

## TRAFFORD COUNCIL

**Report to:** Executive  
**Date:** 27 November 2023  
**Report for:** Decision  
**Report of:** Leader of the Council

### Report Title

**Council Tax Reduction Scheme (“CTRS”)**

### Summary

Earlier this year the Council had cause to consider its Council Tax Reduction Scheme with regards to claims made by claimants in receipt of Universal Credit (“UC”) and who had eligible childcare costs.

This report is intended to inform the Executive of matters which have arisen as a consequence of the review exercise, and it also sets out the decisions which now need to be made in relation to proposed next steps.

### Recommendation(s)

It is recommended that the Executive:

- i. note the contents of the report;
- ii. approve the proposed immediate interim measures, as detailed in section 6.1, as the basis of assessment of all new claims made by those in receipt of UC with eligible childcare costs;
- iii. approve the proposal that the wording for the Council’s CTRS 24/25 should be the same wording as contained in the current CTRS 23/24, and that the Council should apply the 24/25 CTRS to claims generally but operationally assess claims made by those in receipt of UC with eligible childcare costs in accordance with the strict wording in the 22/23 CTRS, which will instead be applied to ensure that such claimants are not assessed any less favourably;
- iv. approve the proposed scope of claims detailed in section 6.3 of the report;
- v. approve the proposal to undertake individual reassessments of each claim that is in scope of the restitution exercise and;
- vi. approve the proposals detailed in section 6.5 of the report in respect of engaging with in-scope claimants.

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Background Papers: Report of the Executive Member for Finance and Governance to the Executive dated 23 January 2023 and Decision Notice of the same date.

**Implications:**

Relationship to Policy Framework/Corporate Priorities	The Council's CTRS promotes the Council's corporate priority of supporting people out of poverty, ensuring that financial relief is available to low income, eligible households.
Relationship to GM Policy or Strategy Framework	The Council's schemes are aligned to meet the Council's corporate priorities, which in turn are aligned to GM Policy and Strategy Framework where required.
Financial	The annual cost of the CTRS is estimated to be £13.9m in 2023/24 and supports approximately 13,000 residents. The cohort of claimants which may be in scope of the restitution exercise, is approximately 100 per year. The council tax support costs of the restitution will be met from a specific provision included on the balance sheet.
Legal Implications:	Legal advice has been sought in respect of the review of the Council's CTRS, the steps which must be taken and the options available to it. The legal implications are explained throughout the report.
Equality/Diversity Implications	The Council's CTRS supports the Corporate Equality Strategy 2021-2025 in promoting the fair treatment of people in a way that reflects their needs.
Sustainability Implications	None
Carbon Reduction	None

Resource Implications e.g., Staffing / ICT / Assets	The proposed activities as detailed in the report will have an impact on the Council's Exchequer Services Team in terms of capacity and resourcing. The team will need to be trained in relation to operational changes to assessments in certain circumstances, and practical arrangements for the provision of required training have been organised. Consideration has also been given to the issue of resources and back-filling to enable the team to undertake this work alongside the 'business as usual' assessments. In addition, there may be resource implications for the Council's Welfare Rights Team, and this will be monitored as matters progress and appropriate action taken as required.
Risk Management Implications	Any risks associated with the activities proposed have been assessed as part of the CTRS review exercise and are explained throughout the report.
Health & Wellbeing Implications	None
Health and Safety Implications	None

## Executive Summary

The Council's CTRS 22/23 was approved by the Executive as part of the annual review in January 2023.

A Valuation Tribunal ("VT") decision made on 17 March 2023 determined that in the case in which the appeal had been brought, the Council had not assessed claims made by those in receipt of UC with eligible childcare costs in accordance with the strict wording of its CTRS.

Following the VT decision in March 2023, the Council sought the advice of experts, including legal experts, to secure guidance to help review the Council's overall position.

As a result of the review, it was recognised that, in seeking to clarify the Council's operational approach to assessments of claims made by those in receipt of UC with eligible childcare costs by proposing amendments to clarify the CTRS wording at the time of the annual review in January 2023, it had not identified that a change to the CTRS was being proposed and had not consulted on that proposed change.

This report sets out the decisions which now need to be made in relation to the steps proposed to be taken to remedy the position.

