

**Explanatory Memorandum to the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013.**

This Explanatory Memorandum has been prepared by the Local Government Finance & Performance Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013. I am satisfied that the benefits outweigh any costs.

**Lesley Griffiths AM**

Minister for Local Government & Government Business

4 November 2013

## **Description**

1. This statutory instrument sets out the practical framework within which Council Tax Reduction Schemes will operate in Wales from 1 April 2014. The sunset clause in the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2012 limits the application of the Council Tax Reduction Schemes currently operating in Wales, to the 2013-14 financial year.
2. The statutory instrument details the default scheme that will take effect if any local authority in Wales fails to adopt their own Council Tax Reduction Scheme, in accordance with the provisions in the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 (the Prescribed Requirement Regulations), by 31 January 2014.
3. The effect of paragraph 6(1)(e) of Schedule 1B to the Local Government Finance Act 1992 (the 1992 Act) is that any default scheme prescribed in Regulations will only apply in the event that a Local Authority fails to comply with any duty set out in Regulations requiring Authorities to introduce Council Tax Reduction Schemes. The Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 therefore have practical effect only during the period of the applicability of the Prescribed Requirements regulations which imposes the duty to have a scheme, which by virtue of regulation 1(3) of those regulations is the financial year commencing 1 April 2014 and onwards.

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

4. There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

## **Legislative background**

5. Section 10 of, and Schedule 4 to, the Local Government Finance Act 2012 (the 2012 Act) inserted a new Section 13A and new Schedule 1B into the 1992 Act. This provides Welsh Ministers with executive powers to introduce Council Tax Reduction Schemes in Wales, via Regulations.
6. The relevant provisions in the 2012 Act were subject to a Legislative Consent Motion which was approved by the National Assembly for Wales on 26 June 2012. The 2012 Act received Royal Assent on 1 November 2012.
7. This statutory instrument is being made under the new section 13A of, and new Schedule 1B to, the 1992 Act, to prescribe the 'default' Council Tax Reduction Scheme, which will take effect if Local Authorities do not adopt their own Schemes by 31 January 2014.
8. The instrument is subject to approval of the Assembly (the affirmative procedure).

## **Purpose and intended effect of the legislation**

9. The Welfare Reform Act 2012 contained provisions to abolish Council Tax Benefit from 31 March 2013. From this date the responsibility to provide support for council tax and the funding associated with it, was passed to Local Authorities in England, to the Scottish Government and to the Welsh Government
10. To ensure a single National Framework Scheme was introduced to provide a consistent level of support across Wales, provisions were sought in the 2012 Act to provide Welsh Ministers with executive powers to introduce Council Tax Reduction Schemes in Wales.
11. In line with the provisions in the 2012 Act, two main sets of Regulations govern the current operation of Council Tax Reduction Schemes in Wales:
  - The Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2012: and
  - The Council Tax Reduction Scheme (Default Scheme) (Wales) Regulations 2012.

These Regulations (the 2012 Regulations) were designed to ensure that all Local Authorities introduced some form of Council Tax support in 2013-14

12. In agreement with opposition parties a sunset clause was included within the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2012, limiting the application of the Council Tax Reduction Schemes adopted by Local Authorities to the 2013-14 financial year.
13. As a result new Regulations are being brought forward which will govern the operation of Council Tax Reduction Schemes in Wales from 1 April 2014 (the 2013 Regulations). Subject to the approval of the National Assembly for Wales:
  - One set of Regulations will place a duty upon Local Authorities to introduce Council Tax Reduction Schemes in their areas which are to apply from 1 April 2014. These Regulations will also prescribe the requirements which must be included within the local schemes introduced by the individual Local Authorities in Wales, and will specify a number of areas of local discretion ('the prescribed requirements Regulations'); and
  - The other set of Regulations will prescribe the 'default' Council Tax Reduction Scheme, which will take effect if Local Authorities do not adopt their own schemes (the Default Scheme Regulations).
14. This statutory instrument relates to the Regulations setting out the default scheme that will take effect in relation to the dwellings situated in a Local Authority's area if the Authority fails to make a Scheme by 31 January 2014.

