

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 22 November 2021</b>
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Council Tax Reduction Scheme
Purpose of Report:	To confirm the re-adoption of the Council Tax Reduction National Scheme for 2022/2023 based on regulations and to reconfirm the Council's discretions.
Report Owner:	Leader and Cabinet Member for Performance and Resources
Responsible Officer:	Carys Lord - Head of Finance / Section 151 Officer
Elected Member and Officer Consultation:	No Elected Members have been consulted. Operational Manager, Exchequer Benefits and Payments, Manager Operational Manager, Accountancy
Policy Framework:	This is a matter for executive decision by Council
Executive Summary:	<ul style="list-style-type: none"> <li>The report sets out the limited discretions available to the Council for consideration when re-adopting the Council Tax Reduction National Scheme for 2022/2023.</li> <li>The report proposes that Cabinet recommends to Full Council the re-adoption of the Council Tax Reduction National Scheme for 2022/2023 together with the limited discretions available to the Council.</li> </ul>

## **Recommendations**

1. That Cabinet recommends to Full Council that the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations SI 2013/3029 (“the Prescribed Requirements Regulations”) and the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2014 SI 2014/66 be adopted.
2. That any amendments to Regulations made by the Welsh Government are reflected in the scheme.
3. That the national scheme is adopted with the following discretions: -
  - That the Council should continue to allow Extended Payments up to a maximum of 4 weeks.
  - That the Council should continue to disregard War Widow and War Disablement pensions in assessing income for Council Tax Reduction.
  - That the Council should continue to allow Backdated Reductions for a period up to 26 weeks.
4. That Cabinet approves the use of the Urgent Decision Procedure set out in Section 14:14 of the Council's Constitution in order to enable the Council Tax Reduction Scheme to be approved by Council by 31 January 2022 and be in place for implementation from 1 April 2022.

## **Reason for Recommendations**

**1-4** To enable the Council Tax Reduction Scheme to be approved by Council by 31 January 2022 and be in place for implementation from 1 April 2022.

### **1. Background**

- 1.1** As part of the UK Government's Welfare Reform Agenda, with the enactment of the Welfare Reform Act 2012, the Council Tax Benefit scheme was abolished with effect from 31 March 2013. The Local Government Finance Act 2012 enabled the Welsh Government to make regulations to establish a Council Tax Reduction Scheme in Wales. From 1st April 2013, a new scheme called Council Tax Reduction was introduced. The Welsh Government's Council Tax Reduction Scheme ended on the 31st March 2014. For 2014/15 and subsequent years the Welsh Government made new regulations which replicate the existing 2013/14 regulations on which the national Council Tax Reduction Scheme was based. It is recommended that the Council confirms each year its adoption of the scheme and discretions. There are two sets of regulations governing the scheme.
- The Council Tax Reduction Schemes (Default Schemes) (Wales) Regulations SI 2012/3145, which establish a single national framework scheme which would be imposed on any council that fails to adopt its own scheme;

- The Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations SI 2013/3209, which set out the national requirements that each billing authority must satisfy and also enable additional areas of local discretion that authorities might wish to implement.

**1.2** The Welsh Government will amend regulations to uprate the financial figures in line with inflation. These will be based on the DWP's Benefit uprating's. The scheme will need to take account of these, and any subsequent Regulations made by the Welsh Government following the adoption of the local scheme.

## **2. Key Issues for Consideration**

**2.1** Welsh local authorities have until 31st January each year to adopt a scheme exercising any of the discretions permitted under the Prescribed Requirements Regulations. This requires a decision by full Council. If the authorities fail to adopt a Council Tax Reduction Scheme by that date the default scheme will apply. With regard to the areas of discretion under the "Prescribed Requirements" Regulations, the local authorities will only be able to implement discretionary elements that are more generous than the minimum requirements set out in the regulations, and that any flexibility is to be locally funded.

**2.2** The discretionary elements outlined in the "Prescribed Requirements" regulations are -

- The ability to increase the standard extended reduction period of 4 weeks given to persons after they return to work where they have previously been receiving a council tax reduction that is to end because of their return to work;
- Discretion to disregard part or the whole amount of War Disablement Pensions and War Widow's Pensions when calculating income; and
- The ability to backdate the application of Council Tax Reduction regarding late claims prior to the standard period of three months before the claim.

**2.3** In relation to the discretions, the position is as follows -

### **Extended Reduction Period (Extended Payments)**

**2.4** In the year 2020/21 the expenditure on extended payments was £673.30 and as at the 18th October 2021 for 2021/22 £689.98 has been paid to assist customers. The full year estimate is £1,500.

