

Report of Assistant Chief Executive (Citizens and Communities)

Report to Citizens & Communities Scrutiny Board

Date: 13th March 2017

Subject: Council Tax Support policies

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The new Council Tax Support scheme uses Universal Credit as its basis. Universal Credit reviews its awards every month and there is the likelihood of frequent small changes in earned income being reported to the Council. There needs to be a way of handling these changes that prevents frequent changes to Council Tax Support and frequent new Council Tax bills being issued.
2. One way of dealing with this is to continue to use the 'average earnings' approach that is currently used in relation to Housing Benefit assessment. A proposed approach is provided with this report
3. The current scheme of protections is replaced with a discretionary hardship scheme. This happens only when eligible customers move onto Universal Credit. The intention of the hardship scheme is to help those who may struggle the most in adapting to this change.
4. The proposed policy is provided for the Board to consider.

Recommendations:

5. That Scrutiny Board provides its views on the proposed approach to dealing with changes in earned income;
6. That Scrutiny Board provides its views on the proposed discretionary hardship scheme that replaces the current scheme of protections.

1. Purpose of this report

- 1.1 The report is intended to seek the views of Scrutiny Board on proposals that a) address the issue of dealing with changes in earned income and b) set out the policy for making payments under discretionary hardship policy.

2 Background information

- 2.1 Scrutiny (Citizens & Communities) carried out a review of the proposed Council Tax Support scheme for 2017/8 and made a number of recommendations to the Executive Board. The proposed scheme has now been adopted by Full Council and means that a) the current scheme of protections is replaced with a discretionary hardship scheme and b) there is a need for a new approach to the way changes in earnings are treated.

- 2.2 Scrutiny Board's recommendations to Executive Board included the following:

1. That the Assistant Chief Executive (Citizens and Communities) ensures that the Executive Board is provided with a detailed options appraisal in determining when the Council revises the Council Tax Support award as part of the new Council Tax Support scheme and in doing so, acknowledges the support, in principle, of the Citizens and Communities Scrutiny Board towards an approach based on average earnings.
2. That the Assistant Chief Executive (Citizens and Communities) ensures:
 - That the application of the discretionary hardship scheme is fair and transparent and based on the principle of supporting the most vulnerable of customers that would be worse off under the new Council Tax Support scheme and least able to cope.
 - That the details surrounding the development of the discretionary hardship scheme are shared with the relevant Scrutiny Board.

- 2.3 Executive Board delegated to the Assistant Chief Executive (Citizens & Communities) the decision on how changes in earnings are treated under the new Council Tax Support scheme.

3 Main issues

- 3.1 The key elements of the new Council Tax Support scheme are:

1. The new scheme uses only the single person personal allowance and the married couple personal allowance. There are no other allowances or premiums. The rates of these allowances are the same as the rates in Universal Credit;
2. The new scheme ignores all benefit income and takes into account only non-benefit income. This is mainly earnings;

3. The new scheme continues to limit awards to 75% of Council Tax liability and no longer has any automatic protection for specified groups. Instead a discretionary hardship scheme is introduced.

Treatment of earned income

3.2 Universal Credit will, on a monthly basis, notify the Council of every change of income even where this change is only a few pence a week or a few pounds in a month. Responding to these changes would see new Council Tax bills being issued each month and frequent changes to payment arrangements. In order to avoid this, there is the need to introduce an approach which avoids frequent changes to the CTS award because of earned income changes.

3.3 The main options for achieving this are as follows:

1. A *de minimis* level for changes in earned income. This approach would see increases below a certain value ignored.

The benefits of this approach are:

- The *de minimis* level is easy to understand
- It can be changed relatively easily
- It limits the number of changes to Council Tax Support and, consequently, the number of new bills issued.

The drawbacks of this approach are:

- All changes above the *de minimis* level are taken into account even where the change is a one-off payment or temporary;
- There is a need to consider the cumulative impact of changes to see whether they exceed the *de minimis* level;
- A decision would be needed on whether the *de minimis* applies to reductions in earnings or whether all reductions are applied as a matter of course;
- Short-term fluctuations in income could lead to consecutive monthly changes even where income returns to its 'normal' level.