15. The approach adopted to the 2012 Regulations has been continued in the 2013 Regulations with a national framework of support being retained and the levels of entitlement for eligible applicants being protected at their current levels. However, where feasible, within the timing and legal constraints, and where proposed amendments are in line with wider Welsh Government policy objectives, additional changes have been made to:

- Remove the sunset clause from the Prescribed Requirements Regulations. This has the effect of extending the application of the 2013 Regulations beyond the 2014-15 financial year;
- Address minor technical amendments suggested by the Constitutional and Legislative Affairs Committee (CLAC) and by the Joint Committee of Statutory Instruments in relation to similar provisions brought forward in Regulations which apply in relation to England;
- Incorporate amendments required for certain Welfare Reform changes, for example Universal Credit and Armed Forces Independence Payment;
- Make further simplifications to improve the process for applicants and, where possible, to reduce the costs of administration;
- Consider any practical adjustments needed, based on Local Authorities' experience of operating the Council Tax Reduction Schemes since April 2011, for example, amending provisions in relation to changes of circumstances; and
- Respond to points raised as a result of the technical consultation on the draft Regulations.

16. As with the 2012 Regulations, the approach to calculating council tax reductions under the 2013 Regulations reflects the approach that was taken to calculating Council Tax Benefit and which was set out in SI 2006/215 (the Council Tax Benefit Regulations 2006) and SI 2006/216 (the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006).

17. As stated above, the Default Scheme Regulations set out the scheme that will apply in a Local Authority's area, should that authority fail to adopt its own scheme in accordance with the Prescribed Requirements Regulations. The majority of the provisions within the Default Scheme Regulations mirror those required by the Prescribed Requirements Regulations. In particular they provide for the following:

#### Definitions of key words and phrases

#### The procedure for reduction applications and appeals

18. The Default Scheme Regulations allow an application to be made in writing, by means of electronic communications, or where the authority has published a telephone number for the purpose of receiving such applications, by telephone.

19. Minor amendments have been made to provisions in the previous default scheme relating to applications to allow Local Authorities to receive

information "in writing" otherwise than by way of an approved form, in order to improve administrative processes for Local Authorities'. However, in accepting an application it will be for Local Authorities to ensure they are acting in accordance with the Department for Work and Pension's data-sharing gateways DWP's and to guarantee they have appropriate mechanisms in place to deal with fraud and error relating to information provided by an applicant.

20. These Regulations also set out the procedure by which a person may make an appeal against the decisions of the Authority under the default scheme. An applicant is required to request that the Authority reconsiders its decision, within one month of having been notified of a decision in relation to a reduction. This time-limit was not included in the 2012 Regulations but is an operational improvement suggested by Local Government practitioners and it is similar to the time limit which exists for Housing Benefit appeals.
21. The Regulations also provide for persons who are still aggrieved by the decision of a Local Authority in relation to a reduction under the default scheme, or who have not received a response from the Authority within two months of an appeal being made, to appeal to the Valuation Tribunal Wales.
22. The Regulations also set out the procedure by which a person can apply to an Authority for a discretionary reduction under section 13A(1)(c) of the 1992 Act.

#### The classes of person who are entitled to a reduction under the default scheme

23. There will be four classes of person entitled to a reduction under the default scheme:
  - Class A: Pensioners whose income is less than the applicable amount.
  - Class B: Pensioners whose income is greater than the applicable amount.
  - Class C: Persons who are not pensioners whose income is less than the applicable amount.
  - Class D: Persons who are not pensioners whose income is greater than the applicable amount.
24. The applicable amount is the amount that the Government says that an applicant and their family need to live on each week. The components that make up the applicable amount are detailed in paragraphs 23 (pensioners) and 24 (persons who are not pensioners) of the default scheme.

#### The classes of person who are excluded from the default scheme

25. The Default Scheme Regulations apply the same restrictions that existed under the Council Tax Benefit system to exclude foreign nationals with limited

immigration status and non-economically active EEA individuals who are not exercising EU treaty rights from receiving council tax reductions.

