

## Report of the Section 151 Officer

Council – 6 January, 2015

### ADOPTION OF THE COUNCIL TAX REDUCTION SCHEME

<b>Purpose:</b>	<ol style="list-style-type: none"><li>1. To explain the requirement to annually consider whether to revise or replace the Council's existing Council Tax Reduction Scheme and the requirement to adopt the scheme by 31 January 2015.</li><li>2. To adopt the Scheme as set out in Section 3 of the report from 2015/16.</li></ol>
<b>Policy Framework:</b>	None
<b>Reason for Decision:</b>	Statutory Requirement
<b>Consultation:</b>	Legal, Finance and Access to Services.
<b>Recommendation:</b>	<p>It is recommended that:</p> <ol style="list-style-type: none"><li>1. The making of the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 ("the Prescribed Requirements Regulations") by the National Assembly for Wales (NAfW) on 26 November 2013, as amended be noted.</li><li>2. The proposed amendments to "the Prescribed Requirements Regulations" contained in the draft Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) (Regulations) 2015, due to be considered and approved by NAfW on 20 January 2015 be noted</li><li>3. The outcome of the consultation exercise undertaken by the Council on the discretionary areas of the scheme be noted.</li><li>4. The Council adopt the scheme as set out in section 3 of this report and that any amendments to the Regulations made by NAfW are reflected in the scheme.</li></ol>
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## **1 Background**

- 1.1 Following the abolition of the national Council Tax Benefit scheme on 31 March 2013, responsibility for providing Council Tax support in Wales was devolved to the Welsh Government (WG) and is known as the Council Tax Reduction Scheme (CTRS).
- 1.2 The CTRS for 2013/14 was governed by the CTRS regulations approved by WG on 14 January 2013 which contained a sunset clause limiting their effect to 2013/14 only.
- 1.3 Subsequently on 26 November 2013 NAFW approved two sets of regulations. These regulations prescribe the main features of the schemes to be adopted in Wales from 2014/15 :-
  - The Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 (“the Default Scheme Regulations”)
  - The Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 (“the Prescribed Requirements Regulations”)
- 1.4 The new regulations contain an obligation that an authority must consider each financial year whether to revise its scheme or to replace it with another scheme. Any revision or replacement must be made no later than 31 January, preceding the financial year for which the revision or replacement scheme will take effect.
- 1.5 The Regulations presently in force do not contain any definition of “revisions” to schemes, nor do they make any distinction as to the possible categories of revision. For example, minor technical changes such as annual up-rating to mirror Housing Benefit up-rating or other changes required by legislation, to reflect consequential amendments to other state benefits, could be considered a revision, which in turn could invoke the requirements in the regulations relating to consultation and adoption of schemes.
- 1.6 Although there is a national scheme for Wales, within the Prescribed Requirements Regulations, there is limited discretion given to the Council to apply additional discretionary elements that are more generous than the national scheme. These are :-
  - The ability to increase the standard extended reduction period of 4 weeks given for example to persons who have ceased to receive

qualifying benefits after they return to work, where they have previously been receiving a Council Tax Reduction that is to end as a result of their return to work;

- Discretion to increase the amount of War Disablement Pensions and War Widows and War Widowers Pensions which is to be disregarded when calculating income of the claimant; and
- The ability to backdate applications for Council Tax Reduction for periods longer than the new standard period of three months before the claim is made.

1.7 The Council adopted a CTRS for 2014/15 on 21 January 2014. It is a requirement of the Prescribed Requirements Regulations that the Council adopts a CTRS by 31 January 2015, regardless of whether it applies any of the discretionary elements set out in paragraph 1.6 above. If the Council fails to make a scheme, then a default scheme shall apply under the provisions of the Default Scheme Regulations. The Council can only apply discretion if it makes its own scheme under the Prescribed Requirements Regulations.

