

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2013/14**

**COUNCIL:**

**15<sup>th</sup> January 2014**

**REPORT OF:**

**Group Director Corporate Services**

Author: Mr. S.J. Merritt Tel: (01443) 424026

<b>Agenda Item No. 6</b>
<b>LOCAL COUNCIL TAX REDUCTION SCHEME</b>

**1. PURPOSE OF THE REPORT**

- 1.1. The report sets out the changes to the Council Tax Reduction Scheme (CTRS) that was introduced in April 2013, and recommends the adoption of the Council's local Council Tax Reduction Scheme for the 2014/15 financial year, which must be adopted by 31<sup>st</sup> January 2014
- 1.2. It also explains the main changes made by Welsh Government since the CTRS was introduced; the options for consideration; the consultation outcomes and the funding implications for this Council.

**2. RECOMMENDATIONS**

2.1 It is recommended that Members:

- i) Note 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<sup>th</sup> November 2013,
- ii) Note that proposed amendments to "the Prescribed Requirements Regulations" by the draft Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2014 ("the Amendment Regulations") are due to be considered by the NAfW on the 14<sup>th</sup> January 2014.
- iii) Note the outcome of the consultation exercise undertaken by the Council on the local discretions applicable to the Council Tax Reduction Scheme for 2014/15.
- iv) Adopt the provisions of "the Prescribed Requirements Regulations" and subject to 2.1(vi) below any amendments made to those regulations made by "the Amendment Regulations", as the Council's local Council Tax Reduction Scheme for 2014/15, subject to the local discretions that the Council is able to exercise as set out in (v) below:

- v) Confirm the following as local discretions as provided for within Part 5 of 'the Prescribed Requirements Regulations':

Discretion	Recommended Discretion to be adopted
The ability to increase the standard extended reduction period of 4 weeks given 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.	<p><u>Pensioners:</u> The standard period of 4 weeks specified in paragraph 33, Schedule 1 will apply, and</p> <p><u>Non- Pensioners:</u> The standard period of 4 weeks specified in paragraphs 35 and 40, Schedule 6 will apply</p>
The ability to backdate the application of Council Tax reduction for periods longer than the new standard period of 3 months before the claim is made.	<p><u>Pensioners:</u> The standard period of 3 months specified in paragraph 3, Schedule 13 will apply,</p> <p><u>Non-Pensioners:</u> The standard period of 3 months specified in paragraph 4, Schedule 13 will apply,</p>
Discretion to disregard more than the statutory weekly £10 of income received in respect of War Disablement Pensions and War Widow's Pensions (disregarded when calculating income of the applicant);	<p><u>Pensioners:</u> The total value of any pension specified in paragraphs 1, Schedule 4 will be disregarded.</p> <p><u>Non-Pensioners:</u> The total value of any pension specified in paragraphs 20, Schedule 9 will be disregarded.</p>

- vi) To delegate to the Chief Executive (in consultation with the Leader) authority to consider, approve and/or deal with as necessary any amendments which may be made to the "Amendment Regulations" as defined in 2.1(ii) following consideration by the NAFW on the 14<sup>th</sup> January 2014.

### 3. BACKGROUND

- 3.1. The CTRS regulations approved by Welsh Government for 2013/14 were time bound, in that they contained a 'sunset clause', which limited their effect to the 2013/14 financial year only. This was to guarantee that full scrutiny of the Prescribed Requirements Regulations could be undertaken by the Assembly before bringing forward new regulations for the financial year 2014-15 (and subsequent years). The revised CTRS regulations for 2014/15 which were approved on 26<sup>th</sup> November 2013, no longer contain a sunset clause, so are valid for a longer period.
- 3.2. Welsh Government has already indicated that work is ongoing to look at the longer term design of CTRS schemes from 2015/16 onwards and on 12<sup>th</sup> December 2013 issued a consultation document. Further information about the longer term view of schemes should be available in the coming months.

