

Name of meeting: Cabinet (Reference to Council)

Date: 12 December 2023

Title of report: Kirklees Council Tax Reduction Scheme Review 2024/2025

Purpose of report: To refer the report to the Meeting of Council on 13th December 2024, seeking a review of the Kirklees Council Tax Reduction Scheme – that decision to be cognisant of the consultation that took place during the summer

Key Decision - Is it likely to result in spending or saving £500k or more, or to have a significant effect on two or more electoral wards?	Yes If yes give the reason why – Saving in excess of £500k and affects all wards
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u> ?	Yes Private Report/Private Appendix – No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by <u>Strategic Director</u> & name	Rachel Spencer-Henshall 30.11.23
Is it also signed off by the Service Director for Finance?	Isabel Brittain 30.11.23
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft 30.11.23
Cabinet member portfolio	Cllr Graham Turner and Cllr Paul Davies

Electoral wards affected: All Ward councillors consulted: None

Public or private: Public

Has GDPR been considered? Yes

1. Summary

- 1.1 Section 13A(2) of the Local Government Finance Act 1992 requires that each billing authority in England must make a local Council Tax Reduction Scheme that specifies the reduction in Council Tax available to people/classes of persons in financial need.

This report seeks a decision of Council to revise the existing scheme to be introduced from 1 April 2024 and to be cognisant of the results of the consultation that commenced on 16th August and ended on the 11th October 2023 the result of which appear at Appendix 4.

The scheme currently in operation was decided at Council on 13th December 2017 and took effect 01st April 2018.

2. Information required to take a decision

- 2.1 The authority has operated a Council Tax Reduction Scheme since April 2013. The scheme must provide prescribed reductions for those of state pension age. There is no such prescription in relation to those of working age.

The matters to be included in a scheme are set out in Schedule 1A of the Local Government Finance Act 1992 (Appendix 2).

- 2.2 Before making a scheme, the authority must (in the following order) ;

- (a) Consult any major precepting authority which has power to issue a precept to it (the Police and Fire Authorities),
- (b) Publish a draft scheme in such manner as it thinks fit, and
- (c) Consult such other persons as it considers are likely to have an interest in the operation of the scheme (Kirklees residents)

- 2.3 If the authority then decides that it will revise the scheme it must do so no later than the 11th March 2024 if that scheme is to have effect from 1st April 2024. It is worth noting that for practical purposes a decision would ideally be made much earlier than the 11th March 2024 in order to inform the budget requirement and decisions in relation to that budget. It is recommended that a decision is made no later than the end of December 2023.

- 2.4 Regional context

Authority	Band A	%age	Couple	Single Person	Protections ?
Kirklees Current	£1,397.04	20	£279.41	£209.56	13.5k household Protections in place
Kirklees New 25%	£1,397.04	25	£349.26	£261.95	No protections in place
Kirklees New 15%	£1,397.04	15	£209.56	£157.17	No protections in place
Leeds	£1,305.59	25	£326.40	£244.80	No protections for new claims, 13k household existing protections still in place.
Wakefield	£1,298.66	30	£389.60	£292.20	No protections in place
Calderdale	£1,380.80	19	£262.35	£196.76	No protections in place
Bradford	£1,289.62	30	£386.89	£290.16	No protections in place

Leeds is the only other authority in West Yorkshire that have protections in place similar to Kirklees, those will cease to apply as households migrate to Universal Credit. Current volumes are lower than in Kirklees notwithstanding that the overall claimant population is 63,000 households in Leeds compared to Kirklees's 35,000 households.

Calderdale is the only authority that operates a scheme that is currently more generous than the current Kirklees scheme, however it applies to all residents with no protections in place.

Wakefield and Bradford schemes are both less generous than the proposed 25% Kirklees scheme, neither offer any protections.

Overall the current Kirklees Scheme is the most generous in West Yorkshire to the majority of it's residents.

2.5 It is also worth noting that what ever the outcome the provisions set out in 2.5.1 to 2.5.5 below will apply regardless of the outcome of any decision to review the scheme:

2.5.1 There are provisions within Section 13A(1)(c) of the Local Government Finance Act 1992 that allow discretion to reduce or further reduce the Council Tax charge in cases of hardship and the authority does have a policy in place to assist in appropriate cases. That policy is attached at Appendix 3, in addition this report includes a recommendation to change that policy to allow more flexibility in appropriate cases. There is no requirement in the act that a discretionary policy be decided by Council, this report recommends that Cabinet make the decision.

2.5.2 The council will continue to provide hardship support through the Local Welfare Provision Scheme.

2.5.3 It is important to note that irrespective of the option chosen the scheme will still award disability premiums in the financial assessment so the scheme recognises disability in the needs of the household, it will also continue to disregard disability benefits provided in recognition of care and mobility needs such as Personal Independence Payment.

2.5.4 It is important to note that irrespective of the option chosen lone parents in work will continue to receive an enhanced earnings disregard in the means test that two parent families and individuals without children, do not receive.

