularly so where local authorities have chosen to increase their own taper rate.

Z2K are therefore of the opinion that CTS should be included in UC, effectively meaning a return to a nationalised system of 100 per cent support. We recognise, however that this potentially creates a number of problems. If CTS is included in Universal Credit it would increase the award for most households, placing some above the threshold for the Household Benefit Cap. We would recommend therefore that if CTS were to be included in Universal Credit it should be excluded from the Benefit Cap.

Recommendations

The abolition of Council Tax Benefit has created a serious administrative and financial burden for local authorities. But it has been an even bigger disaster for many claimants. It has done little or nothing to improve work incentives for claimants, and in some places has led to their further erosion. Worse still, it has deepened poverty levels amongst many of those who are already vulnerable. The only group benefitting are enforcement agents who have seen an increasing number of referrals from authorities failing to distinguish between those who are refusing to pay their Council Tax and those who do not have the financial means to do so.

We are now seeing some authorities hike their minimum payments to eye-watering levels. For example, Kettering has recently agreed 45 per cent for 2016/17 – around £670 a year or £13 a week for a claimant in a Band D property. Such a sum represents nearly one-fifth of a claimant's Job Seekers Allowance or Employment Support Allowance. It is clearly not sustainable.

Z2K therefore believes that CTS should be reinstated as a national benefit providing up to 100 per cent support for those not in work, and that this can be achieved most effectively by including it within Universal Credit. This position is underpinned by our research that has found that the most effective and efficient way to protect low income households and maintain their minimum income level is to provide up to 100 per cent CTS.

However if CTS were to remain localised with the 10 per cent funding cut we would make the following recommendations:

- Funding for CTS should be ring fenced and separately identified, so that it cannot be syphoned off to subsidise other aspects of an authorities budget
- The Department for Communities & Local Government should urgently issue guidance to local authorities to collect data on the impact of their CTS schemes
- Ministers should also issue guidance to local authorities to refrain from using enforcement agents to recover debt from CTS claimants