1.8 An amending set of regulations was laid before the NAFW on 11 December 2014, to up rate financial figures used to assess CTR entitlement, in line with the cost of living increases. Unfortunately the calculation of these figures was dependant on the Chancellor's Autumn statement which was announced on 3 December 2014 and also on a set of up rating figures used by the Department of Works and Pensions (DWP). The amending set of regulations also incorporate additional amendments to reflect consequential changes, related to social security benefits and other minor technical changes. Due to the Assembly's procedures which govern the making of the regulations, the amendment regulations are not due to be approved by the Assembly until 20 January 2015. The Council must however take account of the "Amendment Regulations" (The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2015)<sup>1</sup> when adopting the scheme.

<sup>1</sup> These can be accessed at - <http://www.assembly.wales/en/bus-home/Pages/Plenary.aspx?category=Laid%20Document>

## **2 Consultation**

2.1 A consultation exercise on the draft scheme was conducted over the period 12 November 2014 to 11 December 2014 and advertised in a press release. An on-line survey form was placed on the Council website and consultation forms were available at the Contact Centre, District Housing Offices and libraries. Information was also sent to members, precepting authorities and various third sector agencies.

## 2.2 Summary of Responses

- a) A total of 15 responses were received. 5 were completed on line and 10 written responses received.
- b) 14 responses were completed by individuals with 1 indicating they were completing on behalf of an organisation.

## 2.3 Responses to the Three Discretionary Areas

### **I. Ability to Increase the standard Extended Payment Period of 4 weeks.**

Question 1 on the consultation form:		
Discretionary element	Proposal	Responses
The ability to increase the standard extended payment period of 4 weeks given to people after they return to work when they have been in receipt of a relevant qualifying benefit for at least 26 weeks.	The Council proposes that the existing 4 week standard extended payment should remain unaltered. Do you think this is reasonable?	15 responses. 10 said it was reasonable, 2 said it was not. 3 said "don't know".
	If you indicated no to the above, please outline what you consider the period should be?	Of the 2 who thought it was not reasonable, 1 opted for a period of 6 weeks and 1 for 8 weeks

### **II. Discretion to increase the amount of War Disablement and War and War Widows Pensions which will be disregarded when calculating income.**

Question 2 on the consultation form:		
Discretionary element	Proposal	Responses
Discretion to disregard part or the whole amount of War Disablement Pensions and War Widows Pensions when calculating income.	The Council proposes to continue to disregard all of this income, as it is currently disregarded for Council Tax Reduction. Do you think this is reasonable?	15 responses. 9 said it was reasonable, 1 said it was not. 5 answered "don't know"

### **III. Ability to backdate the application of Council Tax Reduction Awards for more than the standard period of 3 months prior to the claim.**

<b>Question 3 on the consultation form:</b>		
<b>Discretionary element</b>	<b>Proposal</b>	<b>Responses</b>
The ability to back date the application of Council Tax Reduction awards for customers for more than the standard period of 3 months prior to the claim.	The Council proposes to keep the maximum back date available to the 3 month statutory period. Do you think this is reasonable?	<i>15 responses.</i>  <i>9 said it was reasonable,</i>  <i>6 said it was not.</i>  <i>0 answered "don't know"</i>
	If not, what period do you think is reasonable?	<i>Of the 6 who thought it was not reasonable, 1 opted for a period 6 months, 4 for 12 months and 1 did not offer a suggestion and indicated they would need more information before doing so.</i>

### **3 Adoption of the Council Tax Reduction Scheme**

- 3.1 The Council is required to adopt a scheme by 31 January 2015 under the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 as amended, regardless whether it chooses to apply any of the discretionary elements. If the Council fails to make a scheme then a default scheme will apply under the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 (as amended).
- 3.2 As explained in 1.8 above, each year WG needs to amend the CTRS 2013 Regulations to ensure that the assessment calculation for Council Tax Reduction recipients is up-rated in line with Housing Benefit. The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) (Regulations) 2015 were laid on 11 December 2014. As well as the up-rating provisions, these "Amendment Regulations" incorporate additional amendments to reflect consequential changes relating to social security benefits and other technical changes which include:-
- Removing the requirement for Local Authorities to publish a draft scheme and consult interested persons where a Billing Authority revises a scheme in consequence of amendments made to the Prescribed Requirement Regulations. The effect of this amendment is to remove the requirement for Local Authorities to consult in relation to changes made by Welsh Ministers where

authorities have no discretion (as opposed to the discretionary areas of the scheme outlined in 1.6).