2.5.5 It is important to note that irrespective of the option chosen War Pensioners will still have their War Pension disregarded as part of the means test.

2.6 The following Options were considered as part of the consultation (see also Appendix 1 for the impact upon households)

(i) Make no major changes

In addition to the prescribed scheme for pensioners the current scheme provides a reduction largely based upon the Council Tax Benefit regulations that were in force prior to 2013 as part of the wider Social Security System.

Most working age recipients do not receive a 100% reduction. Unless they fall into one of the locally defined protected groups below, they will pay at least 20% of their total liability depending upon their actual income. All assessments under the local working age scheme are means tested.

If any of the following apply the individual could receive up to 100% of their Council Tax liability by way of a reduction:

- A single parent with children under 5
- Receives the severe or enhanced disability premium
- Receives a war pension or war widows pension

The current cost of this Council Tax Reduction scheme is £35.51m in 2023/24 with the spend broken down into the following areas.

Scheme	Number	Current 20% scheme
Pensioner	11207	£12,415,119.99
Single parent with children under 5	1786	£1,747,807.90
Receives and appropriate disability premium or war pension	11839	£13,694,236.13
Work age employed	1292	£1,025,721.80
Work age other	8530	£6,630,960.03
Totals	34654	£35,513,845.85

ii. Reduce protection for all working age households (a 25% scheme)

Remove all protection and increase the charge for all working age households to at least 25% of liability. Whilst retaining all of the other features of the current Scheme. This option would standardise approach.

Scheme	Number	25%
Pensioner	11207	£12,415,119.99
Single parent with children under 5	1786	£1,310,855.93
Receives and appropriate disability premium or war pension	11839	£10,270,677.10
Work age employed	1292	£961,614.18
Work age other	8530	£6,216,525.03
Totals	34654	£31,174,792.23

This revised Scheme would cost £31.17m compared to the existing scheme cost of £35.51m, a reduction in cost of approximately £4.33m.

In terms of cost to those that currently have nothing to pay, a single person in a Band A Property would now have £5.02 to pay per week, a couple in a band A property would pay £6.70 per week.

iii. Remove the protection and have a standard 15% Council Tax Reduction working age scheme.

Remove all protection and introduce a standard charge for all working age households of at least 15% of liability. Whilst retaining all of the other features of the current Scheme. This option would standardise approach and would reduce the contribution required from those that are not currently protected.

Scheme	Number	15%
Pensioner	11207	£12,415,119.99
Single parent with children under 5	1786	£1,485,636.72
Receives and appropriate disability premium or war pension	11839	£11,640,100.71
Work age employed	1292	£1,089,829.41
Work age other	8530	£7,045,395.04
Totals	34654	£33,676,081.87

This revised Scheme would cost £33.63m compared to the existing scheme cost of £35.51m, a reduction in cost of approximately £1.8m.

In terms of cost, a single person in a Band A Property would have £3.01 to pay per week, a couple in a band A property would pay £4.02 per week.

iv. Administrative scheme redesign/simplification

In 2017 the Council introduced some simplification around the treatment of changes in CTR awards due to changes in Universal Credit awards. That change hasn't resulted in the anticipated simplification. This option would allow the development of a number of potential changes to the scheme to ease the administrative burden and therefore the administrative cost of delivery. Universal Credit responds to real time changes in earnings meaning that relatively small changes in income result in a notification to the Local Authority to action (if it chooses) for Council Tax Reduction purposes.

The Authority receives around 2500 notifications from the Department of Work and Pensions each week, of those 2000 usually require action and Kirklees ordinarily automates 40% of that number meaning that officers need to action (in this case) 1200 notifications each week. If the scheme were modified to mean that notifications were only actioned every 6 months (where they don't already automate because the change is deemed insignificant under the 2017 changes) then this redesign would permit further automation at that 6 month interval.

This feature of simplification would mean that we need to take account of fewer changes in the Universal Credit award which would mean fewer changes in Council Tax Reduction entitlement and therefore more certainty.

vi. Transitional protection

No scheme of transitional protection where support is revised or removed is proposed under paragraph 5(4) of schedule 1A to the Local Government Finance Act 1992, in relation to any of the options.

2.7 The results of the consultation

The consultation findings for each of the proposals are set out in appendix 4 – the consultations findings are not binding but they form part of the decision making process, it is for members to review those findings in the making of their decision. The officer recommendations set out in section 6 take account of those responses.

The consultation ran for the period 16th August 2023 to 11th October 2023. The consultation included a media campaign that brought the consultation to the attention of the public generally and partners. 2500 residents were invited by way of letter to respond to the consultation, 1250 of those were in receipt of a reduction 1250 were not in receipt of a reduction, within each cohort households were randomly selected.

During the period of the consultation, the website hosting the questions received 2965 visits - 717 people submitted a response to the consultation.

The consultation results clearly show that those responding were in favour of both changing the scheme and not retaining the scheme as it stands, and that option 2 was the option that those responding in that way were in favour of most.

