

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2015/16**

**COUNCIL**

**27<sup>th</sup> JANUARY 2016**

	<b>Agenda Item No. 9</b>
<b>LOCAL COUNCIL TAX REDUCTION SCHEME</b>	

**REPORT OF:**

**Group Director, Corporate & Frontline Services**

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**1. PURPOSE OF THE REPORT**

- 1.1. This report fulfils the requirement to annually consider whether to revise or replace the Council's existing Council Tax Reduction Scheme ("CTRS") and the requirement to adopt a scheme by 31<sup>st</sup> January 2016.
- 1.2. As part of the review, the report sets out the changes to the CTRS that were introduced in April 2013. It explains the amendments proposed, the funding implications likely and documents the consultation outcomes allowing Members to consider the adoption of the Council's local CTRS for the 2016/17 financial year, which must be adopted by 31<sup>st</sup> January 2016.

**2. RECOMMENDATIONS**

2.1. It is recommended that Members:

- a) Note the amendments to the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 ("the Prescribed Requirements Regulations") by the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016 (the "Amendment Regulations") approved by the NAFW on the 19<sup>th</sup> January 2016;
- b) Note the outcome of the consultation exercise undertaken by the Council on the local discretions applicable to the Council Tax Reduction Scheme for 2016/17;
- c) Adopt the provisions of the Prescribed Requirements Regulations (as amended) as the Council's local Council Tax Reduction Scheme for 2016/17 subject to the local discretions that the Council is able to exercise as set out in (d) below;
- d) Confirm the following as local discretions applicable to the Council's local CTRS as provided for within Part 5 of the Prescribed Requirements Regulations:

<b>Discretionary Parts of the Prescribed Requirements Regulations (Part 5 – Other Matters that must be included in an authority’s scheme)</b>	<b>Prescribed Requirement Regulations (Minimum Requirement)</b>	<b>Recommended Discretion to be adopted</b>
<p>Ability to increase the standard extended reduction period of 4 weeks given to applicants where they have previously been receiving a Council Tax reduction that is to end, as they have ceased receiving qualifying benefits as a result of returning to work, increasing their hours of work, or receiving increased earnings.</p> <p><i>Regulation 32 (3) paragraph (33) of Schedule 1 and Regulation 33 (3), paragraph (35) and (40) of Schedule 6.</i></p>	4 Weeks	<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>	3 Months	<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 Widow's Pensions (disregarded when calculating income of the applicant);</p> <p><i>Regulation 34 (5), paragraphs 1(a) and 1(b) Schedule 4 and paragraphs 20(a) and 20(b) of Schedule 9</i></p>	£10	<p><u>Pensioners:</u> The total value of any pension specified in paragraphs 1 (a) and (b), Schedule 4 will be disregarded.</p> <p><u>Non-Pensioners:</u> The total value of any pension specified in paragraphs 20 (a) and (b), Schedule 9 will be disregarded.</p>

### 3. **BACKGROUND**

3.1. 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:

- a) the Council Tax Reduction Schemes (Default Schemes) (Wales) Regulations 2013 (“the Default Scheme Regulations”); and
- b) the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 (“the Prescribed Requirements Regulations”) (together the “Regulations”).

The Regulations at (b) above prescribe the main features of the CTRS to be adopted by all councils in Wales.