The decisions required relate principally to:

- the approach to be taken in relation to the assessment of current claims;
- the Council's approach to determination of a CTRS for 24/25; and
- the options in terms of restitution for those claimants in receipt of UC with eligible childcare costs who may have not received the full level of Council Tax Support which they were entitled to under the strict wording of the CTRS 22/23 and earlier versions of the CTRS.

## **1.0 Council Tax Reduction Schemes ("CTRS")**

- 1.1 A CTRS sets out the basis on which an authority will carry out assessments in order to establish eligibility for Council Tax Support (CTS), which is a means tested financial support award designed to help residents on a low income to pay their Council Tax.
- 1.2 Each year approximately 13,000 residents receive support through the CTRS, with the annual cost estimated at £13.9m in 2023/24.
- 1.3 Each CTRS award is based on an individual's household (number of adults, children, tenure type, any disabilities, caring roles etc.) and financial circumstances (income from benefits, earnings, capital held in bank accounts etc.) and is calculated based on a 'benefit week' which is Monday to Sunday.
- 1.4 A household's expenditure is largely ignored in the CTRS calculation, however there are certain types of income that are disregarded, such as the Department for Work and Pensions' ("DWP") Cost of Living payments, and there are disregards applied to the calculation to increase the amount of money a household is allowed to keep before the CTRS calculation is applied, such as earned income disregards and childcare costs.
- 1.5 When calculating a resident's CTS award, the Council relies upon the information that is provided to it on the CTRS application completed by the resident, as well as data it can access through legal gateways such as the DWP's system. The calculation is assessed on a particular day and applied each year to the Council Tax account at the rate at which it was determined on that particular assessment day (except for uprating of some national benefits which is applied automatically at a percentage rate).
- 1.6 It is the resident's legal duty to notify the Council of any change in their circumstances which could affect their CTS entitlement either more or less favourably, and they are notified in writing of this duty to report both at the time of their first award and at the start of each financial year thereafter.

## **2.0 CTRS Legislative Background**

- 2.1 The Local Government Finance Act 1992 ("the Act") first established the Council Tax system administered by Local Authorities.
- 2.2 The Act was amended in 2012, when provision was made for means tested reductions to be applied to a person's council tax liability and for individual Local

Authorities to be permitted to develop their own Council Tax Reduction Scheme to determine how a person's liability for Council Tax should be assessed.

- 2.3 These types of schemes apply to persons the Local Authority consider to be in financial need or to classes of person the Local Authority consider generally to be in need.
- 2.4 The Act also made provision for the Government to specify a default scheme which would apply in the event that any Local Authority did not set up its own scheme.
- 2.5 Where a Local Authority has adopted its own scheme, the Act requires the Local Authority to consider in each financial year whether to revise its scheme or to replace it with another scheme.
- 2.6 In the event that a revision would have the effect of reducing or removing a reduction to which classes of persons had been entitled, the Local Authority is obliged to consider putting in place transitional provisions and to carry out a prior consultation on the proposed changes.

### **3.0 Trafford Council's CTRS**

- 3.1 Trafford adopted its CTRS in 2013. It was updated in 2014, when UC was first introduced in Trafford, and it has been reviewed in each financial year since that date, with changes having been made to the scheme from time to time.
- 3.2 Trafford's scheme runs to over 200 pages and is complicated to interpret and apply. That is because there are many variables to consider in determining who qualifies for council tax relief and to what extent.
- 3.3 The VT's decision detailed below specifically related to a claimant in receipt of UC who had eligible childcare costs. This report is therefore concentrating on that claim aspect of the CTRS and how the CTS calculation is operationally applied in circumstances similar to the those in the VT case.
- 3.4 The Council has been operationally assessing CTS awards for those in receipt of UC with eligible childcare costs in a particular way since the introduction of UC in Trafford in 2014. In its simplest form/explanation, it uses the full Applicable Amount (of income) as determined by the DWP in the UC award, including the eligible childcare cost element, and then assesses the level of CTS to be applied using the full UC award as income (including eligible childcare costs) less Housing Costs. An adjustment of 15% of the eligible childcare costs is then manually calculated to align these claims to the way in which claims are assessed for those in receipt of Working Tax Credit (WTC). This produces an adjustment to the UC calculation which is favourable to all claimants where there is an eligible childcare costs element. The 15% adjustment is not provided for within the Council's CTRS but has been consistently applied to assessments since the CTRS was introduced.

