

## Introduction

1. The Zacchaeus 2000 Trust (Z2K) is a London-wide anti-poverty charity that promotes the improvement of living conditions on the basis of economic and social justice through the provision of evidence-based policy alternatives to government, and by direct engagement with the lives of the poorest and most vulnerable.

## Council Tax Support

2. Since the abolition of Council Tax Benefit (CTB) in April 2013 Z2K has closely monitored the varying Council Tax Support (CTS) schemes that have been introduced in London and their impact on claimants. As part of this we have produced two joint reports with the Child Poverty Action Group, *A New Poll Tax?* (June 2014) and *Too Poor To Pay* (July 2015), which examine the CTS schemes established by London boroughs and how they have changed, as well as analysing their impact on low income Londoners.
3. We have used this research to encourage London boroughs to improve their collection and enforcement practices and improve their schemes. It is on the basis of this research and engagement, as well as our ongoing work to support individual CTS claimants unable to pay their charges, that this submission has been drafted.

## Overview of London schemes

4. In April 2013 it was apparent that the abolition of CTB had led to a 'postcode lottery', with a wide variance among the CTS schemes established by the 33 London local authorities. Ten authorities introduced schemes which in all cases retained 100 per cent support.
5. In common with the rest of England, the majority of authorities decided to adopt 'minimum payment' schemes, which required all claimants to make a minimum contribution towards their council tax. 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.
6. 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 common 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, while Lambeth is unique in exempting claimants affected by the overall benefit cap. Within those boroughs exempting disabled claimants there is further inconsistency in the disability benefits which qualify claimants for an exemption, with some using only the higher rate of DLA/PIP and others exempting all DLA/PIP and ESA claimants.
7. 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. The taper is the rate at which CTS is withdrawn as earnings increase. Most boroughs have maintained the 20 per cent rate that was set in the national scheme, but four have increased the taper 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.

8. In the three years since the establishment of CTS schemes there has been a further erosion in the support available in London. In 2014/15, four boroughs increased their minimum payments, with most giving the withdrawal of the Government's transition grant as the reason. For 2015/16, seven more increased their minimum payments. Nine London local authorities are currently consulting on further cuts to their CTS schemes for 2016/17.
9. The most common reason given for cutting CTS is that the Government funding they receive for it has been reduced. This is because the funding local authorities receive for CTS was rolled into their Revenue Support Grant from 2014/15, without being separately identified. Several have said therefore that because their RSG has been cut by a certain percentage the amount they receive for CTS has been reduced by the same amount. Ministers have, however, insisted that "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."<sup>1</sup>
10. Another reason being given for further reductions in CTS is the cuts to Tax Credits. Several authorities say that when families have their Tax Credits cut their income will go down and therefore they will be entitled to more CTS. In order to offset these increased costs, these authorities plan to reduce the support available under their CTS scheme. Kingston, for example, has mirrored the Tax Credit changes by proposing to increase the taper rate and cut the applicable amount for CTS claimants in recipient of Tax Credits, meaning those households will be hit twice.
11. These trends give us cause for serious concern for the future of CTS. With local authorities facing further deep reductions to their budgets many clearly see CTS as an easy cut to make. The majority of London boroughs that have amended their schemes appear to have conducted little or no analysis of their impact, instead making decisions on a purely financial basis. Before taking a decision to amend a scheme councils should surely 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 mostly lacking.

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<sup>1</sup> House of Lords, *Hansard*, 14 January 2015, col WA247