26. However, the Regulations allow the established practice of enabling those who have recognised refugee status, humanitarian protection, discretionary leave or exceptional leave to remain granted outside the immigration rules and who are exempt from the Habitual Residence Test, to be entitled to apply for a council tax reduction, provided that their status has not been revoked.
27. The Regulations also replicate the existing provisions from the former Council Tax Benefit system in relation to other classes of person that are to be excluded from entitlement to a reduction under the default scheme, namely: persons treated as not being in Great Britain, persons subject to immigration control and students.
28. The Regulations in relation to persons who are to be treated as being in Great Britain are also replicate the former Council Tax Benefit system in this regard.
29. Several amendments have been made to update the 2012 Regulations in relation to 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 include:
  - Removing 'job-seekers' as people having a right to reside for purposes of qualifying to receive a reduction;
  - Listing people forced to leave Zimbabwe or Montserrat as passing the right to reside test for the purposes of qualifying to receive a reduction; and
  - Listing 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.

The matters that determine eligibility for a reduction and the amount of reduction under the default scheme

30. The class of person that an individual falls within (for the purposes of a reduction under the default scheme), and the reduction they will receive, are determined through means-testing.
31. The Default Scheme Regulations use the same rules and criteria for means testing as were used under the former Council Tax Benefit system, and as with that system under the Default Scheme Regulations separate provision is made for the means testing of pensioners and persons who are not pensioners.
32. The means tests are based on a comparison of an individual's income (as defined in the Regulations) and their applicable amount (a living allowance).

An individual's applicable amount will continue to be made up of four elements:

- A personal allowance in respect of the applicant;
  - An amount in respect of any child or young person who is part of the applicant's family;
  - A family premium element (where the applicant is part of a family of which at least one member is a child or young person); and
  - Any premium amount, as set out in the Regulations, which is applicable to the applicant for example, for a disability or in relation to caring responsibilities.
33. The elements of, and the calculation methodology for, the applicable amount replicate those used in the former Council Tax Benefit system.
34. Where wider welfare reforms have necessitated amendments to recognise any new benefits, such as the introduction of the Personal Independence Payment which replaced Disability Living Allowance for new claimants in April 2013, technical amendments have been made by the Welsh Government.
35. An amendment has also been made to correct an error in the 2012 Regulations which meant recipients of Personal Independence Payments (PIP), which is gradually replacing Disability Living Allowance (DLA), were treated more favourably when determining an applicant's entitlement to an enhanced disability premium for the purposes of determining eligibility for a reduction under a Council Tax Reduction Scheme. This had the unintended consequence of increasing expenditure on Council Tax Reduction Schemes, though due to the gradual implementation of PIP this has had a limited effect.
36. The amendment made bring the treatment of recipients of PIP into line with the recipients of DLA and is consistent with the approach taken under the previous Council Tax Benefit system. A number of further amendments have also been made to ensure all necessary references to PIP are included within the Regulations.
37. In addition, amendments have been made to ensure provisions in relation to the Armed Forces Independence Payments, which is an alternative to PIP, DLA and Attendance Allowance (AA), for service personnel and veterans who have been seriously injured as a result of their service, are up to date and any necessary references are included.

How income and capital of the applicant and others, should be treated when calculating entitlement to a reduction under the default scheme, including cases where an applicant or their partner has an award of Universal Credit

38. In accordance with the Default Scheme Regulations an applicant's income and capital will be calculated in line with the provisions which existed under the former Council Tax Benefit system.
39. As such, the income and capital of an applicant's partner (or, to mitigate the risk of over-claiming in a polygamous marriage, partners) will continue to be

treated as income of the applicant. Income or capital of any child or young person will also continue not to be treated as income or capital of the applicant.

40. The Default Scheme Regulations also allow a Local Authority to treat the income or capital of a non-dependant (someone who is aged over 18 and who normally lives with the applicant, for example, an adult son, daughter, relative or friend) as if it were the income or capital of the applicant, in a case where it appears to the Local Authority that the two have entered into arrangements to take advantage of the system. There is an exception to this rule for those on income related Jobseekers Allowance and income related Employment and Support Allowance.
41. There will be special treatment of income and capital for those in receipt of state pension credit:
  - For those in receipt of the guarantee credit element of state pension credit, the whole of their income and capital will be disregarded; and
  - For those in receipt of the savings credit element of state pension credit, the Local Authority will be able to use the Department for Work and Pensions' Pension Service's assessment of income and capital of the individual, and adjust this to take into account income from this benefit and any other relevant requirements.
42. Provisions in the Default Scheme Regulations that relate to income, the calculation of income on a weekly basis, what is to be regarded as income, and what is to be disregarded as income, replicate those that existed within the former Council Tax Benefit system.
43. In relation to income, wider welfare changes mean new working age benefits are being introduced, for example, Disability Living Allowance will be replaced by Personal Independence Payments. New claimants will be migrated onto these benefits over time, so both benefits will co-exist for a number of years (for example Universal Credit migration will take place over a five year period). These new benefits have therefore been incorporated within these Regulations, and the approach to the provisions included in relation to these new benefits has been agreed with the Department for Work and Pensions.
44. Provisions relating to capital, what is to be regarded as capital, what is to be disregarded as capital and other capital calculations will also operate in the same way under the Default Regulations as they did within the former Council Tax Benefit system.