2. A fixed period award of Council Tax Support. The simplest version of this scheme would see all awards remaining unchanged for a defined period of time.

The benefits of this approach are:

- It would be relatively straightforward to administer and understand;
- There would be no revisions to Council Tax Support awards or Council Tax bills;
- Changes in earnings would be ignored.

The drawbacks of this approach are:

- In reality such a scheme is likely to be too inflexible. For example, if an in-work customer with a small CTS award became unemployed, the fixed period approach would prevent any additional CTS being awarded;
- Changes would be needed to reflect the fact that people move address, marry, separate and die;

- Variations to the approach that allow changes that increase CTS to be taken into account but not changes that result in a reduction, would add complexity.
 - Limiting a fixed period benefit scheme to in-work customers would also add complexity and would need to deal with periods of employment/unemployment and require consideration around earnings to ensure that an appropriate level of earnings is applied for the full fixed period;
 - A fixed-period scheme would also have cost implications.
3. An average earnings scheme. Under this scheme, an assessment of a customer's average earnings would be made and used to award Council Tax Support.

The benefits of this approach are:

- It reflects the approach currently used for Housing Benefit awards;
- It caters for fluctuating earnings and avoids the need for frequent changes to the Council Tax Support award;
- It is responsive to more significant changes such as a larger increase or decrease in earnings

The drawbacks of this approach are:

- In the short-term, it will often require additional information from the customer needed to assess the average earnings. In the longer-term, it is hoped that Council's will be able to access HMRC's Real Time Information solution to avoid the need to contact the customer;
- There may be insufficient information at the start of a claim to make an assessment of average earnings, particularly for customers just starting work;
- A decision is needed on whether a change in earnings is temporary or reflective of a new average.

- 3.4 On balance, it is proposed to use an average earnings solution. A detailed approach is set out at Appendix 1 showing how the approach would work in more detail.

Discretionary Hardship scheme

- 3.5 Appendix 2 sets out the proposed Discretionary Hardship Scheme that replaces the scheme of protections. The Board will be aware that the current scheme of protections is only withdrawn when the customer moves onto Universal Credit. The migration of existing cases onto Universal Credit is expected to start after the completion of the roll out of Universal Credit's Full Service for new claims – this is planned to be completed by July 2018. The migration from this point is expected to take until 2022 to complete.

- 3.6 The main points of the discretionary hardship scheme are:

1. The budget is expected to be around 10% of the estimated gradual savings from removing the current scheme of protections;

2. The hardship scheme will be limited to those being taken off the current scheme of protections;
3. The hardship scheme will focus on those that are worse off overall following the migration to Universal Credit; and
4. The hardship scheme will look at exceptional circumstances when deciding whether to make a payment.

3.7 In order to help make the scheme accessible, customers will be invited to make a claim at the point at which they move onto Universal Credit. There will also be an option to make a payment without an application where there is information to show that the customer should receive a payment.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The Council Tax Support scheme has been subject to a full consultation which included information about the replacement of the current scheme of protections with a discretionary hardship scheme.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An equality impact assessment was carried out as part of the review of the Council Tax Support scheme, including the proposal to replace the current scheme of protections with a discretionary hardship scheme.

4.3 Council policies and Best Council Plan

4.3.1 A key priority for the council in addressing poverty and deprivation. The proposals within this report will help to provide a degree of stability for in-work claimants and will offer support to the most vulnerable through the discretionary hardship scheme.

4.4 Resources and value for money

4.4.1 The proposals set out in this report are expected to reduce overall scheme costs in line with the expectations provided to Scrutiny Board as part of its enquiry into Council Tax Support and are also relatively straightforward to administer.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The adoption of an average earnings approach to dealing with changes in earned income reflects the current approach for Housing Benefit and Council Tax Support. The adoption of a *de minimis* scheme or a fixed period scheme may be considered a more fundamental change to the scheme and may, therefore, be subject to the same restrictions that prevent schemes being changed without consultation.

4.6 Risk Management

- 4.6.1 The proposals in this report are intended to address the risks caused by frequent changes to CTS and the implications this has for Council Tax liability. The key risks are that customers receive new bills on a regular basis, that any liability orders obtained are superseded by new bills requiring new liability orders and that payment arrangements are collection of Council Tax become more difficult.