- 3.3. Since the introduction of the new CTRS Schemes for 2013/14, Welsh Government has worked in conjunction with local government representatives to look at areas where the previous regulations could be improved. As a result of this work, a technical consultation was undertaken in August/September 2013, which contained a number of proposed changes by Welsh Government.
- 3.4. The Council Tax Reduction Scheme in Wales is set by Regulations made under Schedule 1B of the Local Government Finance Act 1992 (as inserted by the Local Government Finance Act 2012). On 26<sup>th</sup> November 2013, the National Assembly for Wales approved two sets of regulations: the Council Tax Reduction Schemes (Default Schemes) (Wales) Regulations 2013 (“the Default Scheme Regulations”) and the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 (“the Prescribed Requirements Regulations”). These Regulations prescribe the main features of the Scheme to be adopted by all councils in Wales.
- 3.5. The changes to the scheme in 2014-15 are mainly technical and are set out in Appendix 1 for information.
- 3.6. As was the case with the 2012 Regulations, within the new Prescribed Requirements Regulations 2013, there is limited discretion given to the Council to apply additional discretionary elements that are more generous than the national scheme and which provide for additional administrative flexibility, but if the Council decided to offer more generous local discretions this would further increase the cost of the scheme. These are:
  - a) The ability to increase the standard extended reduction period of 4 weeks given 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;
  - b) The ability to backdate the application of Council Tax reduction for periods longer than the standard period of 3 months before the claim is made;
  - c) Discretion to disregard more than the statutory weekly £10 of income received in respect of War Disablement Pensions and War Widow’s Pensions (disregarded when calculating income of the applicant);
- 3.7. The Prescribed Requirements Regulations require the Council to adopt a CTRS by 31 January 2014, regardless of whether it applies any of the discretionary elements set out in paragraph 3.6 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 adopts a scheme under the Prescribed Requirements Regulations.
- 3.8. Although the National Assembly for Wales introduced the new CTRS Regulations for 2014/15 on 26<sup>th</sup> November, it is necessary to update the financial figures used to assess applicant’s entitlement, in line with inflation. However, this could not be done until the figures were released following the Chancellor's Autumn Statement on 5<sup>th</sup> December 2013. Both the “Prescribed Requirement” Regulations and “Default Scheme” Regulations 2013 will need to take account of Amending Regulations made by the Welsh Government, which will be debated at the National Assembly for Wales on 14<sup>th</sup> January 2014.

- 3.9. As the Amending Regulations may not be passed until post the Council meeting, it is recommended Council delegate to the Chief Executive (in consultation with the Leader) authority to consider, approve and/or deal with as necessary any amendments which may be made to the Amendment Regulations following consideration by the NAFW on the 14<sup>th</sup> January 2014.
- 3.10. The new Regulations also contain a new obligation, where each financial year an authority must consider 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 year for which the revision or replacement scheme will take effect.

#### **4. CONSULTATION AND EQUALITY IMPACT ASSESSMENT**

- 4.1. Although a duty to consult with the public has not been included in the final regulations, having taken account of the legal advice sought from the WLGA last year on behalf of Welsh councils, it was advised that consultation was necessary in order for the Council to satisfy the National Principles of Public Engagement in Wales.
- 4.2. As part of the Council's consultation on council tax levels and service priorities to inform the annual budget setting process for 2014/15, this also included a consultation on the Council Tax Reduction Scheme.
- 4.3. The consultation has been conducted in-house and an online survey was developed and placed on the Council's website between the 2<sup>nd</sup> December and 18<sup>th</sup> December 2013.
- 4.4. In addition, a presentation was made at the School Budget Forum and also included contributions from the Council's Scrutiny Committees.
- Environmental Services Scrutiny Committee – 2nd Dec 2013
  - Community & Children's Services Scrutiny Committee – 4th Dec 2013
  - Education & Lifelong Learning Scrutiny Committee – 9th Dec 2013
  - Corporate Services Scrutiny Committee – 10th Dec 2013
  - Overview & Scrutiny Committee – 18th Dec 2013
- 4.5. A letter from the Royal British Legion has also been submitted in respect of the discretion available to councils to disregard War Disablement Pension, War Widow's Pension and Armed Forces Compensation Scheme income (attached at Appendix 2).
- 4.6. The overall response from the online survey, on the 3 discretionary areas available to the Council was as follows:-

**Table 1**

<b>Discretion Area</b>	<b>Yes (%)</b>	<b>No (%)</b>	<b>Don't Know (%)</b>
Do you think that 4 weeks is a reasonable period to continue paying Council Tax Reduction when someone returns to work?	73.9	17.4	8.7
Do you think that it is reasonable for the Council to continue to totally disregard War Disablement and War Widow's Pensions income when assessing entitlement to CTR Scheme?	52.2	26.1	21.7
Do you think that 3 months is reasonable period to backdate claims for working age and pensioners?	73.9	17.4	8.7

- 4.7 In terms of an Equality Impact Assessment, the scheme for 2014/15 does not contain any significant changes from 2013/14 and as the Council undertook a comprehensive equality impact assessment in January 2013, it is not considered necessary to undertake a further assessment.
- 4.8 The WG has undertaken a comprehensive Regulatory Impact Assessment in respect of the national Council Tax Reduction scheme, which accompanied the regulations when they were considered by the NAFW in November 2013.