- Minor amendments to reflect the introduction of Shared Parental Leave and statutory shared parental pay which replaces additional paternity leave and additional statutory paternity pay from 5 April 2015. Transitional provisions are also provided for those in receipt of paternity pay on 1 April 2015.
- An amendment is included which mirrors changes made to Housing Benefit Regulations to remove automatic entitlement to a Council Tax Reduction for European Economic Area (EEA) jobseekers, who are currently eligible by virtue of being in receipt of income based Jobseeker's Allowance (JSA(IB)). Amendments in the Uprating Regulations remove access to CTRS for EEA jobseekers, however this only applies to those who make a new application for CTRS on or after 1 April 2015 or who cease to be entitled to income based JSA for a period after this date, for example if they enter into temporary employment.
- Minor consequential amendments in relation to definitions around Employment and Support Allowance and references to Universal Credit. Income related Employment and Support Allowance no longer consists of separate contributory and income related allowances, but only of a contributory allowance known as the 'employment and support allowance'. Amendments are also made to insert references to Universal Credit into the 2013 Regulations where there are already references to other income-related benefits.

3.3 It is recommended that the Council adopts a Scheme from 2015/16 under "the Prescribed Requirements Regulations", and any amendments made to those regulations by the "Amendment Regulations, to include all the elements that must be included in the scheme and those discretionary elements set out in the table at Paragraph 3.6 below.

3.4 Part 5 of the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 (Other matters that must be included in an authority's scheme) identifies which elements of the prescribed requirements of a scheme are minimum only requirements and in respect of which local authorities have an element of discretion.

3.5 Taking account of :

- the consultation responses received relating to the discretionary elements (shown in 2.3 above),
- the current local scheme in relation to the treatment of War Disablement Pensions, War Widows Pensions and War Widowers Pensions for Housing Benefit, which disregards these payments in full,
- the fixed funding available,

The recommendations in relation to the available discretionary elements are as follows in the table below:-

<b><u>Discretionary Elements</u></b> <b>Part 5 - Other Matters that must be included in an authority's scheme</b>	<b>Prescribed Requirement Regulations</b> <b>(Minimum Requirements)</b>	<b>Recommended Details to be Adopted with regard to Discretionary Elements</b>
<p>Ability to increase the standard extended reduction period of 4 weeks given to applicants where they have previously been receiving a Council Tax Reduction that is to end, as they have ceased receiving qualifying benefits as a result of returning to work, increasing their hours of work, or receiving increased earnings.</p> <p><i>Regulation 32 (3) and Regulation 33 (3), para (33) Schedule 1 and para (35) and (40) Schedule 6.</i></p>	4 Weeks	<p><u>Pensioners</u>: The 4 weeks period specified in para (33) Schedule 1 will apply, and</p> <p><u>Non- Pensioners</u>: The 4 weeks period specified in para (35) and (40) Schedule 6 will apply,</p>
<p>Ability to backdate applications of CTR for periods longer than the standard period of 3 months before the claim is made.</p> <p><i>Regulation 34 (4) and Paragraph (3) and (4) of Schedule 13.</i></p>	3 Months	<p><u>Pensioners</u>: The period of 3 months specified in para (3) Schedule 13 will apply,</p> <p><u>Non-Pensioners</u>: The period of 3 months specified in para (4), Schedule 13 will apply,</p>
<p>Ability to disregard more than the statutory weekly £10 of income received in respect of War Disablement Pensions and War Widows Pensions and War Widowers Pensions (disregarded when calculating income of the applicant);</p> <p><i>Regulation 34 (5), Paragraphs 1(a) and 1(b) Schedule 4 and Paragraphs 20(a) and 20(b) of Schedule 9</i></p>	£10	<p><u>Pensioners</u>: The total value of any pension specified in para 1(a) and 1(b) Schedule 4 will be disregarded.</p> <p><u>Non-Pensioners</u>: The total value of any pension specified in para 20(a) and 20(b) Schedule 9 will be disregarded.</p>