5 Recommendations

- 5.1 That Scrutiny Board provides its views on the proposed approach to dealing with changes in earned income;
- 5.2 That Scrutiny Board provides its views on the proposed discretionary hardship scheme that replaces the current scheme of protections.

6 Background documents¹

- 6.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Council Tax Support (Universal Credit) Scheme Treatment of earnings Policy outline

1. Background

Leeds has been receiving Council Tax Support claims from Universal Credit claimants since February 2016.

Until 1 April 2017 the Leeds Council Tax Support scheme adopted the governments default arrangements for Universal Credit claimants which resulted in frequent revisions in the Council Tax Support award for Universal Credit claimants who had fluctuating incomes and Universal Credit awards.

Any change in the claimant's income resulted in a revision to the Universal Credit award and this then resulted in a change in the Council Tax Support award. Subsequently there could be up to 12 Council Tax Support revisions made each year, with each revision resulting in the claimant receiving another Council Tax bill. This situation caused confusion and uncertainty for claimants and administrative difficulties for Leeds Welfare and Benefits Service.

2. The new scheme

The new Council Tax Support Scheme for Universal Credit claimants requires far fewer revisions to the Council Tax Support award. The reasons for this are:

- 1) Benefits are not counted. Any changes in benefit levels do not affect the Council Tax Support award.
- 2) Universal Credit claimants with monthly pay or non-benefit income that is below the personal allowance of £317.82 (or £498.89 for couples) qualify for maximum Council Tax Support and as such require no revisions if their income remains below this level.
- 3) Universal Credit claimants with non-benefit income over the personal allowance, fall out of Council Tax Support entitlement altogether on lower levels of income than they did under the default scheme which was more generous for Universal Credit claimants.

The new scheme allows us to make our own assessment of the level of earnings that should be taken into account in the calculation of the Council Tax Support award, rather than being required to use the income included within the Universal Credit award.

3. The aim of this policy

The aim of this policy is to provide an approach to setting the level of income to be used in the Council Tax Support assessment that;

- ensures that claimants receives a Council Tax Bill that reflects their average income level;
- reduces the number of revisions that are made because of minor fluctuations in income;
- ensures that claimants receive a revised bill that reflects their new circumstances when they have a change in their circumstances.

4. There are two types of Universal Credit claims:

- **Cases where the Universal Credit award has no earned or unearned Income included**

Where the Universal Credit award has no earned or unearned income included there is no assessment of income required. Universal Credit is a benefit and as such is disregarded. Claimants are entitled to a maximum award of Council Tax Support.

- **Cases where the Universal Credit award includes earned or unearned Income**

Where the Universal Credit award has an amount of earned or unearned income included we must make an assessment of the claimants non benefit income on which to determine the Council Tax Support award.

However, the Universal Credit award includes only the net income that the claimant has received in earnings and unearned income in the monthly assessment period prior to the Universal Credit assessment day. There is no information provided about how many payments (paydays) are included within the figure or over what period the income has been earned or has accrued.

Over time it is possible to establish the claimant's average pay, but not until a number of assessment periods have passed which means that it is a number of months before the Council Tax Support award can be accurately determined.

5. Methods and options for gathering information about income:

- **Income enquiry**

A standard income enquiry form which gathers information about the claimant's employment and pay is sent to the claimant. This information is used alongside the Information provided in the Universal Credit award to determine the claimant's average income.

- **Request evidence of pay**

The claimant is asked to provide evidence of their non-benefit income.

- **Wider Use of Real Time Information Solution (WURTI)**

This initiative is currently being trialled in Leeds for use in Housing Benefit cases and will be rolled out very soon nationally in Housing Benefit. It cannot yet be used for Council Tax Support unless there is also a Housing Benefit claim, but it is anticipated that once the legal gateway is clear that WURTI may be used for Council Tax Support only claims. WURTI will give us access to real time information about claimant's pay and pensions, specifically:

- employers name
- employment start and end dates
- all payment made including deductions and the date that payments were made

Once we have registered an interest in accessing our claimant's records their details can be looked up as far back as 3 months prior to the date that the Council Tax Support claim was made.

