

This record relates to urgent decisions taken by Chief Officers under the Scheme of Delegation to Officers Paragraph 7(2).

RECORD OF URGENT DECISION TAKEN BY: the Acting Chief Finance Officer

SUBJECT: Emergency Amendment to the Council Tax Reduction Scheme

CONTACT OFFICER: Graham Bourne, Head of Revenues & Benefits, x1800

REASONS FOR URGENCY AND WHY NOT PRACTICABLE TO HOLD A SPECIAL MEETING OR URGENCY SUB-COMMITTEE:

An urgent change is required in order to implement government measures to protect recipients of Council Tax Reduction in light of the Covid-19 pandemic.

The urgency has arisen because it has become apparent that without an immediate technical adjustment to the scheme, residents could see an unintended reduction of their benefit, due to a technical mismatch between the legislative framework for CTR and the government's intended COVID-19 support. If the scheme remains unaltered, the consequences are estimated to result in reductions in CTR entitlement of up to £10 per week, but more significantly, will also result in disqualification from the £150 hardship payment.

The government has increased Working Tax Credit by £20. However, without changing allowances in other means-tested benefits, such as Housing Benefit (HB) and Council Tax Reduction, this would give the appearance that a person had more income, and, in accordance with the normal application of the scheme, their other benefits would be reduced accordingly. To counteract this, the government introduced an additional £20 earnings disregard into HB regulations so that the extra Working Tax Credit would not affect entitlement as detailed at Appendix (i).

The Council Tax Reduction Scheme is a locally approved scheme in accordance with statutory regulations, based largely on the same rules and allowances as Housing Benefit. The local scheme therefore needs to be altered to introduce and protect the amended allowances, but usually a CTR scheme cannot legally be altered mid-year. Without making amendments to the scheme, some residents would find their Council Tax Reduction reduces or stops entirely, which is clearly not the government's intention as they clearly made an equivalent amendment to the Housing Benefit regulations to ensure the entitlement was unaffected by the increased Working Tax Credit.

To rectify this, and due to the urgent need to instruct the council's IT System supplier, the Acting Chief Finance Officer has taken a decision using officer Urgency Powers, under delegations to the Executive Director of Finance & Resources, to amend the

scheme and instruct the system supplier to amend the council's system accordingly.

DETAILS AND OUTCOME OF CONSULTATION WITH THE CHAIR/DEPUTY CHAIR OF RELEVANT COMMITTEE AND OPPOSITION SPOKES:

The Chair of Policy & Resources, Councillor Nancy Platts, was consulted and agreed the use of urgency powers on 6 April 2020. The two opposition spokespersons, Councillor Phelim MacCafferty and Councillor Steve Bell were also consulted on 6 April 2020 as required.

DATE OF CONSULTATION WITH CHAIR/DEPUTY CHAIR AND OPPOSITION SPOKES:

Monday 6th April 2020

THE DECISION:

To note the use of officer urgency powers by the Acting Chief Finance Officer under delegations provided to the Executive Director of Finance & Resources to amend the Council Tax Reduction Scheme to mitigate against losses of benefit that would otherwise arise from the introduction of government COVID-19 increases to welfare benefits.

REASONS FOR DECISION:

As detailed above, if the CTR scheme is not amended, people will not only lose entitlement to the £150 hardship payment but may also lose a further £10 per week overall. This was clearly not the government's intention when increasing the Working Tax Credit and instructing authorities to make the hardship payments.

DETAILS OF ANY ALTERNATIVE OPTIONS CONSIDERED:

The alternative of leaving the scheme unchanged will cause a loss of benefits to people in financial difficulty at a critical time. Not adjusting the scheme is highly likely to cause, at best estimate, circa 1,000 working age claimants to lose benefits and will therefore potentially result in increased hardship and potential claims against the council's other discretionary funds. This is not a recommended approach because a) people will experience additional hardship and some may not claim, b) hardship funds are limited whereas adjusting the scheme is cost neutral due to the contra-interaction with government funded benefits, and c) it would place additional administrative burden on a council service that is already under severe pressure due to increased claims and welfare activity, isolating staff, and the requirement to administer other government support packages.

LEGAL IMPLICATIONS:

Changes to the CTR scheme would normally require full Council decision. In this case, it is appropriate to explain the changes required and use this to consult with the Chair of Policy & Resources Committee and the two opposition spokes. Subject to receiving the support of the Chair, the decision to implement the required changes to the CTR scheme using officer urgency powers is appropriate.