#### **4. Equality and Engagement Implications**

- 4.1 The WG undertook a comprehensive regulatory impact assessment in respect of the national Council Tax Reduction Scheme regulations, in November 2013.

- 4.2 The Council has undertaken a consultation exercise which assists the Council in satisfying the public sector equality duty in the Equality Act.
- 4.3 A local equality impact assessment (EIA) was carried out by the Council in January 2014, for the 2014/15 scheme and is contained in Appendix 1. As there are no changes to the discretionary areas in the proposed Amendment Regulations, the current year's EIA has been reviewed (with the action plan's progress updated) and no changes to the EIA report are required.
- 4.4 It should be noted that in terms of equality impact there are no significant changes in the scheme recommended from 2015/16 compared to 2013/2014 and 2014/15. As this is a national scheme the Council cannot vary the provisions other than those detailed in 1.6 above. The Revenues and Benefits Take-up Team will continue in its efforts to provide advice to maximise benefit income and signpost and fast-track to the appropriate agencies where appropriate.

## 5. Financial Implications

- 5.1 Welsh local authorities receive a fixed sum provision from WG for the CTRS. This is fundamentally different to the funding received from DWP, for the former Council Tax Benefit scheme, which was demand led and almost fully funded on a pound for pound basis. Any changes that affect the amount of CTR to be paid, for example due to Council Tax increases, increases in customers' CTR entitlement or increases in the number of customers actually claiming CTR, exposes the Council to financial risk, as the shortfall between the amount of CTR paid out and the funding received from WG, result in authorities having to bear the additional cost.
- 5.2 The table below shows the number of current CTR recipients in Swansea, the latest estimate of CTR paid for 2014/15 and the latest estimated shortfall of £714k which has to be met by the Council.

<b>Current CTR Recipients</b>	<b>Current CTR Recipients who receive 100% CTR</b>	<b>Latest estimate of CTR to be paid in 2014/15</b>	<b>Fixed Funding Received from WG for 2014/15</b>	<b>Shortfall between funding and CTR paid to recipients.</b>
25,511	19,616	£19,597,429	£18,882,992	£714,437

- 5.3 The actual amount of CTR funding for distribution in 2015/16 in Wales is detailed in the final settlement made on 10th December 2014. The funding available for the whole of Wales was £244M with this Council's provisional allocation being £18,981M. (an increase of £98k compared to the allocated sum for 2014/15)



- 5.4 The table in 5.2 shows the estimated shortfall between CTR paid out and the fixed funding received from WG for 2014/15.
- 5.5 For every 1% increase in Council Tax levels in 2015/16, the yield will be reduced by an estimated £195,974 to reflect the cost of the CTRS.

## **6. Legal Implications**

The Council is obliged to make a Council Tax Reduction Scheme under the Prescribed Requirements Regulations as amended by 31 January 2015. Although the legislation provides for a default scheme to apply in the absence of the Council making a scheme, the Council is nevertheless under a statutory duty to adopt its own scheme, even if it chooses not to apply any of the discretionary elements.

Section 149 of the Equality Act 2010 requires Local Authorities to have “due regard” to their public sector equality duties when exercising their functions. That includes the need to remove or minimise disadvantages suffered by reason of age, race, or disability or other protected characteristics which the rest of the population may not suffer from. There are no other legal implications other than those already highlighted in this report.

**Background Papers:**  
Equality Impact Assessment

**Appendices:**  
None