**2.5** In prescribed circumstances, an award of Council Tax Reduction will be extended for a period of up to 4 weeks where entitlement to certain qualifying benefits ends due to -

- starting employment either employed or self-employed, or
- a claimant increasing working hours to 16 hours or more, or
- a partner increasing working hours to 24 hours or more, or

- Increasing earnings to an amount that ends entitlement to Income Support/Job Seekers Allowance (Income Based)/Employment Support Allowance (Income Related) or (Income Based)/Severe Disablement Allowance / Employment Support Allowance (Contribution Based).
- 2.6** The aim is to help incentivise long-term unemployed, sick or disabled people to take up work, earn more income or work more hours.
- 2.7** To qualify for extended payments -
- The claimant must expect their job or increased hours to last at least 5 weeks.
  - The claimant or their partner has been entitled to Employment and Support Allowance – Income Related (ESA (IR)), Jobseekers Allowance – Income Based (JSA (IB)), Jobseekers Allowance – Contribution Based (JSA (C)) or Income Support continuously for at least 26 weeks (or any combination of these).
  - Immediately prior to starting work the customer or partner must have been on ESA (IR), JSA (IB) or Income Support
- 2.8** They may also qualify if the claimant or partner has been entitled to Employment and Support Allowance (Contribution based), Incapacity Benefit or Severe Disablement Allowance and again their job or increased hours is expected to last for 5 weeks or more and they have been entitled to the above benefit continuously for 26 weeks.
- 2.9** In both cases their benefit must cease due to the result of them starting work or increasing their hours.

#### **War Widows and War Disablement Pensions**

- 2.10** The council currently disregards the whole amount of War Widow and War Disablement pensions when calculating income for Housing Benefit and the Council Tax Reduction Scheme. In the year 2020/21 expenditure was £6,329.92 and at the 18th October 2021 for 2021/22 is £8,432.17 has been paid as a result of disregarding War Widow and War Disablement pensions to assist customers. This is also the full year estimate.

#### **Backdated Council Tax Reduction**

- 2.11** In the year 2020/21 expenditure was £7,170.58 and as at the 18th October 2021 for 2021/22 £13,439.02 has been paid as a result backdating claims to assist customers. The full year estimate is £25,000
- 2.12** The current rules for backdating of a working age customer are -
- The claimant must make a request in writing,
  - The customer must show continuous good cause for his or her failure to make an earlier claim,
  - The claim cannot be backdated more than 6 months before the date of the written request

**2.13** 'Good cause' has been explained by tribunals and courts. The main principles are that 'it includes any fact that would have probably caused a reasonable person to act as the claimant did', but they are expected to take reasonable steps to ascertain what their rights may be

**2.14** Case Law establishes that good cause normally falls into four categories -

- The claimant was so ill (physically or mentally) or otherwise unable to act that they could not claim and could not ask someone to do it for them.
- Someone the claimant should have been able to rely on (such as the Local Authority, the DWP, an advice agency and possibly others) advised them they could not get HB/CTR when in fact they could.
- There were good reasons for the claimant not believing they could claim, amounting to more than just not thinking or caring.
- Some external factor prevented the claimant from making a claim (e.g. failure of the postal service, imprisonment).

#### **Proposals - Extended Payments**

**2.15** It is proposed that the Council should continue to allow extended payments up to a maximum of 4 weeks for the Council Tax Reduction Scheme in 2022/23 because this incentivises people to work or take on extra hours of work and any claimant moving into employment is likely to receive their first payment from their new employer within this timescale.

#### **Proposals - War Pensions Disregard**

**2.16** It is proposed that the council should continue to disregard War Widow and War Disablement pensions in assessing income for Council Tax Reduction in 2022/23.

#### **Proposals - Backdated Awards**

**2.17** It is proposed that the council should continue to allow backdated awards for the Council Tax Reduction Scheme in 2022/23 for a period up to 26 weeks. It would be difficult for 'good cause' to be proved continuously by the customer for any longer period. This allows for genuine cases where there is a good reason they have not claimed sooner, to be awarded Council Tax Reduction and reduces the burden of debt to be recovered from them.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

**3.1** The adoption of the National Council Tax Reduction Scheme will help to meet the needs and expectations of our citizens who are on limited incomes and who have been affected by welfare reform.

**3.2** The awarding of reductions through the national framework will provide financial assistance to residents who would otherwise be unable to meet their council tax

liability. This contributes to the Well-being outcome of an Inclusive and Safe Vale by reducing poverty and social exclusion.