Lawyer Consulted: Elizabeth Culbert, Head of Legal Services Date: 3/4/2020

FINANCIAL IMPLICATIONS:

There are no cost implications to the council of making this amendment to the scheme. This amendment to the scheme will keep CTR awards in the current scheme neutral and ensure residents will receive the full additional benefits of the working tax credits and hardship payments.

Finance Office Consulted: James Hengeveld Date: 6/4/2020

DATE OF NEXT COMMITTEE MEETING TO WHICH THE DECISION WILL BE REPORTED:

Full Council 23 April 2020

Date:	6/4/2020
Signed: Acting Chief Finance Officer (under delegations for the Executive Director of Finance & Resources)	6/4/2020
Logged by Democratic Services Officer for Annual Report: Name: Mark Wall	Date: 15/4/20

Appendix (i) – technical detail

The Covid-19 LA Welfare Direct bulletin 1 (CLAWD1/2020) issued on 26 March 2020 outlined proposed changes to the *Housing Benefit Regulations 2006* and the *Housing Benefit (persons who have attained the qualifying age for state pension credit) regulations 2006*:

The Additional Earnings disregard in the Housing Benefit Regulations 2006 and the Housing Benefit (persons who have attained the qualifying age for state pension credit) regulations 2006 is being increased from £17.10 to £37.10 per week to ensure that the increase in the maximum rate of the basic element of Working Tax Credit (WTC) of approximately £20 per week is not clawed back where a person claims or is entitled to HB. The change will also apply to persons who are not entitled to WTC but who comply with certain conditions with respect to minimum hours of work as set out in the regulations relating to HB. The change comes into force on 6 April 2020 and ceases to apply at the end of 4 April 2021.

The proposed change was made law by *Social Security (Coronavirus)(Further Measures) Regulations 2020* coming into force on 30-03-20

Regulation 18 of our *BHCC's Council Tax Reduction Scheme (Persons who are not Pensioners) (Brighton & Hove City Council) 2013* (Annex A) states that the equivalent disregard in working age CTR is £17.10.

The *Council tax: Covid-19 hardship fund 2020 to 2021* directs Local Authorities to reduce the annual council tax bill of working age recipients of CTR by £150.

Unless the Additional Earnings disregard in regulation 18 of our scheme is amended to £37.10 the increase in the basis element of Working Tax Credit will mean that many working CTR claimants will see a reduction in their annual CTR of between £260 and £520 this year. It would also mean that many of these people would no longer qualify for CTR and would therefore be no longer entitled to the £150 hardship payment either.

Annex A

18.

- 1) In a case where the applicant is a person who satisfies at least one of the conditions set out in sub-paragraph (2), and his net earnings equal or exceed the total of the amounts set out in sub-paragraph (3), the amount of his earnings that falls to be disregarded under paragraphs 4 to 12 must be increased by £17.10.
- 2) The conditions of this sub-paragraph are that
 - (a) the applicant, or if he is a member of a couple, either the applicant or his partner, is a person to whom regulation 20(1)(c) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 applies; or

(b) the applicant

- (i) is, or if he is a member of a couple, at least one member of that couple is aged at least 25 and is engaged in remunerative work for on average not less than 30 hours per week; or
- (ii) is a member of a couple and
 - (aa) at least one member of that couple, is engaged in remunerative work for on average not less than 16 hours per week; and
 - (bb) his applicable amount includes a family premium under paragraph 4 of Schedule 1; or
- (iii) is a lone parent who is engaged in remunerative work for on average not less than 16 hours per week; or
- (iv) is, or if he is a member of a couple, at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week; and
 - (aa) the applicant's applicable amount includes a disability premium under paragraph 9, the work-related activity component under paragraph 21 or the support component under paragraph 22 of Schedule 1 respectively;
 - (bb) where he is a member of a couple, at least one member of that couple satisfies the qualifying conditions for the disability premium or either of the components referred to in paragraph (aa) above and is engaged in remunerative work for on average not less than 16 hours per week; or
- (c) the applicant is, or if he has a partner, one of them is, a person to whom regulation 18(3) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (eligibility for 50 plus element) applies, or would apply if an application for working tax credit were to be made in his case.

3) The following are the amounts referred to in sub-paragraph (1)

- (a) the amount calculated as disregardable from the applicant's earnings under paragraphs 4 to 12 of this Schedule;
- (b) the amount of child care charges calculated as deductible under paragraph 63(1); and
- (c) £17.10.

4) The provisions of article 10 (remunerative work) is to apply in determining whether or not a person works for on average not less than 30 hours per week, but as if the reference to 16 hours in sub-paragraph (1) of that paragraph were a reference to 30 hours.