## Impact on Claimants

12. The introduction of minimum payment schemes alongside other changes meant that 313,796 CTS claimants in London were charged more council tax in 2013/14 than they were under the old benefit. The total amount of council tax owed by these claimants was over £91.5 million.
13. 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 already insufficient to provide for the basics of life, and in many cases have already been reduced by other welfare reforms. This means that hundreds of thousands of Londoners were placed in the impossible situation of trying to cut down their food, utility bills or other house essential costs in order to pay their council tax.
14. Unsurprisingly, a significant number of claimants have been unable to meet these payments. Collection from CTS claimants is governed by the same rules as all Council Tax Collection. If the claimant fails to pay an instalment, the local authority issues a reminder, if payment is not forthcoming within this period the household becomes liable for the full year's council tax bill. If this is not paid, the authority has the right to serve a court summons.
15. In total, 220,231 such court summons were issued to CTS claimants in the first two years since localisation. In 2013/14, nearly 40 per cent of all those claimants paying more under the new CTS schemes were unable to meet the increased charges. 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 severe impact of on the physical and mental wellbeing of someone in a vulnerable situation.
16. The number of summons issued in 2014/15 was still worryingly high. It is also notable that in boroughs that have increased minimum payments, court summonses have dramatically increased. For example, in Bexley the number of summons issued jumped from 2,084 in 213/14 to 5,612 in 2014/15, in line with its increase in the minimum payment 10 per cent. This suggests a clear link between increasing the level of the minimum payment and claimant's ability to pay.
17. When a local authority issues a court summons, it is entitled to charge court costs to the claimant. In London, the level of these costs range from £65 in Southwark to £125 in Harrow. Between 2013-15 164,000 CTS claimants in London were charged over £18.5 million in court costs. These costs serve to significantly increase the debt and make it even more difficult for the claimant to pay.
18. Once a local authority has obtained a liability order they are entitled to attempt to enforce the debt in a number of ways. If the claimant is in receipt of a DWP benefit they

can ask them to deduct the arrears directly from their benefits or if they are working they can apply for an Attachment of Earnings order. They can also engage enforcement agents to attempt to recover the debt, potentially by seizing goods to the value of the amount owed.

19. Almost all councils state that deduction from benefits is their preferred means of enforcement from CTS claimants, but the figures demonstrate that in practice enforcement agents are used more frequently. From 2013-15 over 28,000 claimants were referred to enforcement agent, while in the same period deductions from benefits were sought for only 24,000 claimants.
20. Z2K's view is that enforcement agents are a totally unsuitable enforcement method for CTS claimants. A referral to a bailiff immediately adds £75 to the claimant's debt, followed by a further £235 on the first visit. This simply serves to inflate an already unpayable debt. However, enforcement agents not only serve to increase the claimants debts, they frequently act in an aggressive and intimidating manner which can cause serious emotional and mental distress. Despite the new regulations the behaviour of enforcement agents had not improved. A recent nationwide survey of debt advisors revealed 75 per cent of respondents felt that enforcement agent behaviour relating to using threatening behaviour had either not changed or had got worse.
21. There are 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 bailiffs, 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 demonstrates that it is perfectly possible for authorities to refrain from bailiff use for CTS claimants without damaging their collection rate.

## **Hardship funds**

22. In an attempt to mitigate the impact of their minimum payment a number of authorities have established 'hardship funds' to provide extra support to those claimants having difficulty paying. There are ten authorities in London with such funds, several of which were established in response to concerns raised about the impact of increasing their minimum payments. Unfortunately these funds are largely failing to provide support to those who need it.
23. In total £1.4 million was allocated by these ten authorities for their hardship funds in 2014/15, however only £600,000 of this was awarded to claimants, despite the obvious need. These figures mask significant variation. In Waltham Forrest 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 six awards have been made so far this year.

24. The performance of London boroughs contrast to that of Sheffield, where in 2013/14 they awarded £410,000 to 8,281 claimants. The remaining £90,000 was rolled over and in 2014/15 the £590,000 fund was spent in full. This further underlines existence of CTS postcode lottery and the need for those authorities with funds to take serious steps to ensure that those who need the support receive it.

## **Independent Review**

25. Section 9 of the Local Government Finance Act 2012 requires that the Secretary of State make provision for an independent review of all CTS schemes made under the provisions of the Act. This review should consider their effectiveness, efficiency, fairness and transparency and their impact on the localism agenda, and make recommendations as to whether such schemes should be brought within universal credit. It is supposed to take place within three years after this Act comes into effect.
26. Following its inquiry into the abolition of Council Tax Benefit in early 2014, the Public Accounts Committee concluded that the Department for Communities & Local Government *“must set out a timetable and terms of reference for an independent review .... It must also establish and collect the information the review will need, both to answer the questions set by legislation and to assess the extent to which the department has met its policy objectives for this reform.”*
27. Despite saying that it agrees with this recommendation, the Government has so far failed to provide any meaningful information about the review. In response to Parliamentary Question in March 2015, all the Minister would say was that, *“The Department is currently working with the Council Tax Partnership Forum and local authorities to identify appropriate and proportionate data for the independent three-year review of the local council tax support policy. The timetable, coverage, process for data collection and detailed terms of reference for the review will be agreed and published in due course.”*<sup>2</sup>
28. We are extremely concerned by the Government’s refusal to make available the timetable and terms of reference for the review in a reasonable timescale. Given that the Act was granted Royal Assent on 31<sup>st</sup> October 2012, we believe minister should urgently make clear who will be conducting the review, what its terms of reference are and what is its timetable, including publication date. It is also essential that ministers clarify what data has been collected so far and what additional information is being sought so that those who wish to submit evidence have a reasonable period in which to collate it.