#### The application of the scheme to students

45. Matters relating to the application of the default scheme to students will be dealt with in the same way as they used to be under the former Council Tax Benefit system.

#### Extended reductions



46. The Default Scheme Regulations set out that an individual who is approaching pension credit eligible age:

- And who is in receipt of Council Tax Reduction and not in receipt of working age benefits (Income Support, income related Jobseeker's Allowance, income related Employment and Support Allowance);
- Or whose partner has claimed state pension credit,

will continue to receive an extended payment of their Council Tax Reduction for a period of four weeks.

47. The Regulations also set out that an applicant who is not a pensioner and who is entitled to a reduction under the default scheme will be entitled to receive an extended payment of their Council Tax Reduction for a period of four weeks, where the applicant or the applicant's partner was entitled to a qualifying income related benefit for a continuous period of at least 26 weeks and entitlement to this benefit ceased because the applicant or the applicant's partner:

- Commenced employment as an employed or self-employed earner;
- Increased their earnings from such employment; or
- Increased the number of hours worked in such employment.

48. If an applicant moves to the area of a new Local Authority during the extended reduction period then the first Local Authority will pay the second Local Authority, or the applicant, their reduction amount for the extended reduction period.

49. If an applicant applies for a Council Tax Reduction to the second Local Authority, the second Local Authority will net off the reduction amount received from the first Authority. Any balance of reduction award will be paid to the applicant. After the extended reduction period ends, the first Local Authority's liability in relation to extended payments will cease and the new Local Authority's reduction will apply.

#### Period of entitlement and changes of circumstances

50. While the Default Scheme Regulations retain the existing council tax benefit system's provisions in relation to:

- Date on which a change of circumstances is to take effect; and
- Changes of circumstances where state pension credit is in payment;

where possible these provisions have been simplified, to reduce the administrative impact on Local Authorities and to simplify the process for applicants, so that the majority of changes are effective from the date on which they actually occur.

51. The Regulations also replicate current arrangements for a person to act on behalf of another, for example, where a person has been granted power of attorney over a liable council tax payer.

#### Award or payment of reduction

52. Matters relating to the time and manner of granting relief and persons to be paid under the default scheme will be dealt with in the same way they used to be under the former Council Tax Benefit system.

#### Treatment of Universal Credit

53. The Default Scheme Regulations contain provisions about applicants with an award of Universal Credit (an individual or a couple).

54. For the applicable amount of such applicants the amount of the maximum award calculated for the purposes of Universal Credit is used. This ensures that there is a consistent approach towards the amount that Universal Credit determines a person needs to live on and the amount that Council Tax Reduction Schemes assume a person needs to live on.

55. In determining an applicant's income, the default scheme will use the income assessment made by DWP for Universal Credit. For most cases this will only be modified by adding in the award of Universal Credit itself, and any further 'discretionary' reduction that the Authority decides to apply. A calculation will also be undertaken to convert the amounts of income and award into amounts for a week as opposed to a month.

56. The way Universal Credit works means that housing and childcare costs are taken into account under both the calculation of 'income' and the calculation of the 'applicable amount', and as such they cancel each other out. Allowing housing and childcare costs to be taken into account in both the 'maximum award' and assessed 'income' is considered simpler to administer and avoids a dual tapering of support, because the means test for the default scheme will take into account the fall in housing and childcare support as earnings increase.