- 3.2 The Prescribed Requirements Regulations contain an obligation, where each year a council must consider whether to revise its scheme, or to replace it with another scheme. Any revision or replacement must be made no later than 31st January in the year preceding the financial year for which the revision or replacement scheme will take effect. However, the Regulations were amended in January 2015 to remove the requirement for Local Authorities to consult in relation to changes made by Welsh Ministers where authorities have no discretion. This means that Local Authorities do not need to consult when the Prescribed Requirements Regulations are amended by NAFW annually, to reflect consequential amendments to other state benefit changes made by Welsh Ministers.
- 3.3. Although there is a national scheme for Wales, the Prescribed Requirements Regulations provide limited discretion for 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 does decide to offer more generous local discretions this would further increase the cost of the CTRS. 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);
- 3.4. The Council adopted its Council Tax Reduction Scheme for 2015/16 on 14<sup>th</sup> January 2015. The Prescribed Requirements Regulations require the Council to adopt a CTRS by 31<sup>st</sup> January each year, regardless of whether it applies any of the discretionary elements set out in paragraph 3.3 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.
- 3.5. Each year, WG updates parts of the Regulations to amend the financial figures used to assess applicant's entitlement, in line with inflation. However, this is not able to be done until these figures are released following the Chancellor's Autumn Statement (which was on 25<sup>th</sup> November 2015). The Minister for Public Services advised that the amending Regulations (The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016) – the "Amendment Regulations" - were laid before the NAFW on 1<sup>st</sup> December 2015, but due to the Assembly's procedures which govern the making of the regulations, the Amendment Regulations would not be approved by the NAFW until 19<sup>th</sup> January 2016 (a letter from the Minister for Public Service explaining this process is attached at Appendix 1 to this report).
- 3.6. As well as changes to the up-rating provisions referred to above, the Amendment Regulations incorporate additional amendments to reflect consequential changes relating to social security benefits and other technical changes. A summary of the main changes are set out in Appendix 2 to this report for information.

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

- 4.1. The Regulations specify that in preparing its CTR scheme, a council must consult with any person it considers are likely to have an interest. Consequently, this requirement is met by incorporating a number of questions on the Council's discretions, within the Council's general budget consultation process (on council tax levels and service priorities to inform the annual budget setting process).
- 4.2. The annual budget consultation process for 2016/17 financial year ran from 16<sup>th</sup> December 2015 to 18<sup>th</sup> January 2016 and was conducted using an on-line budget simulator, to enable residents to interactively consider budget options, alongside road-show events and opportunities for key stakeholders to have an input into the budget setting process.
- 4.3. In addition, a presentation was made at the School Budget Forum on 12<sup>th</sup> January 2016, the Older Persons Advisory Group on 13<sup>th</sup> January 2016, and was also considered by the Finance & Performance Scrutiny Committee on 6<sup>th</sup> January 2016.
- 4.4. The overall response from the consultation process on the three discretionary areas available to the Council and which it could apply to its CTRS 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?	55	9	36
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?	73	27	0
Do you think that 3 months is reasonable period to backdate claims for working age and pensioners?	91	9	0

- 4.5. In terms of an Equality Impact Assessment, the Council undertook a comprehensive equality impact assessment in January 2013 based on the original scheme. This has been reviewed in light of the minor changes to each subsequent year's scheme and it is evident that there are no amendments required.
- 4.6. The NAFW undertook 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. ADOPTION OF THE COUNCIL TAX REDUCTION SCHEME**

- 5.1. The Council is obliged to adopt a CTRS by 31<sup>st</sup> January 2016 under the requirements of the Prescribed Requirement Regulations (as amended). The obligation is a statutory duty and applies even if the Council chooses 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 Default Scheme Regulations (as amended).
- 5.2. As detailed at paragraph 3.5 above, each year the NAFW has to amend the Regulations to ensure that certain financial figures used to calculate entitlement to a reduction for non-passported CTRS applicants are up-rated. For 2016/17, the policy intention is to increase the rates for working age, disability or carer by the Consumer Price Index

(CPI). However, as the UK is currently in a low inflationary period, the practical effect of this measure is that there will be a 0% increase in these rates in 2016-17. Therefore this Statutory Instrument does not contain provisions to up-rate the financial figures in relation to these rates.