## **The Local Government Finance Act 1992 annual requirement to revise schemes or to replace it with another scheme.**

- 3.5 At the time of the Council's annual review of the CTRS in January 2023, the Council took the opportunity to propose certain changes to the wording of its CTRS for 23/24.
- 3.6 The proposals presented to the Executive on 23 January 2023 were intended to clarify its operational practice in relation to assessments of the eligible childcare costs element of claims made by those in receipt of UC with those eligible childcare costs. There were no changes proposed or made to the operational practices of assessment being used by the Council, only to the wording of the CTRS.
- 3.7 Because the changes proposed to the Executive on 23 January 2023 were considered by the Council to be for clarification purposes only, to ensure that it more clearly reflected their practice, and not changes of substance, the Executive report described the proposed changes as "minor" and clarificatory in nature and as a result of this view, the Council did not undertake any public consultation prior to the proposals being made.
- 3.8 The Executive report of 23 January 2023 referred to a pending decision from the VT, but the Council were confident that the way in which the Council was operationally applying its CTRS, particularly with regard to its treatment of eligible childcare costs in relation to UC claimants, was correct and as such an adverse decision from the VT was not anticipated.
- 3.9 The proposed changes as set out in the report, were approved by the Executive on 23 January 2023 to be effective in the CTRS 23/24 from 1 April 2023.

### **Statutory Benefit Reform**

- 3.10 It is also important to note that there are statutory benefit reforms in progress which will bring about changes to the benefits system in 2024 and beyond. The Council would propose to review its CTRS in response to those national changes. Consideration of this will be undertaken in 2024 and annually thereafter as required, and any proposals for change will be progressed in accordance with due process.
- 3.11 The Council will utilise the review as an opportunity to appraise the Council's operational practices.
- 3.12 The Council's review may result in proposed changes to the CTRS 25/26 and will enable the Council to ensure that its operational practices are aligned to the strict wording of its CTRS going forward.
- 3.13 The Council must undertake a meaningful formal public consultation on any proposed changes to the CTRS, in accordance with the relevant legislation, before an amended CTRS can be proposed for consideration by the Executive.

#### **4.0 Valuation Tribunal Appeal**

- 4.1 Concerns had been raised in relation to the way in which the Council was applying the CTRS with regard to its treatment of eligible childcare costs in relation to claimants in receipt of UC. Those concerns were not resolved, which led ultimately to the matter being referred to the VT for a decision.
- 4.2 The VT is an independent judicial body who provide dispute resolution for issues relating to council tax and business rates.
- 4.3 The VT decision was made on 17 March 2023 and determined that, if the Council was to operationally apply its scheme in accordance with the strict wording in the CTRS 22/23, it should be allowing the eligible childcare element in the Applicable Amount and also disregarding it from the UC income.
- 4.4 The VT determined that in the claim that had been referred to it, the Council's operational practice to the assessment of the eligible childcare cost element was inconsistent with the strict wording of the CTRS 22/23, to the detriment of that cohort of the claimants.
- 4.5 It further determined that, had the Council operationally assessed this particular claim in strict accordance with the wording of its CTRS 22/23, the claimant would have been assessed more favourably and as result, received more CTS.
- 4.6 VT decisions are standalone decisions in that there can be no assumption that a different VT would reach the same decision in similar circumstances. However, it is considered likely that a similar logic would be applied in the event that similar appeals were made by claimants in receipt of UC with eligible childcare costs and who were claiming a reduction in liability under the CTRS, and whose liability had been assessed in accordance with the Council's operational practice.

#### **5.0 Self-Assessment since the Valuation Tribunal Decision**

- 5.1 Council Tax and associated benefits is an extremely complex area. Following the VT decision in March 2023, the Council sought the advice of experts, including legal experts, to secure guidance to help review the Council's overall position, and to shape up next steps and proposals to remedy the position.
- 5.2 The Council considered its CTRS alongside its operational practice. As a result of the review, it was recognised that, in seeking to clarify the Council's operational approach to assessments of claims made by those in receipt of UC with eligible childcare costs, and by proposing amendments to clarify the CTRS wording at the time of the annual review in January 2023, it had not identified that a change to the CTRS requiring consultation was being proposed. In failing to consult on the proposed change, the Council did not follow due process. Additionally, it has been accepted that in the light of the circumstances, the report to the Executive in January 2023 was not sufficiently clear as to the position to enable the Executive to make a fully informed decision on the matter.