**5.0 ADOPTION OF THE COUNCIL TAX REDUCTION SCHEME**

- 5.1 The Council is obliged to make a CTRS by 31<sup>st</sup> January 2014 under the requirements of the Prescribed Requirement Regulations 2013" (as amended) The obligation is a statutory duty and applies even if the Council chose not to apply any of the discretions available to it. If the Council fails to make a scheme then a default scheme will apply under the Council Tax Reduction Schemes (Default Scheme) Regulations 2013 (as amended).
- 5.2 Part 5 of the Prescribed Requirements Regulations identifies which parts of the prescribed requirements of a scheme are minimum only requirements and in respect of which local authorities have an element of discretion.
- 5.3 As set out in paragraph 3.6 above, the Council does have limited discretion to be more generous than the national scheme and provide for additional administrative flexibility (specified under Part 5, paragraphs (32) to (34) of the Prescribed Requirements Regulations).
- 5.4 Taking into account the responses to the Council's consultation exercise, in particular those relating to the discretionary parts, it is recommended that the approach to the available discretions contained within the Prescribed Requirements Regulations should replicate the approach taken by the Council in 2013/14 as follows:-

**Table 2**

<p><b>Discretionary Parts of the Prescribed Requirements Regulations</b> <b>(Part 5 – Other Matters that must be included in an authority’s scheme)</b></p>	<p><b>Prescribed Requirement Regulations (Minimum Requirement)</b></p>	<p><b>Recommended Discretion to be adopted</b></p>
<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) paragraph (33) of Schedule 1 and Regulation 33 (3), paragraph (35) and (40) of Schedule 6.</i></p>	<p>4 Weeks</p>	<p><u>Pensioners:</u> The standard period of 4 weeks specified in paragraph (33) of Schedule 1 will apply, and</p> <p><u>Non- Pensioners:</u> The standard period of 4 weeks specified in paragraph (35) and (40) of Schedule 6 will apply,</p>
<p>Ability to backdate an application for CTR with regard to late claims prior to 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>	<p>3 Months</p>	<p><u>Pensioners:</u> The standard period of 3 months specified in paragraph (3) of Schedule 13 will apply,</p> <p><u>Non-Pensioners:</u> The standard period of 3 months specified in paragraph (4) of 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 (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>	<p>£10</p>	<p><u>Pensioners:</u> The total value of any pension specified in paragraph (1) of Schedule 4 will be disregarded.</p> <p><u>Non-Pensioners:</u> The total value of any pension specified in paragraph (20) of Schedule 9 will be disregarded.</p>

5.5 It should be noted that there are no additional funds available from WG to fund the discretionary elements of the CTRS, should a council wish to vary the Scheme using its local discretion and be more generous i.e. the cost of varying the discretionary elements must be met from a councils own resources.

5.6 The estimated cost of those parts of the Prescribed Scheme in 2013/14 is:

Extended Payments	£37,000
Backdated Payments	£7,000
War Disablement & War Widows Pensions <sup>1</sup>	£30,000
<b>Total est. cost</b>	<b>£74,000</b>

5.7 It is recommended that the Council adopts the Prescribed Requirements Regulations (as amended by the Amendment Regulations) which set out all the components that must be included in a CTRS, as the Council's CTRS for 2014/15 (subject to the discretions set out above).

## **6. FINANCIAL ISSUES AND RISKS**

6.1 The current estimated annual value of CTRS to be paid in 2013/14 is £22.544M, to 28,787 claimants, as follows:-

**Table 3**

<b>Claim Type</b>	<b>Number</b>	<b>CTRS Value (£'000)</b>
Working Age	16,995 (59%)	£13.076 (58%)
Pensioner	11,792 (41%)	£9.468 (42%)
<b>Total</b>	<b>28,787 (100%)</b>	<b>£22.544 (100%)</b>

6.2 Local Authorities receive fixed funding for the CTRS scheme from WG (which is fundamentally different than funding received from the DWP for the former Council Tax Benefit system, which was demand-led). This means that as a LAs caseload, and hence costs, changes from that assumed when the WG funding was set, then the local authority will bear the financial risk of any variance.