- 5.3. In addition to the up-rating provisions, the Amendment Regulations incorporate additional amendments to reflect consequential changes relating to social security benefits and other technical changes. A summary of the changes made are set out at Appendix 2 for Members information.
- 5.4. Part 5 of the Prescribed Requirements Regulations identifies which parts of the prescribed requirements of a scheme are minimum only requirements and those parts in respect of which local authorities have an element of discretion. As set out in paragraph 3.3 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).
- 5.5. Taking account of:-
- the responses to the Council's consultation exercise relating to the discretionary elements of the scheme;
  - the existing Housing Benefit Scheme in relation to the treatment of War Pensions (widows, widowers and disablement), which disregards these payments in full; and
  - the fixed funding made available by WG (explained in paragraph 6),

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 2015/16 as follows:-

**Table 2**

<b>Discretionary Parts of the Prescribed Requirements Regulations</b> <i>(Part 5 – Other Matters that must be included in an authority's scheme)</i>	<b>Prescribed Requirement Regulations (Minimum Requirement)</b>	<b>Recommended Discretion to be adopted</b>
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.  <i>Regulation 32 (3) paragraph (33) of Schedule 1 and Regulation 33 (3), paragraph (35) and (40) of Schedule 6.</i>	4 Weeks	<u>Pensioners:</u> The standard period of <b>4</b> weeks specified in paragraph (33) of Schedule 1 will apply, and  <u>Non- Pensioners:</u> The standard period of <b>4</b> weeks specified in paragraph (35) and (40) of Schedule 6 will apply
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.  <i>Regulation 34 (4) and paragraph (3) and (4) of Schedule 13.</i>	3 Months	<u>Pensioners:</u> The standard period of <b>3</b> months specified in paragraph (3) of Schedule 13 will apply,  <u>Non-Pensioners:</u> The standard period of <b>3</b> months specified in paragraph (4) of Schedule 13 will apply,

Discretionary Parts of the Prescribed Requirements Regulations (Part 5 – Other Matters that must be included in an authority’s scheme)	Prescribed Requirement Regulations (Minimum Requirement)	Recommended Discretion to be adopted
<p>Ability 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> <p><i>Regulation 34 (5), paragraphs 1(a) and 1(b) Schedule 4 and paragraphs 20(a) and 20(b) of Schedule 9</i></p>	£10	<p><u>Pensioners:</u> The total value of any pension specified in paragraphs 1 (a) and (b), Schedule 4 will be disregarded.</p> <p><u>Non-Pensioners:</u> The total value of any pension specified in paragraphs 20 (a) and (b), Schedule 9 will be disregarded.</p>

- 5.6. It should be noted that there is no additional funding available from WG to fund the discretionary elements of the CTRS. The estimated cost of funding the discretionary elements of the Prescribed Scheme in 2015/16 is set out in Table 3 overleaf:

**Table 3**

Discretionary Element	Est. Cost	No. of Applicants
Extended Payments	£31,000	460
Backdated Payments	£10,000	160
War Disablement & War Widows Pensions	£36,000	95
<b>Total est. cost</b>	<b>£77,000</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 2016/17 (subject to the discretions set out in Table 2 of paragraph 5.5 above).

## **6.0 FINANCIAL ISSUES AND RISKS**

- 6.1. The current estimated annual value of CTRS to be paid in 2015/16 is £23.385M, to 27,131 applicants.
- 6.2. Local Authorities receive fixed funding for the CTRS scheme from WG, which means that as a local authority’s caseload, and hence costs, changes from that assumed when the WG funding was set, the local authority bears 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 2016/17;
  - The increase or decrease in the costs of awards under the CTRS if the number of claimants increase/decrease, or if claimants become eligible for more/less help; and
  - The provision for Council Tax bad debt.
- 6.4 The actual amount of cash-limited funding for 2016/17 distributed to the local authorities in Wales will be contained in the Final Local Government Settlement announced on 2<sup>nd</sup> March 2016. However, within the Provisional Local Government Settlement announced on 9<sup>th</sup> December 2015, the total Wales funding made available i.e. £244M, the Council’s allocation for 2016/17 is £22.295M, an increase of 0.6% on 2015/16 (this represents 9.1% of the all Wales funding).

- 6.5 Any change to actual Council Tax levels in 2016/17 made by the Council, will impact on the cost of providing the local CTRS which equates to approximately £239k for each 1% increase in Council Tax.