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<sup>2</sup> Hansard, House of Lords 09 March 2015 (HL5056)

29. We are also concerned that when the review does take place it will be unable to capture the full impact of the policy. While conducting the research for our reports we found that a number of authorities were not collecting the data we required. If authorities themselves are not aware of, and lack the data on, the impact of their schemes it is difficult to imagine how the review will be able to fully explore this impact.

#### Recommendations

- We hope the committee will challenge ministers over the delay in publishing the Terms of Reference of the independent review
- The Department for Communities & Local Government should urgently issue guidance to local authorities to collect data on the impact of their CTS schemes
- We hope the committee will recommend that local authorities refrain from using bailiffs to recover debt from CTS claimants

### Discretionary Housing Payments

30. Z2K's advisors have long utilised Discretionary Housing Payments (DHPs) to help tenants facing shortfalls between the rent they owe and the Housing Benefit they receive. While there was only a small pot of funding prior to 2010, our advisors had a good track record of securing a DHP award for the client. The awards didn't always fully cover the shortfall and they were rarely for the whole 12 month period. However, they usually provided a timely intervention to stop rent arrears accruing and tenants facing the prospect of possession proceedings and eviction.

31. While the total sum of DHP funding made available to local authorities has increased considerably since 2010 (£60 million in 2012/13<sup>3</sup>, £165 million in 2013/14<sup>4</sup>, £165 million in 2014/15<sup>5</sup> and £125 million in 2015/16<sup>6</sup>), the extent of the call upon it has also increased exponentially. In Parliamentary debates on the original cuts to Housing Benefit through the Local Housing Allowance (LHA) caps, Shared Accommodation Rate, Bedroom Tax and the Benefit Cap, ministers repeatedly argued that the increased budget for DHPs will support those households most severely affected. In our experience, that has simply not been the case.

32. Most of Z2K's experience of DHPs since 2010 has been in dealing with the City of Westminster as our *NextDoor* project was specifically designed to help those affected by the cuts within that area. Westminster was one of the big beneficiaries of DHP funding in 2012/13 receiving £3.748 million of the £40 million supposedly being made available nationally to help those affected by the LHA caps and the levels of shortfall would be amongst the highest too.

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<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/226436/s10-2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/226436/s10-2011.pdf)

<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/225800/s1-2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/225800/s1-2013.pdf)

<sup>5</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/275971/s1-2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275971/s1-2014.pdf)

<sup>6</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/423187/s1-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/423187/s1-2015.pdf)

33. In 2011, Z2K advisors were frequently successful in securing a DHP award for clients. However, once the Shared Accommodation Rate (SAR) changes began to come into effect in 2012, it became much harder to secure an award even for the most vulnerable clients. Westminster had begun applying a very rigid DHP policy which simply wasn't flexible enough to meet the varying circumstances of residents affected. Additionally, it transpired that Westminster was trying to use DHPs as a lever to persuade private landlords to reduce their rents - an aspiration of ministers, which had little prospect of success in a "high value" area. We believe that the combination of these factors led to Westminster's DHP being underspent in 2012/13.
34. In August 2012, DWP published a consultation paper on the DHP Guidance Manual.<sup>7</sup> Like many other advice agencies, Z2K responded to this consultation, highlighting the examples of poor practice and identifying areas where the manual could be strengthened.<sup>8</sup> Disappointingly, while a number of concerns raised by local authorities administering DHPs were addressed in DWP's response, few if any substantive changes were made. Even more frustratingly, the final version of the Guidance Manual was not published until April 2013, leaving authorities with little or no time to amend policies and practice before the Bedroom Tax and Benefit Cap came into effect.
35. Despite the uplift in its DHP funding in 2013/14 to £5.9 million, Z2K continued to experience difficulty securing awards from Westminster for our clients, particularly renewals of awards to LHA claimants and those affected by the Benefit Cap. In that year, Westminster published a policy on deciding DHP claims which institutionalised the kind of "conditionality" we had been witnessing. In particular, section 7 of the policy stated that:
- "We will normally treat any claimant receiving Job Seeker's Allowance as if they have the potential to move immediately into work. Therefore no DHP will be awarded from when the Benefit Cap applies." Furthermore, while "those not receiving JSA (i.e. claimants receiving Income Support, Incapacity Benefit or Employment Support Allowance) will be considered for immediate support from DHP .... Claimants will be expected to make a contribution of £20 per week from the total non-Housing Benefit income received".*
36. These policies were implemented in part through the use of Benefit Cap Action Plans & Agreements (BCAPAs). In January 2014, with evidence from numerous clients' BCAPAs, Z2K challenged Westminster's policy on the basis that the BCAPAs stemming from it