57. Universal Credit already provides support for childcare. Households increasing their working hours may face increased childcare costs, which will be partially offset by Universal Credit. Since Universal Credit is taken into account for both the applicable amount and income calculations made under the default scheme, increased childcare costs will not lead to a reduction in support under this scheme.

58. In line with the treatment of other applicants for reductions under the default scheme, applicants with an award of Universal Credit will lose 20p for every £1 of income over and above their applicable amount, subject to any earnings disregards that may be applied under the scheme. This supports positive work incentives by mitigating the risk of having high marginal deduction rates.

(A marginal deduction rate is the proportion of any increase in earnings which is lost due to tax or to reduced benefit payments.)

59. Since the 20 per cent council tax support taper applies to the Universal Credit income which has already been tapered by 65 per cent, marginal deduction rates cannot exceed 100 per cent and will instead be around 81 per cent, taking into account a person's tax and national insurance contributions.

#### Areas of local discretion available under the prescribed requirements Regulations

60. The Prescribed Requirements Regulations set out areas of discretion where Local Authorities can be choose to be more generous than the minimum requirements set out in the Default Scheme Regulations in relation to extended reduction periods, disregarding war pensions and backdating applications. The Default Scheme Regulations do not allow for any areas of local discretion.

#### **Consultation**

61. The details of the consultation undertaken are included in the RIA below.

### **PART 2 – REGULATORY IMPACT ASSESSMENT**

#### **Options**

##### Option 1 – Do nothing

62. The sunset clause applying to the 2012 Regulations limits the Council Tax Reduction Schemes adopted by Local Authorities to the 2013-14 financial year. If no action is taken to bring forward new Regulations then there will be no legal powers to introduce schemes to provide assistance to households in meeting their council tax bills from 1 April 2014.
63. This means that the approximately 320,000 applicants currently receiving support under a Council Tax Reduction Scheme would be required to pay their council tax bill in full.

##### Option 2 - Draft Regulations based on the 2012 Regulations but reduce support provided to applicants in line with the shortfall in funding

64. Bring forward new Regulations based on the 2012 Regulations but which restrict the level of support provided to eligible applicants in line with the shortfall in funding transferred by the UK Government. For example, by setting a maximum reduction in a person's council tax liability, by capping the level of support provided to that for a Band D property etc.

##### Option 3 - Draft Regulations based on the 2012 Regulations retaining full entitlements for eligible applicants, with the Welsh Government and Local Government sharing the costs of the shortfall in funding

65. Bring forward new Regulations based on the 2012 Regulations maintaining full entitlements to support for eligible applicants. As there is a shortfall in funding transferred by the UK Government to provide households with assistance in meeting their council tax bills, continuing to provide the same level of support will result in a shortfall in funding. This shortfall will be shared between the Welsh Government and Local Government.

## **Costs & benefits**

### Option 1 – Do nothing

66. If no action was taken to bring forward new Regulations, then none of the administrative costs for the Welsh Government or Local Government of operating a new scheme, set out under options 2 and 3 below, would be incurred.

67. Furthermore, the funding transferred from the UK Government to the Welsh Government following the abolition of Council Tax Benefit could be used to support other Welsh Government priorities. The funding that has been transferred for 2014-15 is £222m and £5.2m will also be transferred to meet some of the costs of administering the schemes.

68. However if no form of assistance in meeting council tax bills is provided then the current recipients of council tax reductions in Wales (approximately 320,000) would be expected to meet their council tax bills in full.

69. Given that Council Tax Reduction Schemes provide income-related support for those with low incomes this is likely to cause severe financial hardship for current recipients. As a result demand for advice and support from local advisory bodies and other third sector organisations would increase raising the costs incurred by these organisations. There could also be an increased number of applications to Local Authorities for hardship assistance or an increased incidence of homelessness.

70. As it is unlikely that a recipient currently receiving a 100% reduction in their council tax liability would be able to pay their full council tax bill, there would be an impact on Local Authorities' collection rates and consequently the funds that local government has available to deliver its local services. This could also result in an increase in council tax in future years.

71. There would also be significant costs for Local Government as a result of increased collection and enforcement activity.

### Option 2 - Draft Regulations based on the 2012 Regulations but reduce support provided to applicants in line with the shortfall in funding

72. It should be noted that all of the costs outlined below result from the UK Government's decision to abolish council tax benefit and to reduce the funding available to provide future support by 10%.