5.3 On the basis of the VT decision and subsequent review, the Council accepts that:

- if the Council was to operationally assess claims made by those in receipt of UC with eligible childcare costs in accordance with the strict wording in the CTRS 22/23, it should be allowing the childcare element in the Applicable Amount and also disregarding it from the UC income;
- the Council's operational practices were not in accordance with the strict wording of its CTRS 22/23 and as such, the entitlement of some claimants would have been operationally assessed in a different way to the CTRS wording; and
- had the Council operationally assessed claims in accordance with the strict wording of the CTRS 22/23, claimants in receipt of UC with eligible childcare costs would have been assessed more favourably and as result, received more CTS excluding CTS Covid hardship years;
- it is therefore necessary to consider what measures should be adopted to ensure the restitution of the position of any adversely affected claimants;
- the changes in relation to claims made by those in receipt of UC with eligible childcare costs to the CTRS 23/24 which were proposed to and approved by the Executive in January 2023 were in fact changes of substance which should have been subjected to prior public consultation; and
- whilst the Council's CTRS 23/24 remains a robust scheme overall, because the changes proposed to the part of that scheme which deals with the claims made by those in receipt of UC with eligible childcare costs were not consulted upon, the Council must consider what measures should be adopted to remedy the position.

5.4 The Council has identified that there are approximately 100 claimants on average per year (a maximum of 677 claimants over the 7-year period – see Para 6.4.5) who would fall within the proposed scope of claims, as detailed at Para 6.3 of this report. To put this into context, there are approximately 13,000 residents who receive support through the Scheme each year.

5.5 Having identified where the Council was at fault, identified the steps that need to be taken and assessed the viability of any options available, this report sets out the steps which must be taken and any decisions which are needed in order to progress the steps necessary to remedy the position.

## **6.0 Proposals and Considerations for the Executive**

It is proposed that the following steps be taken:

### **6.1 Immediate Interim Measure**

6.1.1 As outlined above, whilst the Council's CTRS 23/24 remains a robust scheme overall, the changes proposed to that part of that scheme which deals with the



claims made by those in receipt of UC with eligible childcare costs were not consulted upon and as such, the Council must consider what measures should be adopted to remedy the position.

6.1.2 As an immediate step and interim position until such time when the Council has had the opportunity to further consider and approve proposals for the CTRS 25/26, the Council must make arrangements to assess all new claims made by those in receipt of UC with eligible childcare costs, in line with the VT decision, and therefore in accordance with the strict wording of the CTRS 22/23. The Council can, in respect of all other claims, continue to assess such claims in accordance with its CTRS 23/24;

- i. This will result in a change to the Council's operational practices of assessment of new claims with regard to its treatment of eligible childcare costs in relation to those claimants in receipt of UC with those eligible costs;
- ii. This will result in the new claims being assessed in two different ways, which will be determined by whether the claimant is in receipt of UC with eligible childcare costs or not:
  - a. New claims made by those in receipt of UC with eligible childcare costs will be dealt with in accordance with the strict wording of the Council's CTRS 22/23; and;
  - b. All other claims will be dealt with in accordance with the Council's CTRS 23/24.
- iii. This measure will ensure that on the whole, claims will continue to be assessed in line with the Council CTRS 23/24 but, claims by those in receipt of UC with eligible childcare costs will be dealt with in accordance with the Council's CTRS 22/23 to ensure that those claims are not assessed less favourably than they should be;
- iv. This measure will however mean that the Council will, for, new claims made by those in receipt of UC with eligible childcare costs that are dealt with in accordance with the Council's CTRS 22/23, carry the additional CTS costs which arise by virtue of the fact that the entitlement of this cohort of claimants may increase.

6.1.3 In order to achieve this proposed interim step, there are the following associated activities which must be undertaken:

- i. The Exchequer Services team will need to be trained in relation to this way of assessing claims as it represents a change to current and established operational practice. In terms of timescales for staff training, an estimated timescale is 1 month. Practical arrangements for the provision of such training have been organised, and consideration is being given to the issue of resources and back-filling to enable this to be done alongside the 'business as usual' assessments.
- ii. The CTS online calculator will be amended in line with the new operational practice as it applies to those relevant claims from the point at which the new basis for those assessments is implemented.