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Leighton Andrews AC / AM  
Y Gweinidog Gwasanaethau Cyhoeddus  
Minister for Public Services



Llywodraeth Cymru  
Welsh Government

Our ref/Ein cyf: MA-(L)-LA-0064-15

David Melding AM  
Chair, Constitutional and Legislative Affairs Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

30 October 2015

Dear David,

In my letter to you of 5 March, I undertook to provide information to the Constitutional and Legislative Affairs Committee by 31 October in relation to subordinate legislation regarding local taxation which is dependent on the 2015 Autumn Statement.

As you may know, the Chancellor is due to announce the conclusions of the 2015 Spending Review on 25 November.

Currently, the only piece of dependent subordinate legislation I am planning to bring forward in relation to local taxation is the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016 ("the 2016 Regulations"). These Regulations will uprate the figures used to calculate eligibility for a reduction to reflect the cost of living changes applied to the calculations for welfare benefits, and related systems across the UK.

There are also a number of complex technical amendments which will need to be incorporated within the 2016 Regulations to ensure the Council Tax Reduction Schemes remain fit for purpose and reflect the changes made to interrelated social security benefits. Some of these amendments relate to measures announced in the UK Government's July budget and the relevant legislation is still being considered by Parliament. Whilst my officials are in discussions with their counterparts in the relevant UK departments regarding these amendments, there is still scope for significant changes to be made during the Parliamentary process. As a result, it will not be possible to provide a reliable draft of the 2016 Regulations to the Committee by 21 November.

Nevertheless, I anticipate it should be possible to lay the 2016 Regulations by 1 December, and taking into account Christmas Recess, a plenary debate has been arranged in accordance with Standing Orders for 19 January 2016. This leaves sufficient time to ensure Local Authorities are able to incorporate the uprated figures and technical amendments into their adopted reduction schemes by 31 January (which is a statutory requirement). As the plenary debate has been scheduled to comply with Standing Orders, I hope this will not present any significant difficulties for the Committee.

Bae Caerdydd • Cardiff Bay  
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In the previous two years, the Welsh Government has sought assistance from the Committee to introduce a cap on the annual increase in the Non-Domestic Rating (NDR) Multiplier. Due to the current levels of inflation, it seems unlikely that the Chancellor will announce a decision to cap the Non-Domestic Rates Multiplier in England for 2016-17. At this stage therefore, I do not anticipate having to bring forward regulations to cap the Multiplier for Wales.

However as I set out in my previous letter, we cannot rule out the possibility of the Chancellor making policy announcements to which the Welsh Government may need to respond with subordinate legislation within tight timescales. Not to do so may have significant consequences for the Welsh economy. My officials have effective working relationships with the Treasury and the Department of Communities and Local Government. However, the Welsh Government does not have control over whether it receives notice of possible UK Government policy proposals in a timely manner. There has been no indication as yet from UK Government officials as to whether the Chancellor's announcement will include any policy proposals which may necessitate additional subordinate legislation to be made in respect of Wales.

The late announcement of the outcome of the Spending Review also means the Draft Welsh Budget and Provisional Local Government Settlement will be published considerably later than usual. Whilst this presents significant timing challenges for the Welsh Government, the Assembly and Local Government in most respects, the consequent delay to the debate on the Local Government Settlement may, paradoxically, alleviate some of the time pressures on the Committee if additional legislation is required.

If the need for such legislation arises and necessitates a departure from the normal scrutiny procedures of the National Assembly which requires the assistance of the Committee, I will write to you as a matter of urgency. If so, I will provide an outline of the proposed legislation and an indication of the possible timescales and constraints. I will also write if the position in respect of the 2016 Regulations changes.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Leighton Andrews', with a horizontal line underneath it.

**Leighton Andrews AC / AM**  
Y Gweinidog Gwasanaethau Cyhoeddus  
Minister for Public Services

**Council Tax Reduction Scheme****Amendments to the 2013 Regulations made by 2016 Regulations**

1. The new statutory instrument<sup>1</sup> amends the 2013 CTRS Regulations to up-rate certain figures used within those Regulations to calculate entitlement to a Council Tax Reduction, and the amount of any reduction awarded to applicants in 2016/17. It also makes a number of consequential and technical amendments to the 2013 CTRS Regulations to take account of interrelated benefits and ensure they remain fit for purpose.
2. The up-rating increases the various figures used to calculate an applicant's entitlement to a reduction, and the amount of the reduction, in line with variations for living costs and earnings.