After the initial interest has been registered we will also receive alerts about that claimant's income, specifically:

- when employment ends
- when the claimant commences a new employment
- any irregular payments that are made
- when there is a change in the amount of pay

WURTI will allow us to ascertain the claimant's average level of pay at the start of the claim and will also alert us when there has been a change in the level or frequency of pay.

6. Method of calculating Income

The initial assessment of the claimant's income at the outset of the in-work claim is made based on all of the information that is available.

This can be a combination of:

- the Universal Credit award
- the response to the Income enquiry
- evidence provided by the claimant
- Information from WURTI (once it is available for Council Tax Support purposes)

We have continued the practice followed in Housing Benefit and Council Tax Support, that average pay should normally be based on 2 x monthly payslips or 5 x weekly payslip, or any other period that is reasonable to establish the claimant's average pay during the period of the claim. No assessment will be made until there is sufficient evidence available to enable an accurate assessment to be made.

7. Processes for reviewing Income

Once the award has been made the level of income used in the calculation is reviewed periodically to ensure that the award continues to reflect the claimant's income:

- **Claimant request**

Where a claimant reports that their income has changed and provides information and evidence to support the change, their Council Tax Support will be reviewed.

- **Triggered review**

Changes in the Universal Credit award (including the earned income) are received electronically and are imported into the benefit computer system. This is held for information purposes only to prevent frequent re-assessment of the Council Tax Support award. Regular reports compare the income that is used in the calculation of the Council Tax Support award with the Income that was reported in the latest Universal Credit award. Where there is a significant difference between the two figures the income level that is used in the Council Tax Support award is reviewed.

Once WURTI is in place for Council Tax Support, the alerts that are produced will trigger a review instead as the information provided by Universal Credit. WURTI information will be used because it is more detailed than that provided in Universal Credit award.

- **Structured Review**

Where there are no reported changes, and no triggered review has taken place for 6 months a structured review takes place.

This entails reviewing the Universal Credit awards for period since the last review took place and also possibly contacting the claimant.

Once WURTI is in place the review will be based on information from WURTI.

Council Tax Support Discretionary Protection (Hardship) Scheme

Policy Outline

1. Background

From 1 April 2017 there is a new Council Tax Support scheme for working age residents who claim Universal Credit. Over the next 5 years up to 43,000 working age Council Tax Support claimants will move onto the new scheme when they are transferred onto Universal Credit.

The scheme of automatic protection from the 25% reduction for some people with disabilities, carers and lone parents of children under the age of 5, has been replaced with a Discretionary Protection Scheme.

Around half of existing claimants who will eventually move onto the new scheme are currently protected and will lose their automatic protection from the 25% reduction when they transfer to Universal Credit and the new Council Tax Support Scheme. The average loss in Council Tax Support will be £3.43 per week, but this can be higher for couples and those living in properties in higher Council Tax bands. It will also be higher in future years if there are increases in the Council Tax charge.

Studies by Policy in Practice who were commissioned by Leeds City Council to undertake research into the impact of welfare reform on households in Leeds have indicated that around 29% of households are expected to be financially better off when they transfer onto Universal Credit with the remainder receiving the same level of benefit. (government have stated that transitional protection arrangements will ensure that no-one will lose benefit when they transfer to Universal Credit)

2. Aim of the scheme

The aim of the scheme is to provide a safety net of additional support to the most vulnerable Council Tax Support recipients who experience financial hardship because they lose the protection from the 25% reduction in Council Tax Support when they move onto Universal Credit.

The protection will not replace the current automatic protection for all claimants that currently qualify for protection, it will be awarded only those who are the most adversely affected when they move onto Universal Credit.

3. Budget provision

Automatic protection from the 25% reduction has been removed to reduce expenditure on the scheme and by the time that Universal Credit roll-out is complete (which is currently projected by DWP to be 2022) annual savings from this measure should reach around £5m per annum. In order to achieve the required savings but provide a safety net to the

most vulnerable it is recommended that a budget is initially set at 10% of the value of savings arising from the removal of protections.