### *Costs to Current Recipients*

73. Regulations to reduce the level of assistance that is provided to claimants, in line with the shortfall in funding transferred by the UK Government, would mean those claiming support under Council Tax Reduction Schemes would have to pay a proportion of their council tax bill.
74. The costs to current recipients would depend on the mechanism used to reduce expenditure on Council Tax Reduction Schemes. For example, based on calculations made in the Explanatory Memorandum for the 2012 Regulations, if Regulations were brought forward setting the maximum level of council tax liability which can be rebated at 90%, applicants would on average lose an estimated £67 of support per annum.

### *Administration Costs – Local Government*

75. In 2013-14 rather than disaggregating the costs of administering Council Tax Benefit from administering Housing Benefit once Council Tax Benefit was abolished, DWP continued the existing administration subsidy arrangements and provided funding directly to Local Authorities to cover the administration costs of both Housing Benefit and Council Tax Support.
76. For 2014-15, DWP has determined that a proportion of the administration funding which relates solely to Council Tax Reduction cases should be disaggregated from the current subsidy and passed to DCLG and the Devolved Administrations. Based on previous cost modelling exercises, DWP has assessed this as equating to 20% of the weighted caseload, with the remaining caseload relating to joint Housing Benefit /Council Tax Reduction cases or Housing Benefit only cases. The remaining 80% of the funding will be provided by DWP directly to Local Authorities for 2014-15.
77. The administrative funding that will be transferred to the Welsh Government has been calculated by DWP taking into account planned efficiencies set out in the Autumn Statement 2012 and Budget 2013 and the respective workload shares of each country. As a result £5.2m will be provided to the Welsh Government for the administration of CTRS in 2014-15 and this will be distributed to Local Authorities as part of the Revenue Support Grant.

### *Administration Costs – Welsh Government*

78. There will be costs for the Welsh Government in relation to the implementation, maintenance and monitoring of Council Tax Reduction Schemes. These costs are being met through the reprioritisation of resources within the Local Government and Communities Departmental Running Costs.

### *Other Costs*

79. There will be costs associated with the fraud and enforcement arrangements and the appeals process for the new Schemes however these are detailed in

the Regulatory Impact Assessment for the Regulations covering these matters.

#### *Indirect Costs - Impact on Council Tax Collection Rates and Collection Costs*

80. If Regulations are made reducing the level of support provided to eligible applicants by restricting the maximum rebate in their council tax liability to 90%, approximately two-thirds of current applicants would have to pay council tax for the first time. As a result Local Authorities would expect their council tax collection rates to fall and the costs of collecting this additional council tax to rise. Individual estimates from Local Authorities, based on their tax base calculations for 2013, suggest that dependent on the Local Authority area collections rates could be expected to fall between 0%-1.5%.

#### *Indirect Costs - Impact on Advisory Services and Third Sector Organisations*

81. Requiring applicants who have never previously paid council tax to pay a proportion of their council tax bill is likely to increase demand for advice and assistance from advisory services and other third sector organisations.

#### *Benefits*

82. Whilst this option would reduce the level of support eligible claimants received from Council Tax Reduction Schemes, it would mean households would continue to receive some financial assistance in meeting their council tax bills. This would avoid the financial hardship and the associated costs listed under option one of requiring people on the lowest incomes to pay their council tax bill in full.

83. Reducing the level of support provided under Council Tax Reduction Schemes, rather than making up the funding shortfall would mean Welsh Government and Local Government would not have to reduce funding available for other areas/ services.

#### Option 3 - Draft Regulations based on the 2012 Regulations retaining full entitlements for eligible applicants, with the Welsh Government and Local Government sharing the costs of the shortfall in funding

#### *Costs of funding the shortfall*

84. Based on current levels of expenditure under the Council Tax Reduction Schemes, the funding shortfall is expected to exceed £30 million. However this does not take into account any increase in expenditure as a result of council tax increases, which are a locally determined decision, or as a result of other factors which increase expenditure for example local job losses.