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<sup>7</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220463/discretionary-housing-payments-consultation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220463/discretionary-housing-payments-consultation.pdf)

<sup>8</sup> <http://z2k.org/2012/09/z2k-responds-to-dwps-consultation-on-the-discretionary-housing-payment-guidance-manual/>

were overly-demanding of claimants and unpredictable. The creation of these conditions appeared to be on an *ad hoc* basis; there being no document which limited their contents or sets out when a particular condition will be appropriate. Westminster's eventual response claimed that the conditions in its policy weren't really conditions, just suggestions that would be taken into account in deciding upon any future award.

37. Separately, Z2K intervened in the case of Hardy versus Sandwell Metropolitan Borough Council. Mr Hardy, a disabled resident, objected to Sandwell's decision to take his Disability Living Allowance into account in determining how much DHP it would award him to meet the shortfall in his Housing Benefit entitlement created by the Bedroom Tax. DLA is awarded to help disabled people with the additional costs of their disability. In a ground-breaking judgment the High Court found in Mr Hardy's favour, concluding that Sandwell had been both unlawful and discriminatory in including his DLA in its assessment of his income. Sandwell and many other local authorities have been required to review their policy as a result of this judgment.
38. In practice, the delayed roll-out of the Benefit Cap from August instead of April 2013, meant that there was less pressure on DHPs than anticipated and some authorities were able to substantially meet the shortfalls of many of those affected, thus saving them from falling immediately into rent arrears and facing homelessness. Westminster was one of several boroughs that actually under-spent its DHP budget and was allowed to roll funding over into 2014/15.
39. Even with this extra funding, the DHP pots across London appeared to be significantly oversubscribed in 2014/15. In Haringey and Tower Hamlets, the authority topped up the DHP pot, but few other boroughs did so. It also seemed that many authorities were prioritising applications from those social tenants affected by the "Bedroom Tax" or homeless households in temporary accommodation, rather than those who were simply tenants of private landlords. It is noteworthy that council tenants' rent arrears hit an authority's Housing Revenue Account, while those of homeless households hit the General Fund.
40. These trends have continued into 2015/16. In response to our Freedom of Information requests, London's boroughs have revealed that £8.5 million of the £21.8 million DHP funding spent supporting Benefit Cap claimants in 2014/15 went to homeless households in temporary accommodation, despite the proportion of those affected who were homeless being considerably below the 40 per cent figure this equates to. We believe that private tenants are less likely to know about DHPs and that those who do find it much harder to obtain an award. Interestingly, DWP's own research in late 2014

showed that nearly half of those affected by the Benefit Cap had not heard of DHPs at all.<sup>9</sup>

41. In September, Westminster revised its policy on deciding DHP awards again. In the report to Cabinet members authorising this change, officers explained that it:

*“has been triggered by the reduction to the funding central government provides to local authorities nationally. The formula central government applied to the distribution of funding has meant that local authorities in London lost more proportionally than elsewhere. This was because DHP funding to mitigate the consequences of the removal of the spare room subsidy (commonly known as the “Bedroom tax”) was ring-fenced, resulting in a greater cut to DHP funding for other welfare reforms: restricting Local Housing Allowance rates and the overall Benefit Cap.”*<sup>10</sup>

42. The main changes to the policy put a greater emphasis on successful claimants making some financial contribution to the rent shortfall; a reduction in the duration of a DHP award to assist a working household from 6 to 3 months; and limiting DHP awards to help with LHA reforms to exceptional cases only. These further restrictions were accompanied by a decision to top up Westminster’s DHP pot with £1.1 million. However, we are in no doubt that that the combined effect will be a further increase in the number of tenants falling into rent arrears, and facing eviction and homelessness.