2.8 Discretionary Reductions

Section 13A(1)(c) of the Local Government Finance Act 1992 permits an authority to reduce the Council Tax a person has to pay by any amount regardless of whether they also receive a reduction under the authority's main scheme. This report seeks to delete paragraph 4(c) in the Discretionary Scheme (appendix 3) so that in any circumstances where a person does not also receive a reduction under the main scheme they may be considered for a reduction under the discretionary scheme where it is deemed appropriate to do so.

In addition the discretionary reduction policy has been amended to recognise that responsibility in relation to Care Leavers is to age 25.

That is a decision for Cabinet and is not required to be made by Council.

3. Implications for the Council

3.1 Working with People

This report seeks to implement a change to the Council Tax Reduction Scheme following a public consultation on the options set out in the report and appendices, the views of participants will be taken into account by the Council in the making of it's decision.

3.2 Working with Partners

As part of the consultation the views of the Police and Fire authorities, were sought and whilst noted they have not responded to the consultation. Other Partners were not excluded from submitting a response to the consultation.

3.3 Place Based Working

N/A

3.4 Climate Change and Air Quality

N/A

3.5 Improving outcomes for children

At the moment children that live in a household where they have no siblings under 5 and the household qualify for a Council Tax Reduction, live in a household where there is an expectation that they make a contribution to their Council Tax, this report seeks to address that inequality by introducing parity. Reducing costs of CTR mean that other services will not have to be reduced including those available to children, directly or indirectly.

It is well known that very often children are the first to suffer the effects of low incomes and poverty. Means testing support for Council Tax allows us to target resources at those families in greatest need, with the potential to improve outcomes against the outcomes that might otherwise be expected. It is worth noting that there are provisions within Section 13A(1)(c) of Local Government Finance Act that allow discretion to further reduce the Council Tax charge in cases of hardship, the authority does have a policy in place to assist in appropriate cases.

3.6 Other (e.g. Legal/Financial or Human Resources)

Financial

The financial implications of the proposed changes to the Scheme are as set out in the report.

The ongoing financial challenge means that the Council must consider all areas of expenditure as part of its plan to deliver a balanced budget in 2024/25. The options explored here can reduce the cost of the Scheme to the Council. If this reduction in cost is not implemented, then the only options available would be to reduce the net cost of services elsewhere or to consider triggering a referendum as a result of a Council Tax Rise with no guarantee that such a rise would be agreed.

The cost of an unchanged Scheme would be around £35,513,845 annually where the proposed scheme would cost £31,174,792, a saving in cost terms of £4,339,053. It is to be noted that it might not be possible to collect the whole of that sum in the fullness of time. Current collection is 98.5% in the fullness of time due to a level of non payment, with an in year collection rate of 95.8% due to late payment.

Legal

The legal implications that are not set out here are set out in section 2 above.

It is worth reiterating that the requirement to revise or replace a local council tax Reduction Scheme by the 11th March in the year before it is to take effect, is set out in Schedule 1A to the Local Government Finance Act 1992, and that requirement applies to the revision of a scheme as it does to the making of a scheme. Any scheme adopted by the council must comply with Council Tax Reduction Scheme (Prescribed Requirements)(England) Regulations 2012 which set out detailed matters to be contained in a Council Tax Reduction Scheme .

The requirement to consult when proposing a revised Council Tax Reduction Scheme and the expectations in relation to those consultations are also set out in Scedule1A to the 1992 Act. A decision made to “make” or “revise” a scheme can only be challenged

by judicial review in accordance with Section 66 of the Local Government Finance Act 1992.

There have been a number of challenges described below, where schemes have been successfully challenged and therefore it is important that we have regard to that in the consultation and decision making process. A judicial review of a decision by Sandwell Council (*Winder v Sandwell* [2014] EWHC 2617 (Admin)) to impose a “residence condition” meaning that those without a history of residence could not secure an entitlement, was deemed ultra vires and thus unlawful, because it was based on criteria other than “financial need”.

A judicial review of a decision by Hackney Council (*R (on the application of Moseley) (in substitution of Stirling (Deceased)) (AP) (Appellant) v London Borough of Haringey (Respondent)* [2014] UKSC 56) was found to be unlawful because the consultation did not include any options to reduce services or increase council tax, as alternatives.

In the *Moseley* case, the Supreme court endorsed the Sedley principles accepted in *Rv BrentLBC, ex parte Gunning* namely that;

- Consultation must be when the proposals are at a formative stage;
- the council must give sufficient reasons and enable consultees to give intelligent consideration and respond;
- adequate time must be given for consideration and responses to the consultation; and
- responses must be conscientiously taken into account by the decision maker.

In order to make a reasonable decision and avoid the risk of a potential successful challenge we must be in a position to demonstrate that a consultation has met those principles. The Council has carried out an 8 week consultation.