## **4. Resources and Legal Considerations**

### **Financial**

- 4.1** The Standard Spending Assessment (SSA) for 2021/22 set for the Council Tax Reduction Scheme is £9.062m.
- 4.2** Councils are required to finance the impact of increases in council tax and deal with the risk of caseload changes.
- 4.3** In 2021/22 the total CTRS budget was £11.460m and we are projecting spend below this budget in 2021/22. Current CTRS caseload at 18th October 2021 is 9,647 compared with 9,754 in April 2021.
- 4.4** An amount of £11.460m has been included in the initial budget for 2022/23 The final budget will need to take account of any council tax increase for 2022/23. .
- 4.5** The costs of exercising the discretions as proposed in the report are estimated as follows -

Discretion	Estimates 2021/22
	£
Extended Payments	£20,000
War Pensions Disregard	£25,000
Backdates	£30,000
Total	£75,000

- 4.6** It should be noted that the costs of extended payments and backdated awards would be offset against collection losses. As in the current year, the costs of these discretions will be absorbed within the available budget and kept under review.

### **Employment**

- 4.7** None as a direct result of this report

### **Legal (Including Equalities)**

- 4.8** Central Government and the Welsh Government have assessed the equality implications of the welfare reforms nationally.
- 4.9** The Welsh Government has previously consulted in relation to the national requirements. At Appendix A the Welsh Government advises that a Local Authority should carry out a consultation exercise before a scheme is made, revised or replaced. However, there is no express requirement to consult annually.

- 4.10** In December 2012 the Council undertook an extensive consultation on exercising discretions for the locally based scheme and wrote to all claimants who were at that time in receipt of Council Tax Benefit.
- 4.11** The Council subsequently undertook an Equality Impact Assessment in 2013 in relation to the decisions to be made regarding the exercise of discretions. In addition to consultation with residents the Council also consulted with local interest groups.
- 4.12** The outcome of the equality impact assessment was positive with no adverse comments on the exercise of the discretions. No Equality Impact Assessment is proposed as the scheme recommended for 2022/23 has not been revised or altered since the previous adoption of the discretions for 2014/15.
- 4.13** The council will be required to implement the Council Tax Reduction Scheme in line with Welsh Government Regulations and primary legislation.

## **5. Background Papers**

None.

## Appendix A

### **Advice from Welsh Government**

The Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 –

- Specify that for every financial year, local authorities must consider whether to revise or replace their existing scheme. Any revisions or replacement schemes must be made (adopted via full council) no later than 31 January in readiness for the forthcoming financial year commencing on 1 April.
- Require Local authorities to carry out a consultation exercise involving anyone likely to have an interest before a scheme is made, when an existing scheme is revised in any way, or when it is replaced. There is no express requirement to consult annually. However, if revisions are made to a scheme annually, then consultation would need to take place on this basis.

In relation to the requirements to adopt and consult, the Regulations do not contain any definition of “revisions” to a scheme, nor do they make any distinction as to the possible types of revisions, i.e. minor technical revisions or revisions to areas of discretion. Consequently, there is a possibility that annual uprating or changes required by legislation, for example to reflect consequential amendments to passported benefits, could be regarded as ‘revisions’ for the purposes of the Regulations, in turn this could invoke the requirements in the Regulations relating to consultation and adoption of schemes.

This is not an ideal situation, particularly in relation to ‘revisions’ to reflect annual uprating, which would be impractical for an LA to consult on given that the responses wouldn’t result in any change, as it is not an element LA’s have any discretion over. As a result, WG have asked lawyers to look at amending the provisions in relation to the requirement to consult when we make the uprating regulations. The purpose of this will be to differentiate between LA led revisions to a scheme (e.g. changes to the discretions) and minor technical amendments e.g. uprating, changes to reflect other benefits etc.

### **Uprating**

As with last year WG intend to make amending regulations to uprate the financial figures used in the Regulations and to reflect any other technical amendments required as a result of changes to underlying benefits. Some of this will be based on the subsequent uprating schedule due to be published by DWP towards the end of the year. WG are due to lay the draft Regulations before the National Assembly for Wales by the 7th December. These Regulations are subject to the affirmative procedure which means they must have been laid in draft for 20 working days (recess dates not included) and a plenary debate held before they can come into effect which they expect to take place on the 18<sup>th</sup> January 2022.



WG are currently working with DCLG and SG and considering possible amendments, these include:

- Uprating
- Clarification to make it clear there is no requirement to consult for uprating/ technical revisions (as detailed above).

Local Government Finance and Public Service Performance Division / Welsh Government

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