

Report of the Section 151 Officer

Council – 28 January 2016

ADOPTION OF THE COUNCIL TAX REDUCTION SCHEME

Purpose:	<ol style="list-style-type: none">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 either adopt a new scheme or re-adopt the existing scheme by 31 January 2016.2. To re-adopt the current scheme as set out in Section 3 of the report from 2016/17.
Policy Framework:	None
Reason for Decision:	Statutory Requirement
Consultation:	Consultation exercise undertaken on the current scheme in December 2014, Legal, Finance and Access to Services.
Recommendation:	<p>It is recommended that:</p> <ol style="list-style-type: none">1. 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.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 2016, due to be considered and approved by NAfW on 20 January 2016 be noted.3. The outcome of the consultation exercise undertaken by the Council in December 2014 on the discretionary areas of the current scheme be noted.4. The current scheme (2015/16) in relation to the discretionary areas (as set out in section 3) remain unchanged for 2016/17.

5. The Council adopts 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.

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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 is governed by 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”) as amended.
- The Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 (“the Prescribed Requirements Regulations”) as amended.

1.3 The 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.

1.4 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.

1.5 The Council adopted a CTRS for 2015/16 on 6 January 2015. It is a requirement of the Prescribed Requirements Regulations that the Council adopts a CTRS by 31 January 2016, regardless of whether it applies any of the discretionary elements set out in paragraph 1.4 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.

1.6 An amending set of regulations was laid before the NAFW on 1 December 2015, 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 25 November 2015 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 technical and consequential amendments, which are related to the Social Services and Wellbeing Act 2014, the National Insurance Contributions Act 2015, and the Pensions Act 2014. 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 19 January 2016. The Council must however take account of the "Amendment Regulations" (The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016)¹ when adopting the scheme.

¹ These can be accessed at

<http://www.assembly.wales/Laid Documents/SUB-LD10462/SUB-LD10462-e.pdf>

<http://www.assembly.wales/Laid Documents/SUB-LD10462-EM/SUB-LD10462-EM-e.pdf>

2 Consultation

2.1 A consultation exercise on the current 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. A

summary of the responses to this consultation can be found in Appendix 1.

- 2.2 The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2015, approved by NAFW 20 January 2015, included a change which removed 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 1.4).
- 2.3 As this report contains a recommendation that the current scheme is not replaced or changed for 2016/2017, other than to include amendments contained in the “Amendment Regulations” (explained in 1.6 above), there is no requirement for the Council to consult, as authorities have no discretion in relation to these amendments.

3 Adoption of the Council Tax Reduction Scheme

- 3.1 The Council is required to adopt a scheme by 31 January 2016 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 1.6 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 mostly in line with Housing Benefit. The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016 were laid on 1 December 2015. As well as the up-rating provisions, these “Amendment Regulations” incorporate additional amendments as follows:-
- to reflect consequential changes reflecting the new arrangements in relation to care and support needs, which have been introduced in Wales by the Social Services and Well-being (Wales) Act 2014,
 - to take into account terminology changes used in legislation as a consequence to the National Insurance Contributions Act 2015,

- to take account of new arrangements and terminology introduced via the Pensions Act 2014.

3.3 It is recommended that the Council adopts a Scheme for 2016/17 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 3.5 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 for the current local scheme, (see Appendix 1) relating to the discretionary elements, noting that no changes have been proposed for 2016/17.
- 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:-

<u>Discretionary Elements</u> Part 5 - Other Matters that must be included in an authority’s scheme	Prescribed Requirement Regulations (Minimum Requirements)	Recommended Details to be Adopted with regard to Discretionary Elements
<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</i></p>	<p>4 Weeks</p>	<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>

<i>(40) Schedule 6.</i>		
<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 previously undertaken a consultation exercise in relation to the discretionary areas, 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 were no changes to the discretionary elements in the Amendment Regulations, for the 2015/16 scheme, the EIA was reviewed (with the action plan's progress updated). Likewise as the proposed Amendment Regulations for 2016/17 scheme, do not contain any changes to the discretionary elements the EIA has been reviewed again (with the action plan's progress updated further) 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 2016/17 compared to 2015/16. As this is a national scheme the Council cannot vary the provisions other than those discretionary areas detailed in 1.4 above, which are proposed to remain the same as exist in the current (2015/2016) local scheme. 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 2015/16 and the latest estimated shortfall of £776k which has to be met by the Council.

Current CTR Recipients	Current CTR Recipients who receive 100% CTR	Latest estimate of CTR to be paid in 2014/15	Fixed Funding Received from WG for 2014/15	Shortfall between funding and CTR paid to recipients.
24,611	18,779	£19.757M	£18.981M	£776K

5.3 The actual amount of CTR funding for distribution in 2016/17 in Wales is detailed in the final settlement made on 9th December 2015. The funding available for the whole of Wales was £244M with this Council's provisional allocation being £18.984M.

5.4 The table in 5.2 shows the estimated shortfall between CTR paid out and the fixed funding received from WG for 2015/16.

5.5 For every 1% increase in Council Tax levels in 2016/17, the yield will be reduced by an estimated £197,574 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 2016. 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: Appendix 1: Summary of the responses to the CTRS consultation undertaken in November/December 2014.