Before making a decision, Members must have regard to the Integrated Impact assessment (see link in section 9) in relation to the proposed option(s). This has been updated to take account of the consultation responses.. Section 149 of the Equality Act 2010 places a duty on the council in carrying out its functions to have due regard to the need; (a) eliminate discrimination; harassment; victimisation, and any other conduct that is prohibited by or under the Act ; and (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it ; (c) foster good relations between persons who share a protected characteristic and persons who do not share it . Section 149(7) of the 2010 Act set out the protected characteristics which are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The impact assessment demonstrates that the revised scheme continues to recognise protected characteristics notwithstanding the degree of recognition is changed by this proposal.

A decision by a billing authority to revise the Council Tax Reduction Scheme is a matter for Full Council (Section 67 of the 1992 Act.)

The Council must comply with its duty of Best Value under section 3 of the Local Government Act 1999 to make continuous improvements in the way its functions are exercised having regard to a combination of economy, efficiency and effectiveness.

The Council must act *Wednesbury* reasonably so that its decision is rational having regard to relevant considerations and ignoring irrelevant matters in the light of the proposal; statutory context; responses from the consultation and resource implications and the IIA.

Human Resources

Potential administrative efficiency will have an impact upon the number of officers required to administer the scheme. Similarly there will be an increased demand for administration in Council Tax recovery activity.

3.7 Financial impact on people living and working in Kirklees

Only those entitled to a council tax reduction would be directly affected by these proposals however all residents will be impacted were council tax to rise as an alternative, or services generally reduced as a result of reduced spending elsewhere.

4 Consultees and their opinions

The results of the consultation are set out in Appendix 4

5 Next steps and timeline.

Cabinet oversight and consideration of recommendations 12/12/23

Council report for decision 13/12/23

6 Officer recommendations and reasons

Cabinet recommend that Council agree:

6.1 That the existing Council Tax Reduction scheme should be reviewed and that option 2 to reduce protection for all and implement a 25% scheme should be adopted in accordance with the scheme as set out in Appendix 5 of this report and that it take effect from 1 April 2024. That option is the option favoured most by those that responded to the consultation, it makes the necessary savings in expenditure which itself means that there is no requirement to make equivalent savings elsewhere in service provision.

6.2 That the administrative easement set out in option 4 be adopted and developed to ensure smooth administration.

6.3 To carefully consider and note the findings of the statutory consultation exercise at Appendix 4 with regard to the proposed revised Scheme.

6.4 To carefully consider and note the results of the Integrated Impact Assessment at (see link in section 9).

Cabinet agree:

6.5 That the Discretionary Reduction Policy be amended so that it no longer excludes any person that does not already receive a reduction under the main reduction scheme and that it be noted that responsibility in relation to care leavers is to age 25.

7. Portfolio Holder Comments:

The current financial position means that the Council must consider all of the options it might have to deliver a balanced budget in 24/25. The recommendation here is to implement a change to the scheme that will help achieve that aim, any

decision to change the scheme will be made by Council following this recommendation.

8. Contact officer

Julian Hobson – Acting Head of Service - Welfare and Exchequer Services

9. Background Papers and History of Decisions

Previous decision to review the scheme

[ITEM 10 Item 7 - 2017-12-8 Review of the Council Tax Reduction Scheme.pdf \(kirklees.gov.uk\)](#)

Integrated Impact Assessment

[Integrated Impact Assessments - IntegratedImpactAssessment \(kirklees.gov.uk\)](#)

Appendix 1 Scenarios considering options

Appendix 2 Schedule 1A Local Government Finance Act 1992

Appendix 3 Discretionary Council Tax Reduction Scheme policy

Appendix 4 Council Tax Reduction Consultation Results

Appendix 5 The Revised Scheme

10. Service Director responsible

Isabel Brittain – Service Director – Finance

Examples of how the scheme might operate under each option.

Scenario 1

Mel and Don are married with one child, Mitchell aged 13 years old. Mel has never worked and Don has been out of work for 2 years. They live in a Band B property. Mel and Don are not in a protected group.

Their total weekly income is **£230.26** from Universal Credit and Child Benefit

The maximum weekly council tax liability is £26.79 for anyone not entitled to a reduction.

After the current council tax reduction is applied, their council tax liability is **£6.25** per week.

If the scheme changes so that the maximum support is limited to 25% of liability then they would pay **£7.81**, an increase of **£1.56** per week.

If the scheme changes so that the maximum support is limited to 15% of liability then they would pay **£4.69**, a decrease of **£1.56** per week.

Scenario 2

Amanda and Mark are married with a daughter, Rebecca, who is 14 years old. Mark is disabled and receives the enhanced rate personal independence payment for both daily living and mobility. Neither Mark nor Amanda work.

Their total weekly income is **£230.26** from Universal Credit and Child Benefit, and **£172.75** personal independence payment.

The maximum weekly council tax liability is £26.79 for anyone not entitled to a reduction.

After the current council tax reduction is applied, their council tax liability is **£0.00** per week.

If the scheme changes so that the maximum support is limited to 25% of liability then they would pay **£7.81**, an increase of **£7.81** per week.