85. As part of the provisional Local Government Settlement, the Welsh Government has provided £22m within the Revenue Support Grant for Council Tax Reduction Schemes. This is in addition to the £222m transferred

by the UK Government following the abolition of Council Tax Benefit. Local Government will be expected to meet the remaining costs of the shortfall and it will be a local decision as to how this is funded.

#### *Administration Costs – Local Government*

86. In 2013-14 rather than disaggregating the costs of administering Council Tax Benefit from administering Housing Benefit once Council Tax Benefit was abolished, DWP continued the existing administration subsidy arrangements and provided funding directly to Local Authorities to cover the administration costs of both Housing Benefit and Council Tax Support.
87. For 2014-15, DWP has determined that a proportion of the administration funding which relates solely to Council Tax Reduction cases should be disaggregated from the current subsidy and passed to DCLG and the Devolved Administrations. Based on previous cost modelling exercises, DWP has assessed this as equating to 20% of the weighted caseload, with the remaining caseload relating to joint Housing Benefit /Council Tax Reduction cases or Housing Benefit only cases. The remaining 80% of the funding will be provided by DWP directly to Local Authorities for 2014-15.
88. The administrative funding that will be transferred to the Welsh Government has been calculated by DWP taking into account planned efficiencies set out in the Autumn Statement 2012 and Budget 2013 and the respective workload shares of each country. As a result £5.2m will be provided to the Welsh Government for the administration of CTRS in 2014-15 this will be distributed to Local Authorities as part of the Revenue Support Grant.

#### *Administration Costs – Welsh Government*

89. There will be costs for the Welsh Government in relation to the implementation, maintenance and monitoring of Council Tax Reduction Schemes. These costs are being met through the reprioritisation of resources within the Local Government and Communities Departmental Running Costs.

#### *Other Costs*

90. There will be costs associated with the fraud and enforcement arrangements and the appeals process for the new scheme however these are detailed in the Regulatory Impact Assessment for the Regulations covering these matters.

#### **Sectors**

91. Local Government and the Voluntary Sector have been consulted during the development of proposals to introduce Council Tax Reduction Schemes in Wales. This is detailed in the Consultation section.

92. This legislation will not affect the Business Sector.

#### **Duties**

93. In drafting these Regulations consideration has been given to Welsh Minister's duty to promote equality and eliminate discrimination and an Equality Impact Assessment has been completed.
94. Council Tax Reduction Schemes will be implemented and operated by Local Authorities who are under general duties to comply with Welsh Language and Sustainable Development duties.

### **Consultation**

95. A technical consultation on the draft Regulations was published on the Welsh Government web-site and was sent to:

- Opposition Party Spokespeople
- The Chair of the Constitutional and Legislative Affairs Committee
- The Chair of the Communities, Equality and Local Government Committee
- Members of the Council Tax Reduction Scheme Task and Finish Group
- Members of the Council Tax Reduction Scheme Reference Group
- Members of the Welsh Government's Welfare Reform Officials Group
- Members of the Welsh Revenue and Benefits Practitioners Group
- Software Providers.

96. Seventeen responses were received and as a result a number of amendments were made to both the Default Scheme Regulations including:

- Clarifying the consultation requirements for Local Authorities in preparing their schemes;
- Amending the provisions in relation to the application for a reduction to allow Local Authorities to receive an application 'in writing' other than by way of a claim form;
- Removing provisions relating to the treatment of two or more changes of circumstances which occur in one reduction week;
- Removing the 26 week grace period in relation to changes of circumstances for non dependant deductions;
- Amending the date of deemed applications from 1 March 2014 to 15 February 2014 to allow Local Authorities' to make earlier preparations for their annual billing processes;
- Revising provisions in relation to Armed Forces Independence Payments to ensure all necessary references were included;
- Introducing a one month time limit within which an applicant must request a Local Authority reconsider its decision in relation to a reduction under the Scheme; and
- Removing as an area of local discretion the information provided as part of an Authority's notification of decision procedures.

### **Competition Assessment**

97. This has been scored against the competition filter test which indicated that there will be no detrimental effect on competition.

### **Post implementation review**



98. As a result of the impact of wider welfare reform changes and the current uncertainty around the level of funding that will be provided by the UK Government to operate council tax reductions schemes in Wales, this legislation will have to be reviewed in 2014-15 to consider any amendments required for 2015-16.