The uprated figures relate to:

<b>Change</b>	<b>Impact</b>
<ul style="list-style-type: none"> <li>• <b>Personal allowances in relation to pensioners</b> The figures in respect of pensioner rates have been amended and are aligned with Housing Benefit. These have been calculated with assistance from the Department of Work and Pensions following the Chancellor's Autumn Statement 2015 and have been uprated by different mechanisms. For example, the Pension Credit standard minimum guarantee is uprated by earnings, whereas the Additional Pension and increments are uprated by prices.</li> </ul>	<p><b>Cost:</b> Uprating the financial figures in respect of pensioners would slightly increase total reductions under Council Tax Reduction Schemes</p> <p><b>Benefit:</b> Uprating the financial figures means that the personal allowance for pensioners continues to increase in line with the standard minimum guarantee and savings credit. This will ensure all pensioners are treated equally.</p>
<ul style="list-style-type: none"> <li>• <b>Non-dependant deductions</b> The financial figures in relation to both the income bands and deductions made in relation to 'non-dependents' will be uprated. If amendments are not made, appropriate deductions would not be made from CTRS awards as the income thresholds would no longer reflect average earnings and the deduction would no longer reflect the overall cost of council tax.</li> </ul>	<p><b>Cost:</b> Uprating the financial figures will reduce the level of reductions that would otherwise apply. This mitigates some of the increase in total reductions for Pensioners above.</p> <p><b>Benefit:</b> Will ensure the calculation used to assess eligibility of non-dependant households remains up-to-date. The calculation would continue to make a fair assessment of the income of 'non-dependants' and the cost of Council Tax. This will ensure the system remains fair and equitable.</p>

3. In addition to the uprating, the Amendment Regulations made a number of consequential amendments to the 2013 CTRS Regulations to incorporate a number of changes which have been necessary due to changes to legislation which governs interrelated benefits.

**a) Social Services & Well-being (Wales) Act 2014 and the Care Act 2014**

A number of amendments are necessary to reflect the new arrangements in relation to care and support needs which have been introduced in England by the Care Act 2014 and which will be introduced in Wales by the Social Services and Well-being (Wales) Act 2014 which is due to come fully into force by April 2016.

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<sup>1</sup> The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016

The majority of these amendments are required to replace the current method by which a person is determined to be blind with the condition that a person must either be blind or severely sight-impaired. This is because the definition of “blind” will be repealed by the Care Act 2014 and orders under the Social Services and Well-being (Wales) Act 2014 with one for “severely sight-impaired” (this definition broadly replicates the previous definition of blind).

Other amendments are required to ensure that a range of payments which have previously been disregarded for the purposes of calculating CTRS remain so that they are provided under the 2014 Acts. These include:

- an amendment to ensure that those receiving payments from Local Authorities under the 2014 Acts for their care and support will continue to have these disregarded; and
- an amendment ensuring that those receiving bursaries under the Social Services and Well-being (Wales) Act 2014 will have this disregarded.

All the above amendments are necessary to ensure the affected applicants are still entitled to the disability premium.

**b) National Insurance Contributions Act 2015**

Consequential changes have been made to take into account terminology changes used in legislation as a consequence of the National Insurance Contributions Act 2015. All references to “small earnings exception” have been replaced with references to “small profits threshold”.

**c) Pensions Act 2014**

Consequential changes are also required to take account of the new arrangements and terminology introduced via the Pensions Act 2014. Amendments to the 2013 Regulations are required to insert references to ‘a state pension’ where there are references to ‘retirement pension’. This is because from April 2016, there will be two types of state pension. These amendments are necessary to ensure the affected applicants are still entitled to the relevant premiums and reliefs.

In addition amendments are required to take into account a new section of the Social Security Contributions and Benefits.