If the scheme changes so that the maximum support is limited to 15% of liability then they would pay **£4.69**, an increase of **£4.69** per week.

The protection that Amanda and Mark receive under the current scheme recognises Mark's disability, the current scheme treats Amanda and Mark differently and more generously than Mel and Don in scenario 1 because Mark has a disability. None of the schemes take into account Mark's disability income, in the means test.

Scenario 3

Jon is a single parent with twin daughters Medeline and Gabby aged 3 years old. They live in a Band A property.

He is currently looking for work.

His household income, comprises Universal Credit and Child Benefit and is **£249.41** per week.

The maximum weekly council tax liability is £20.09; however Jon is in a protected group so he pays **£0** under the existing scheme.

If the scheme changes so that the maximum support is limited to 25% of liability then they would pay **£5.02**, an increase of **£5.02** per week.

If the scheme changes so that the maximum support is limited to 15% of liability then they would pay **£3.01**, an increase of **£3.01** per week.

Scenario 4

Becky is a single parent with twin sons Tom and Josh aged 7 years old. They live in a Band A property. Becky is not in a protected group.

She is currently looking for work.

Her household income, comprises Universal Credit and Child Benefit and is **£259.89** per week.

The maximum weekly council tax liability is £20.09;

After the current council tax reduction is applied Becky pays **£4.02** under the existing scheme.

If the scheme changes so that the maximum support is limited to 25% of liability then they would pay **£5.02**, an increase of **£1.00** per week.

If the scheme changes so that the maximum support is limited to 15% of liability then they would pay **£3.01**, a decrease of **£1.01** per week.

Becky and Jons circumstances are very similar, children born after 6th April 2017 are treated less generously in Universal Credit which is why their weekly incomes are different. Becky isn't protected under the current Kirklees scheme only because her children are over 5 years old. Both of the proposed changes would treat them both the same but the impact will be different.

Scenario 5

Heidi is 22 years old, single and lives alone in a ground floor flat in band A.

She has a disability and limited capability for work and receives **£157.42** Universal Credit and **£172.75** Personal Independence Payment.

The maximum weekly council tax liability is £20.09, and as Heidi is in a protected group her weekly liability after reduction is **£0**.

If the scheme changes so that the maximum support is limited to 25% of liability then they would pay **£5.02**, an increase of **£5.02** per week.

If the scheme changes so that the maximum support is limited to 15% of liability then they would pay **£3.01**, an increase of **£3.01** per week.

Scenario 6

Brian is 22 years old, single and lives alone in a ground floor flat in band A.

He receives **£67.41** Universal Credit.

The maximum weekly council tax liability is £20.09, Brian is not in a protected group and his weekly liability after reduction is **£4.02**.

If the scheme changes so that the maximum support is limited to 25% of liability then they would pay **£5.02**, an increase of **£1.00** per week.

If the scheme changes so that the maximum support is limited to 15% of liability then they would pay **£3.01**, a decrease of **£1.01** per week.

Heidi and Brian are the same age but their incomes, circumstances and challenges are very different.

N.B it is worth noting that notwithstanding any change to the maximum award, the Council Tax Reduction scheme will continue to:

- incentivise work by operating an earned income disregard,
- disregard certain child care costs.
- support those with disability through the disregard of disability benefits.
- disregard child benefit and child care costs in the assessment of income.
- disregard war pensions as income.

SCHEDULE 1A COUNCIL TAX REDUCTION SCHEMES: ENGLAND

Interpretation

- 1
- In this Schedule—
- (a) “scheme” means council tax reduction scheme under section 13A(2), and
 - (b) in relation to a scheme, “the authority” means the billing authority which made the scheme or is under a duty to make it.

Matters to be included in schemes

- 2
- (1) A scheme must state the classes of person who are to be entitled to a reduction under the scheme.
 - (2) The classes may be determined by reference to, in particular—
 - (a) the income of any person liable to pay council tax to the authority in respect of a dwelling;
 - (b) the capital of any such person;
 - (c) the income and capital of any other person who is a resident of the dwelling;
 - (d) the number of dependants of any person within paragraph (a) or (c);
 - (e) whether the person has made an application for the reduction.
 - (3) A scheme must set out the reduction to which persons in each class are to be entitled; and different reductions may be set out for different classes.
 - (4) A reduction may be—
 - (a) a discount calculated as a percentage of the amount which would be payable apart from the scheme,
 - (b) a discount of an amount set out in the scheme or to be calculated in accordance with the scheme,
 - (c) expressed as an amount of council tax to be paid (lower than the amount which would be payable apart from the scheme) which is set out in the scheme or is to be calculated in accordance with it, or
 - (d) the whole amount of council tax (so that the amount payable is nil).
 - (5) A scheme must state the procedure by which a person may apply for a reduction under the scheme.
 - (6) A scheme must state the procedure by which a person can make an appeal under section 16 against any decision of the authority which affects—
 - (a) the person's entitlement to a reduction under the scheme, or
 - (b) the amount of any reduction to which the person is entitled.
 - (7) A scheme must state the procedure by which a person can apply to the authority for a reduction under section 13A(1)(c).
 - (8) The Secretary of State may by regulations prescribe other requirements for schemes.
 - (9) Regulations under sub-paragraph (8) may in particular—
 - (a) require other matters to be included in a scheme;
 - (b) prescribe classes of person which must or must not be included in a scheme;
 - (c) prescribe reductions, including minimum or maximum reductions, which must be applicable to persons in prescribed classes;
 - (d) prescribe requirements which must be met by the procedure mentioned in sub-paragraph (5).
 - (10) Regulations under sub-paragraph (8) may in particular set out provision to be included in a scheme that is equivalent to—