- iii. The Council's CTRS 23/24 will continue to be used for claims generally and it will remain published on the website as approved by the Executive. Operationally, and only in respect of claims made by those in receipt of UC with eligible childcare costs, the strict wording in the CTRS 22/23 will be applied and a note will be included on the website to advise residents that this is the case.
- v. Advisory Services will be briefed to ensure the above is known and therefore information and advice is updated and given out accordingly, both internally and externally.
- vi. If approved, the new operational basis for assessment of claims made by those in receipt of UC with eligible childcare costs, in strict accordance with the CTRS 22/23, will be introduced with immediate effect.

**Recommendation:** The Executive is recommended to approve the proposed interim operational changes to the basis of assessment for all new claims made by those in receipt of UC with eligible childcare costs to ensure that the Council is acting in accordance with the VT decision and therefore in accordance with the strict wording of the CTRS 22/23 for these types of claims.

## **Executive Decision**

**The Executive is asked to consider and approve the proposed immediate interim measures, as detailed in section 6.1, as the basis of assessment of all new claims made by those in receipt of UC with eligible childcare costs.**

### **6.2 The Council's Future CTRS**

- 6.2.1 The Council is required to consider and confirm a CTRS for each financial year on an annual basis. The Executive will be asked in January 2024 to determine the Council's CTRS for 24/25.
- 6.2.2 Before a CTRS can be amended in any substantial way, a formal public consultation exercise must be undertaken to fully inform the Executive's decision on proposed changes to the CTRS. It is of the upmost importance that any consultation exercise undertaken must be meaningful in order to satisfy legislative requirements.
- 6.2.3 In order for the Executive to consider any substantial changes to the Council's CTRS and determine a revised CTRS 24/25 in January 2024, to align with the Council's budget setting process, given the time constraints which would apply at this point in time, a consultation exercise would have to take place online (signposting to information on changes on the Council's website) over a maximum 4-week period, with little or no opportunity for any other kind of public sessions.
- 6.2.4 It should be noted that the restrictions detailed above would potentially create a risk of challenge in respect of the robustness and ultimately, the lawfulness of any such consultation exercise. This in turn would create a risk of challenge to any revised CTRS implemented in 24/25.

## Options Appraisal

- 6.2.5 The Executive is asked to consider and determine next steps in respect of its CTRS 24/25 either:
- a) by agreeing that the proposed wording for the Council's CTRS 24/25 should be the same as the wording as contained in the Council's CTRS 23/24 and to undertake a public consultation exercise prior to the Executive decision in January 2024; or
  - b) by agreeing that the proposed wording for the Council's CTRS 24/25 should be the same wording as contained in the current CTRS 23/24 and that Council should apply the 24/25 CTRS to claims generally, but operationally assess claims made by those in receipt of UC with eligible childcare costs in accordance with the strict wording in the CTRS 22/23 to ensure that such claimants are not assessed any less favourably.
- 6.2.6 If option a) were to be approved, the Council would be required to undertake a public consultation exercise. The consultation would need to specifically cover the proposed changes to the assessment of claims made by those in receipt of UC with eligible childcare costs from the CTRS 22/23 to those as set out in the CTRS 23/24. The potential risks of undertaking a consultation in such short timescales are set out in section 6.2.2 – 6.2.4 above; or
- 6.2.7 If option b) is approved, no consultation would be required due to the fact that the Council would be proposing to carry forward the wording of the CTRS 23/24 as the proposed CTRS 24/25.
- 6.2.8 Given that the CTRS 23/24 remains a robust scheme overall, option b) would enable the Council to apply the CTRS 24/25 to claims generally. However, acknowledging that the changes to that part of the CTRS 23/24 which deals with claims made by those in receipt of UC with eligible childcare costs were not properly consulted upon, operationally and in respect of those claims only, the strict wording in the CTRS 22/23 will instead be applied.
- 6.2.9 By dealing with new claims made by those in receipt of UC with eligible childcare costs in this way, the Council can ensure that such claims are not assessed any less favourably and align with the VT decision. The Council would be required to make its approach clear to those applying for CTS and the use of a notice on its website would be advised.
- 6.2.10 Option b) provides the Council with an opportunity to defer making any decisions relating to changes to the CTRS for 24/25, whilst it takes the opportunity to review the CTRS in full to evaluate and determine the basis for assessments to be incorporated within its CTRS for 25/26. Deferral of a decision in respect of changes to the CTRS will also allow the Council to undertake a meaningful and proper public consultation.