6.3 The amount allocated to councils by WG takes no account of:

- Any increase in Council Tax levels that may be applied for 2014/15;
- The increase in the costs of awards under the CTRS, if claimants increase, or if claimants become eligible for more help (and to the extent that the experience in Rhondda Cynon Taf varies from the national assumptions made by the Office of Budget Responsibility and DWP); and
- Provision for Council Tax bad debt which is likely to be at a higher percentage due to the impact of the wider welfare reforms that may affect Council Tax payers generally.

6.4 The actual amount of cash-limited funding for 2014/15 distributed to the local authorities in Wales is contained in the Final Local Government Settlement made on 11<sup>th</sup> December 2013. Of the total Wales funding made available i.e. £244M, the Council's allocation for 2014/15 is £21.959M (a decrease of 0.5% on 2013/14).

6.5 Based on the estimated out-turn expenditure for 2013/14 (£22.544M) there is

<sup>1</sup> This is the cost borne by the Council as it determined to disregard all income in respect of war disablement and war widows pensions when it adopted its 2013/14 CTRS

already an estimated cost pressure of £0.585M for 2014/15 (£22.544M – £21.959M), before the impact of any increases in Council Tax levels in 2014/15 is applied.

- 6.6 The impact of any increases in Council Tax levels in 2014/15 on the cost of providing the local CTRS will be approximately £226k for each 1% rise.

\*\*\*\*\*

## Council Tax Reduction Scheme

### Differences between the 2012 Regulations and the 2013 Regulations

The 2013 Regulations incorporate amendments made to:

- Address minor technical points identified by the Constitutional and Legislative Affairs Committee (CLAC) and, where relevant points identified by the Joint Committee of Statutory Instruments (UK Parliament) who had reported on the regulations put in place in England;
- Make changes to incorporate amendments required for further welfare reforms;
- Include some simplifications suggested by Local Government last year but which couldn't be incorporated within the time available last year; and
- Address some operational issues identified by Local Government from their experience of running the scheme over six months.

The changes were set out in detail in the technical consultation on the draft regulations issued on 23 August. As a result of the responses a number of further amendments were made and these are detailed in the Welsh Government response to the technical consultation.

The main changes made are detailed below – the references are to the Council Tax Reduction Schemes & Prescribed Requirements (Wales) regulations 2013:

- **Commencement & Application (Regulation 1)** – removing the sunset clause and applying the Regulations in relation to Council Tax Reduction Schemes made by Authorities for financial years beginning on or after 1 April 2014
- **Meaning of “couple” (Regulation 4)** - the definition of couple has been amended to reflect the changes which will be introduced upon the commencement of the Marriage (Same Sex Couples) Act 2013.
- **Preparation of a scheme (Regulation 17)** - set out the process a Local Authority must follow in making its scheme.
- **Revisions to and replacement of schemes (Regulation 18)** - these provisions require a Local Authority to consider on an annual basis whether or not to revise or replace its scheme, and the process to be followed if a decision is taken to change its scheme.
- **Revocation (Regulation 36)** - this regulation revokes the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2012 from 1 April 2014
- **Transitional Provisions (Regulations 37 to 40)** - these are intended to allow applicants for reductions to move from a scheme which a Local Authority has adopted under the 2012 Regulations, to the new scheme a Local Authority will adopt under the 2013 Regulations.