- (a) provision made by a relevant enactment, or
 - (b) provision that is capable of being made under a relevant enactment, with such modifications as the Secretary of State thinks fit.
- (11) Subject to compliance with regulations under sub-paragraph (8), a scheme may make provision that is equivalent to—
- (a) provision made by a relevant enactment, or
 - (b) provision that is capable of being made under a relevant enactment, with such modifications as the authority thinks fit.
- (12) For the purposes of sub-paragraphs (10) and (11), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—
- (a) sections 131 to 133 of the Social Security Contributions and Benefits Act 1992 (council tax bene-fit);
 - (b) sections 134 to 137 of that Act (general provisions about income-related benefits) so far as ap-plying in relation to council tax benefit;
 - (c) section 1 of the Social Security Administration Act 1992 (entitlement to benefit dependent on claim) so far as applying in relation to council tax benefit;
 - (d) section 6 of that Act (regulations about council tax benefit administration);
 - (e) sections 32 to 34 of the Welfare Reform Act 2007 (benefit for persons taking up employment) so far as applying in relation to council tax benefit.

Preparation of a scheme

- 3
- (1) Before making a scheme, the authority must (in the following order)—
 - (a) consult any major precepting authority which has power to issue a precept to it,
 - (b) publish a draft scheme in such manner as it thinks fit, and
 - (c) consult such other persons as it considers are likely to have an interest in the operation of the scheme.
 - (2) The fact that this paragraph was not in force when any step described in sub-paragraph (1) was taken is to be disregarded in determining whether there has been compliance with that sub-paragraph.
 - (3) Having made a scheme, the authority must publish it in such manner as the authority thinks fit.
 - (4) The Secretary of State may make regulations about the procedure for preparing a scheme.
 - (5) Regulations under sub-paragraph (4) may in particular—
 - (a) require the authority to produce documents of a particular description in connection with the preparation of a scheme;
 - (b) include requirements as to the form and content of documents produced in connection with the preparation of a scheme;
 - (c) include requirements (in addition to sub-paragraphs (1)(b) and (3)) about the manner in which such documents must be published;
 - (d) require the authority to make copies of such documents available for inspection by members of the public, or to supply copies of such documents to them;
 - (e) include provision about the making of reasonable charges for the supply of copies of such doc-uments to members of the public.

Default scheme

- 4
- (1) The Secretary of State must by regulations prescribe a scheme (“the default scheme”) for the purposes of this paragraph.
 - (2) The first financial year to which the default scheme relates must be the year beginning with 1 April 2013 (or such other year as is specified in section 10(4) of the Local Government Finance Act 2012).
 - (3) The default scheme must comply with the requirements of—

- (a) paragraph 2(1) to (7), and
- (b) any regulations under paragraph 2(8).
- (4) The default scheme may in particular make provision that is equivalent to—
 - (a) provision made by a relevant enactment, or
 - (b) provision that is capable of being made under a relevant enactment,
 with such modifications as the Secretary of State thinks fit.
- (5) For the purposes of sub-paragraph (4), each of the following enactments as it had effect on the day on which the Local Government Finance Act 2012 was passed is a “relevant enactment”—
 - (a) sections 131 to 133 of the Social Security Contributions and Benefits Act 1992 (council tax benefit);
 - (b) sections 134 to 137 of that Act (general provisions about income-related benefits) so far as applying in relation to council tax benefit;
 - (c) section 1 of the Social Security Administration Act 1992 (entitlement to benefit dependent on claim) so far as applying in relation to council tax benefit;
 - (d) section 6 of that Act (regulations about council tax benefit administration);
 - (e) sections 32 to 34 of the Welfare Reform Act 2007 (benefit for persons taking up employment) so far as applying in relation to council tax benefit.
- (6) The default scheme is to take effect, in respect of dwellings situated in the area of a billing authority, if the authority fails to make a scheme on or before 31 January 2013 (or such other date as is specified in section 10(4) of the Local Government Finance Act 2012).
- (7) If the default scheme takes effect in the area of a billing authority, this Part applies to the default scheme as if it had been made by the authority.