6.2.11 Option b) would also mean that the Council, for new claims made by those in receipt of UC with eligible childcare costs that are dealt with in accordance with the Council's CTRS 22/23, will carry the additional costs which arise by virtue of the fact that the entitlement of that cohort of claimants will increase. Whilst it is difficult to be precise in this regard, the likely increase in CTS costs would be in the region of £60,000.

**Recommendation:**

6.2.12 The Executive is recommended to approve that the proposed wording for the Council's CTRS 24/25 should be the same wording as contained in the current CTRS 23/24, and that the Council should apply the CTRS 24/25 to claims generally but operationally assess claims made by those in receipt of UC with eligible childcare costs in accordance with the strict wording in the CTRS 22/23, which will instead be applied to ensure that such claimants are not assessed any less favourably and in alignment with the VT decision.

6.2.13 In an ideal world we would have both a CTRS and operational practice that are aligned but given the proximity to the date upon which a decision will be required to approve the Council's CTRS for 24/25, that is simply not possible unless the Council is willing to undertake a short consultation exercise, which may give rise to concerns in respect of the validity and lawfulness of the consultation process.

6.2.14 The proposals detailed in option b) above seek to achieve a holding position, which results in fewer changes for the residents and an assurance for CTS claimants, including those in receipt of UC with eligible childcare costs, that their claims are being assessed correctly, until such time as a full review of the CTRS can be undertaken, proposals developed and a formal consultation can be completed.

6.2.15 This approach would:

- a. allow the Council to complete a full review of the whole CTRS, consider the impact of the national benefit reform and to consider other potential changes to the CTRS for 25/26;
- b. enable a balanced view to be taken of a revised CTRS as a whole, which could include any changes advised as a result of statutory reforms;
- c. allow for a meaningful and lawful consultation process to be undertaken with regard to the whole of the revised CTRS and any proposed changes thereto; and also
- d. means that residents will only be asked to consider any changes proposed to the CTRS once rather than in successive years.

## **Executive Decision**

**The Executive is asked to approve the proposal that the wording of the Council's CTRS 24/25 should be the same wording as contained in the current CTRS 23/24 and that the Council should apply the CTRS 24/25 to claims generally but operationally assess claims made by those in receipt of UC with eligible childcare costs in accordance with the strict wording in the CTRS 22/23, which will instead be applied to ensure that such claimants are not assessed any less favourably.**

## **Restitution Exercise**

6.2.16 The Council needs to take steps to reassess historic claims where the CTRS has been wrongly applied in relation to the treatment of the eligible childcare costs of those in receipt of UC, and to ensure that those claimants are put into the position that they would have been in, had the CTRS been applied correctly. It proposed that the Council's agreed restitution exercise is initiated as soon as possible with the objective of being completed before the start of next financial year to ensure the CTS billing information can be rectified at the earliest opportunity.

## **6.3 Scope of Claims**

- 6.3.1 Options regarding the matter of restitution have been considered as the Council will need to commence a programme to reassess those claims it determines as being in scope of the restitution exercise.
- 6.3.2 It is proposed that the scope for restitution should include all those claimants in receipt of UC with eligible childcare costs claims going back to the 2017/18 financial year (which is the period determined based on the statutory period of limitation for legal claims) where claimants were either assessed as being entitled to receive partial CTS or where they were assessed as having a nil entitlement.
- 6.3.3 It is also proposed that where requested to do so, within a period of 6 months which will commence following the expiry of the Invitation period (as determined in accordance with 6.5.1 below), the Council will reassess any claims which pre-date the 17/18 proposed cut off point, going back to 2014, in the same way that it will reassess those claims which are in scope of the restitution exercise detailed in this report. Any requests for reassessment of claims which are received by the Council outside of the 6-month period will be declined.