To calculate the budget; the cost of providing protections in the next financial year will be determined annually once the level of Council Tax has been set. An assumption will be made in respect of the number of cases that are likely to move onto Universal Credit and lose protection in the next financial year. The assumption will be based on information provided at the time by the DWP in respect of UC transition and migration policy. Based on this assumption an estimate will be made of the amount that the cost of providing protection to these cases is likely to reduce by.

However, it should be noted that the number of protected cases and therefore the cost of providing protection has increased each year since 2013, which means that because of the gradual transition to Universal Credit the actual reduction in the protections in 2017-18 and possibly 2018-19 may simply limit the extent of the increase in protections identified and the associated costs in providing those protections.

4. Publicity and application process

All Council Tax Support recipients who lose protection will be advised that there is a Discretionary Protection (Hardship) scheme when protection is removed and will be invited to apply if they cannot pay their Council Tax. Applications will be accepted on a Discretionary Protection (Hardship) application form, in writing or verbally by the claimant.

Support workers and advisors from external organisations will be advised of the existence of the scheme and may make a written request on behalf of their client providing any relevant information that they have available where they have authority to act.

Council officers and elected members may also make a request on behalf of the recipient providing any relevant information that they have available.

Council Tax and Benefit administration officer may award discretionary protection based on information available where the recipient has not made a specific request.

5. Qualifying criteria

A hardship award may be considered where;

- a person was entitled to protected status in their Council Tax Support award before they transferred on to Universal Credit and;
- changes to the scheme mean that the claimant is no longer entitled to protected status, but otherwise would have qualified for protected status had the scheme not changed and;
- the Council Tax Support award has reduced by an amount equal to at least 25% of the award immediately before the claimant's transfer to Universal Credit and;
- the claimant has an overall loss of benefit following their transfer to Universal Credit that is equal to or more than their loss in Council Tax Support. This includes Universal

Credit, Transitional Protection, benefits that are out of scope of Universal Credit and Council Tax Support and;

- the claimant has demonstrated financial hardship and has exceptional circumstances.

6. Financial hardship

When determining if there is financial hardship the decision maker will take into account all of the claimant's and their partner's income and expenditure and determine if they have surplus income with which to pay the shortfall due to the loss of Council Tax Support.

Benefit income, savings and the income of other adults living in the household are not taken into account when determining entitlement to Council Tax Support, but when considering Discretionary Protection:

- all income, including universal credit, child benefit and disability benefits that are currently disregarded (e.g. PIP and DLA) will be considered
- savings will be taken into account
- the income of other adults living in the household will be considered.
- specific allowances will be made in respect of actual expenses incurred by the claimant and their partner to cover extra health-related expenses for example.

Other factors that may be taken into account;

- Does the claimant have other debts? Have they sought advice on how to clear their debts? Can the claimant re-negotiate non-priority debts, such as credit card agreements?
- Can the claimant change their spending pattern on non-essential items?
- Is the claimant entitled to other welfare benefits that they are not claiming?
- If in work, can the claimant increase his or her hours or do any overtime? Is the claimant in work but with high travel costs, because of distance from work or shift patterns?
- Is the claimant a care leaver?

This list is not exhaustive and all of the claimant's financial circumstances will be considered.

7. Exceptional Circumstances

When determining if there are exceptional circumstances the decision maker will take into account the claimant's individual circumstances and determine whether the claimant has circumstances that are different or unusual to other claimants who have lost protection from the reduction in Council Tax Support. There will be no definition of what Exceptional Circumstances are, as each case will be by nature unusual.

8. Making an award

All decisions will be made by a Council Tax and Benefit administration officer in accordance with the agreed policy and procedure, based on information and evidence specifically provided in support of any request and all other information that is available.

The award will take the form of the protected status being reinstated rather than being a monetary value. This will result in Council Tax Support being calculated based on 100% of the Council Tax liability rather than 75%.

Protection will be awarded as an ongoing award, with no fixed review date although the following changes will trigger a review of the discretionary protection:

- welfare changes
- a break in the claim
- a change in household
- a change in employment status,

9. Appeal Rights

There will be an internal review process that will be offered to anyone who makes a request that is refused which will involve the decision being looked at again by another officer.