Revisions to and replacement of scheme

- 5
- (1) For each financial year, each billing authority must consider whether to revise its scheme or to re-place it with another scheme.
 - (2) The authority must make any revision to its scheme, or any replacement scheme, no later than 11 March in the financial year preceding that for which the revision or replacement scheme is to have effect.
 - (3) The Secretary of State may by order amend sub-paragraph (2) by substituting a different date.
 - (4) If any revision to a scheme, or any replacement scheme, has the effect of reducing or removing a reduction to which any class of persons is entitled, the revision or replacement must include such transitional provision relating to that reduction or removal as the authority thinks fit.
 - (5) Paragraph 3 applies to an authority when revising a scheme as it applies to an authority when making a scheme.
 - (6) References in this Part to a scheme include a replacement scheme.

Arrangements to deal with shortfall in council tax receipts

- 6
- (1) In this paragraph “scheme authority” means, in relation to a scheme and a year—
 - (a) the billing authority which made the scheme, and
 - (b) any major precepting authority with power to issue a precept to that billing authority in relation to that year.
 - (2) Two or more scheme authorities may make arrangements which are to have effect if, as a result of the operation of the scheme—
 - (a) there is a deficit in the billing authority's collection fund for that year, or
 - (b) the billing authority estimates that there will be such a deficit.
 - (3) Arrangements under this paragraph may include—
 - (a) the making of payments by one scheme authority to another scheme authority;

(b) the variation of any payment or instalment of a payment which is required to be made under regulations under section 99 of the 1988 Act (regulations about funds) that make provision in relation to council tax.

Provision of information to the Secretary of State

7

(1) The Secretary of State may serve on a billing authority in England a notice requiring it to supply to the Secretary of State such information as is specified in the notice and required by the Secretary of State for the purpose of exercising, or of deciding whether to exercise, any function relating to schemes.

(2) The authority must supply the information required if it is in its possession or control, and must do so in such form and manner and at such time as the Secretary of State specifies in the notice.

(3) If an authority fails to comply with sub-paragraph (2), the Secretary of State may exercise the function on the basis of such assumptions and estimates as the Secretary of State thinks fit.

(4) In exercising, or deciding whether to exercise, any function relating to schemes, the Secretary of State may also take into account any other available information, whatever its source and whether or not obtained under a provision contained in or made under this or any other Act.

Guidance

8

In exercising any function relating to schemes, a billing authority must have regard to any guidance issued by the Secretary of State.

Transitional provision

9

(1) The Secretary of State may by regulations make such transitional provision regarding the commencement of schemes as the Secretary of State thinks fit.

(2) Such provision may include, in particular, provision for and in connection with treating a person who is or was in receipt of council tax benefit, or who makes or has made a claim for that benefit, as having made an application for a reduction under a scheme.]



**Welfare
and Exchequer Service**

Discretionary Council Tax Reduction Policy

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Discretionary Council Tax Reduction Policy

1. Introduction

The Local Government Finance Act 1992 provides for reductions in council tax by billing authorities.

The provisions in s13A of the act allow for two types of reduction.

The first type of reduction, is a reduction required under s13A(1)(a) by virtue of the billing authority's "Council Tax Reduction Scheme", this policy does not apply to that scheme.

The second type of reduction (a reduction to which this policy applies) is a reduction that may be awarded under s13A(1)(c). A reduction under this policy may be awarded in addition to any reduction under the "Council Tax Reduction Scheme" or in the absence of a reduction under that scheme.

S13A(6) allows for a council tax charge to be reduced to nil.

S13A(7) allows the billing authority to exercise its power under 13A(1)(c) in relation to individual cases (the basis for such decisions are set out in this policy).

S13A(7) also allows authorities to define classes of case and the extent to which council tax might be reduced for those classes. The authority has not defined any classes of case for which a reduction would be appropriate.

Any payment under this scheme will be accounted for in the Collection Fund

2. Wednesbury Reasonableness

When a local authority uses its discretion, it must have made its decision in a rational way. Therefore any decision we make with regard to a reduction must follow the principles of "Wednesbury Reasonableness" taking account of relevant considerations and disregarding irrelevant details.

3. Claims for a Discretionary Council Tax Reduction

3.1 Claims must be made in accordance with Paragraph 9 Schedule 7 Part 3 of the "Council Tax Reduction scheme"

3.2 An application may be made:

1. In writing
2. Electronically (by email)
3. By Telephone

Any application, however made, may be subject to evidence requirements that include the provision of original documents.

3.4 a reduction may be awarded in respect of a past period (backdating) see *section 5*

4. Qualifying Criteria

This assessment is designed to identify and help customers in severe hardship and or who would encounter hardship without additional financial support.

In determining hardship account should be taken of the customer's current situation and the likelihood of their financial position improving.

Part of the assessment will take the form of a means test to establish the degree to which support is required.

In the interests of Wednesbury Reasonableness the following is a list of issues which should be seen as a guide by the decision maker to the type of issues they should consider when reaching their decision.