43. The Chancellor confirmed in the recent Emergency Budget that DHP funding will be £800 million over the next five years. This breaks down as a budget of £150 million in 2016/17, rising to £185 million in 2017/18. While we welcome any increase in DHP funding, these sums are insufficient to support those currently affected by the current LHA cap, Bedroom Tax and £500 a week Benefit Cap, let alone the tens of thousands more who will be hit by the forthcoming lower Benefit Cap and LHA “freeze”.

Z2K is opposed to the cuts to Housing Benefit on a point of principle. We believe that low-income households should receive the Social Security benefits to which they are entitled, and not have them artificially restricted by a cap. However, it is clear that the current Government have no intention of doing away with these caps. Accepting that, our experiences with DHPs over the past five years lead us to make the following conclusions and recommendations:

- The level of Discretionary Housing Payment funding should be significantly increased beyond the levels currently promised by DWP

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<sup>9</sup> In-Depth interviews with people affected by the benefit cap (DWP, 2014)

<sup>10</sup> <http://committees.westminster.gov.uk/documents/s14926/Cabinet%20Member%20report.pdf>

- DWP needs to be much clearer with local authorities that tenants in the private rented sector have equal priority to a DHP as council and housing association tenants, and homeless households in temporary accommodation
- DWP should uprate the Housing Benefit subsidy regime for homeless households in temporary accommodation
- In-line with its Guidance Manual, DWP should take action to prohibit local authorities from placing conditions on DHP eligibility which fetter their discretion

## **Social Fund / Local Welfare Assistance**

44. Z2K opposed the abolition of the Discretionary Social Fund (DSF) and its replacement by local schemes. We were not only concerned that “localisation” would lead to the kind of cut in funding, which happened in 2013/14, but also that, at a time of deep cuts to their Revenue Support Grant, some local authorities would be unwilling or unable to ensure an appropriate level of support was made available to replace the DSF’s Community Care Grants and Crisis Loans. Of course, the DSF was always a cash-limited pot, but its purpose and role was properly understood.
45. Over the years, Z2K had helped many homeless people secure a Crisis Loan to pay a month’s rent in advance for the tenancy of a flat in the private rented sector. We also managed to help some of those who were rehoused apply for a Community Care Grant to help furnish the property. Accessing a Crisis Loan or Community Care Grant may have been difficult, but our advisors were only dealing with one centralised system and one set of rules. As an organisation offering support to homeless people across London, it is almost impossible to follow the never-ending changes in eligibility criteria in the Capital’s 32 boroughs since the introduction of Local Welfare Assistance. However, Z2K does try to do so, and we publicise these on our own website.<sup>11</sup>
46. Fortunately, Z2K’s *NextDoor* project has managed to develop a strong link with the council officers administering the LWA in the Tri-borough consortium – Hammersmith & Fulham, Kensington & Chelsea and Westminster. These boroughs have a disproportionate number of rough sleepers and others who are sofa surfing with friends.
47. Not all of these people will be seen as vulnerable and in priority need, but even though the boroughs don’t usually have a legal duty to them, officers recognise the value of helping them into settled accommodation and are supportive of our efforts to continue helping homeless people from those areas. The Postcode Lottery of schemes now in place elsewhere and uncertainty of funding from year to year makes it impossible to extend this much-needed service to single homeless people in other London boroughs.

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<sup>11</sup> : <http://z2k.org/free-help-advice/local-welfare-assistance-schemes/>

48. The hand to mouth existence of LWA in the past 18 months has made it extremely difficult even for good local authorities to properly plan its use. Local authorities were not been given any indication that the £172 million funding would end prior to this decision in early 2014. Last year's partial reprieve only resulted in £74 million being made available, and was not accompanied by any commitment to continue with it. Yet again, local authorities are planning their budgets for 2016/17 without knowing whether this funding will be continued.

49. Recommendations:

- If the Government is not minded to restore the nationally-administered system of Discretionary Social Fund Community Care Grants and Crisis Loans, we hope ministers will at least be persuaded to commit to restore funding back to 2013/14 levels / continue with the current level of LWA funding for the remainder of this Parliament.
- We hope the select committee will recommend that other local authorities utilise LWA funding to enable other Private Rented Sector Access Schemes to be established