- **Change of Circumstances (Paragraph 40 of Schedule 1 for pensioners; and Paragraph 46 of Schedule 6 for persons who are not pensioners)** - the provision in relation to two or more changes occurring in one reduction week has been removed.
- **Removal of Grace Periods** - the 26-week grace period in relation to changes of circumstances for non-dependants has been removed. However transitional provisions have been included so applicants who are within this 26-week grace period at the point of transferring to the new reduction schemes (on 1 April 2014) will remain within that grace period until it expires.
- **Enhanced Disability Premium – Personal Independence Payments (Paragraph 12 of Schedule 7; persons who are not pensioners)** - provisions regarding entitlement to the enhanced disability premium have been amended to ensure the equal treatment of recipients of Personal Independence Payments and recipients of Disability Living Allowance.
- **Armed Forces Independence Payments (AFIP)** - A number of consultation responses highlighted additional provisions were required in relation to AFIP and as a result, references have been added to the following provisions:
  - Schedule 1; paragraph 19(14) (treatment of child care charges);
  - Schedule 2; paragraph 7 (enhanced disability premium);
  - Schedule 6; paragraph 21(14) (treatment of child care charges);
  - Schedule 7; paragraph 8(2) (premiums);
  - Schedule 7; paragraph 11(4)(a) (severe disability premium);
  - Schedule 7; paragraph 12 (enhanced disability premium); and
  - Schedule 7; paragraph 13 (disabled child premium).
- **Matters Regarding Immigration and Persons From Abroad (Regulations 28 and 29)** - Several amendments have been made to update the 2012 Regulations in relation to the treatment of persons from abroad and persons who have been excluded from making a claim for a council tax reduction as a result of their immigration status. This reflects amendments that have been made to similar provisions in Regulations relating to Housing Benefit and Universal Credit. The amendments made are:
  - Removing 'job-seekers' as people having a right to reside for purposes of qualifying to receive a reduction (Regulation 28(4)(b))
  - Listing people forced to leave Montserrat or Zimbabwe as passing the right to reside test for the purposes of qualifying to receive a reduction (Regulation 28(5)(h) and (i)); and
  - Including people from states which have ratified the European Convention on Social and Medical Assistance or the Council of Europe Social Charter as not being subject to immigration control, meaning they are eligible to apply for a reduction (Regulation 29(2)).
- **Supply of Information by DWP**- minor amendments have been made to provisions in relation to applications to allow Local Authorities to receive information "in writing" otherwise than by way of an approved form (Schedule 12 Paragraph 3).

- **Treatment of Universal Credit** - The Regulations contain provisions about applicants with an award of Universal Credit (an individual or a couple) which have been drafted with support from DWP and DCLG. These were included in the 2012 Regulations but have been revisited. The relevant provisions are:
  - Schedule 6; paragraph 3 (applicable amount: persons who are not pensioners who have an award of universal credit): and
  - Schedule 6; paragraph 9 (calculation of income and capital: persons who are not pensioners who have an award of universal credit).
- **Time-limiting of Appeals** - additional provisions have been drafted requiring an applicant to request that an Authority reconsiders its decision within one month of having been notified of a decision in relation to a reduction (Schedule 12; paragraph 8(2)).
- **Areas of Local Discretion** – Notifications of Decision – at Local Government request this has been removed as an area of local discretion. The other areas of local discretion remain unchanged from the 2012 Regulations.

*This summary does not include all of the minor technical amendments for example changes to cross referencing identified by the Constitutional and Legislative Affairs Committee.*

o Should

o Should

Patron Her Majesty the Queen

The Royal British Legion  
15th Floor  
Brunei House  
2 Fitzalan Road  
Cardiff  
CF240EB  
T: 02920 329086  
Email: pevans@britishlegion.org.uk

5th December 2013

Local Authority Leaders  
Local Authority Chief Executives  
Community Covenant teams

Dear Colleague,

I am writing to you regarding your Council Tax support scheme, specifically in relation to members of the Armed Forces community.

The National Assembly approved the draft Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 on Tuesday 26th November.

You will know that under the previous Council Tax benefit system, local authorities were required by law to disregard the first £10 of War Disablement Pension, War Widow's Pension and Armed Forces Compensation Scheme (AFCS) payments when means testing for Council Tax benefit. Under the previous system we believe that all local authorities in Wales, using their discretionary powers, went further by disregarding in full all such payments from the means test. This was greatly welcomed by our beneficiaries and the sector.

The Legion is now calling for all local authorities to continue to maintain this position under their own schemes, by maintaining the full disregard. This will recognise the fact that War Pensions and AFCS awards are not an income support payment, but are paid as compensation for injury, illness or loss as a result of service in the Armed Forces. We believe that by maintaining this full disregard, local authorities will be demonstrating their commitment to their local Armed Forces community. Local authorities across Wales have now signed Armed Forces Community Covenants and maintaining the full disregard will further highlight a real local commitment to supporting the Armed Forces community.

The Legion fully appreciates that new schemes must operate with a funding shortfall across Wales, which places authorities under major pressure to meet existing need. However we feel that failing to fully disregard these compensation payments would be a failure to recognise the commitment and sacrifice made by these individuals to the nation.

We ask for your support on this matter and thank you for your ongoing commitment to the Armed Forces community.

Yours Sincerely,  
Peter Evans - Public Affairs Manager Wales  
Phil Jones - Wales Area Manager

o Should