Overview

- a) DCTR is targeted assistance to households with multiple and serious financial difficulties
- b) Any decision will be considered alongside the authority's Local Welfare Provision policy, and payment in kind for food etc can be considered in order to free up disposable income to meet the council tax liability.
- c) Any person that is excluded from the authority's main CTR scheme by virtue of their status or available capital, will also be excluded from any reduction under this policy.

Initial considerations

- d) Is there any evidence that the customer has made any payments or engaged with officers seeking payment? What evidence is there?
- e) Is the customer entitled to any other discount, exemption or reduction?
- f) Is there any evidence that the debt was accrued during a period when the customer was in a better financial position?
- g) Is any of the debt attributable to recovery costs? See also h) and (q) below;
- h) In many cases a liability order will have been granted and this should remain live even if costs are removed.

Take into account

- i) Is any of the disregarded income to meet specific needs? Are those needs identified in the expenditure side of the equation and should they too be disregarded?
- j) DLA for mobility should not be taken into account as income in the assessment, if there is such a disregard, any expenses attributable to additional mobility needs should also be disregarded.
- k) Are there any non-dependants or other residents that are jointly and severally liable in the household who could provide (extra) help with the Council Tax?
- l) Does the customer or partner have any capital (including disregarded capital), if so, how much?
- m) Does the customer or partner have any disregarded income? If so, how much?

Other

- n) Is the shortfall in income caused by under occupation and is re-location the solution.
- o) Has the customer engaged with the CAB and other advice partners for financial and debt advice?
- p) What is the current level of indebtedness?
- q) Is recovery action already at an advanced level? (Contact recovery section)
- r) Is the CT debt rising year on year?
- s) What offer of payment or current re-payment arrangements exists?

- Deduction from DWP benefits after liability order?
- A voluntary deduction from DWP benefits should be considered.
- Ongoing Payment arrangement?
- Financial and debt advice?
- Basic banking advice and set up?
- Skills based job advice and training?

The above is not an exhaustive list but is meant as a guide for decision makers

4.1 Third Party Payments

No Council Tax liability (except that of a care leaver) will be reduced under this scheme so as to make the total amount payable daily, less than that which might be recovered through the Department for work And Pensions - Third Party Payments scheme regulated by Social Security (Claims & Payment) Regulations 1987, Regulation 35(1) and Schedule 9 and The Council Tax (Deductions from Income Support) Regulations 1993.

4.2 Care Leavers

We recognise the unique position of care experienced young people and their relationship with the local authority as their corporate parent. As part of our efforts to promote opportunity and support our care leavers we have put in place a system to ensure that care leavers liability for council tax can be reduced to nil.

Ensuring that Individual Care Leavers receives such a reduction will require the local authorities care leaving services to support and refer care leavers irrespective of whether they qualify for a partial reduction under the main Council Tax Reduction Scheme in accordance with section 13A(1)(a) of the act.

For the purposes of this policy “care leavers” means—

- (a) eligible children within the meaning given by paragraph 19B of Schedule 2 to the Children Act 1989;
- (b) relevant children within the meaning given by section 23A(2) of that Act;
- (c) persons aged under 25 who are former relevant children within the meaning given by section 23C(1) of that Act;
- (d) persons qualifying for advice and assistance within the meaning given by section 24 of that Act;

4.3 There may be additional factors that need to be considered in individual cases. If so, the decision maker should obtain full details from the customer. They will then have to decide whether or not to make a discretionary payment. The decision maker must be satisfied that the customer or family member will suffer if a DCTR is not made. It is not enough to decide that a risk of suffering exists.

5. Limits on Payments

5.1 As DCTRs relate to a distinct Council Tax Liability and are based upon the circumstances pertaining at the time of the application and before, no award will

be made beyond the end of the financial year in which the award is made unless the application is made after 1st February in any given year.

5.2 Any award, regardless of when it is made will be for a period of no more than 12 months. In most cases the award will be for a period of 6 months or less and will be reviewed at the end of the award period.

5.3 If a customer makes a claim for a past period (backdating) and has continuous good cause for their failure to make a claim earlier, their claim in respect of that period shall be treated as made on -

(a) the first day from which they had continuous good cause; or
the day 6 months before the date of the claim for backdating if the customer is of working age, 3 months for customers of pension age, whichever fell later

5.4 A DCTR will only ever be made so as to reduce a Council Tax Liability. There are no circumstances in which any sum of money would become payable to the Liable Party. Any refund of Council tax will be NET of any DCTR council tax award.

6. Appeals

6.1 Appeals against any decision in relation to this Policy are to be made and decided in accordance with s16 of the Local Government Finance Act 1992. (as amended)

7. Overpayment

7.1 If the authority were to establish that an award of DCTR was erroneous because the liable party had knowingly provided false or inaccurate information, the reduction will be removed and the original liability will be reinstated, and a penalty may be applied in accordance with The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.

8. Notification

8.1 We will write to the customer to tell them whether their DCTR claim was successful. The letter must include:

- the date the award runs from and to
- the amount of the award
- reasons why the claim was successful or unsuccessful