**Recommendation:** The Executive is recommended to approve the proposed scope of claims detailed in section 6.3 above.

## **Executive Decision**

**The Executive is asked to consider and approve the proposed scope of claims detailed in section 6.3 above.**

## 6.4 Reassessment of Claims

- 6.4.1 The Council must determine how in scope claims should be reassessed upon request.
- 6.4.2 The limited options that are available to the Council have been considered, but there are essentially two options in respect of how in scope claims could be reassessed:
- i. By applying a flat rate to each in scope claim; or
  - ii. By undertaking an individual assessment of each in scope claim;
- and having explored both options in considerable detail, it is proposed that the Council will reassess each claim that is in scope of the restitution exercise on an individual basis.
- 6.4.3 A 'flat rate option' to apply an averaged out flat rate figure to all potential claimants in scope, was initially considered as there were concerns that the individual assessment option would place a significant additional burden on the Exchequer Services team and lead to considerable delays in the processing of any reassessment claims. However, it has since been determined that whilst there will be an administrative burden in this regard, the burden would not be reduced to any significant degree by applying a flat rate scheme and that it would not significantly reduce the time it will take to reassess claimants and apply restitution. The flat rate approach would also result in some claimants receiving a credit to which they may not have been entitled to had the original assessment been carried out in accordance with the strict wording of the CTRS 22/23. This could result in an estimated and unjustified CTS cost of £373k, which is significantly more than the cost of individual assessments as set out below.
- 6.4.4 Each in scope claim will be re-assessed in accordance with the CTRS which was applicable for the year in which that claim was made.
- 6.4.5 The table below gives an indication as to the number of residents effected and likely costs resulting from the re-assessment exercise:

Year of Claim	No. of Residents in Receipt of CTS with Childcare Costs	Estimated CTS Cost Assessed on an Individual Basis (£)
2017-18	57	23k
2018-19	129	15k
2019-20	144	20k
2020-21	81	5k
2021-22	66	Nil (Hardship Top-Up will Offset)
2022-23	137	34k
2023-24	63	Nil (Support Fund will Offset)
<b>TOTAL</b>	<b>677</b>	<b>97k</b>

- 6.4.6 It is important to note that the figures in the table above are not an indication of how much an individual claimant will receive in monetary value, as CTS awards are to help towards paying for Council Tax so operate on an account credit or debit basis:
- i. Therefore, the Council's usual practice will be followed whereby any adjustment will be made to the claimant's Council Tax account by way of a credit or debit; and
  - ii. Credits to accounts will first be used to reduce arrears on a claimant's Council Tax account before any refunds of monies would be issued to the claimant.

**Recommendation:** The Executive is recommended to approve the proposal to undertake individual reassessments of each claim that is in scope of the restitution exercise.

### **Executive Decision**

**The Executive is asked to consider and approve the proposal to undertake individual reassessments of each claim that is in scope of the restitution exercise.**

## **6.5 Engaging with In Scope Claimants**

- 6.5.1 It is proposed that a specific period will be set by the Chief Executive, in consultation with the Director of Finance and Systems, during which the Council will invite claimants in scope of the restitution exercise to submit a request for reassessment to the Council ("Invitation Period").
- 6.5.2 If the approach detailed in 6.5.1 is approved, it will be a matter then for the individual claimant to apply for reassessment of their claim if they choose to do so.
- 6.5.3 It is also proposed that the Council will ensure that the invitation to claim letters include:
- a. an offer of support from the Council's Welfare Rights team;
  - b. signposting to other agencies for independent advice and support in relation to submitting a claim for reassessment;
  - c. advice that, if they do make an application for reassessment, it is possible that their CTS entitlement could actually be reduced; and
  - d. that post the reassessment of a claim, the CTS award will be reset at the correct level; and
  - e. advice that, should an application to have a claim reassessed not be made, their claims may be reassessed as a matter of general housekeeping reviews.
- 6.5.4 In the case of claimants who do not take up the invitation to apply for reassessment, their entitlement may also be subject to review at a later date in line with existing operational practice and 'good housekeeping' measures.

**Recommendation:** The Executive is recommended to approve the proposals detailed in section 6.5 above.

## **Executive Decision**

**The Executive is asked to consider and approve the proposals detailed in section 6.5 above in respect of engaging with in-scope claimants.**

### **6.6 Information Required to Reassess a Claim**

- 6.6.1 Where a reassessment is requested, it should be noted that the claimant may be required to provide a range of information, documents and/or evidence to assist the reassessment procedure.
- 6.6.2 It is likely that the Council will be able to reassess in scope claims using the information that it already holds.
- 6.6.3 Where it is necessary to request information from the claimant, the Council will provide support to the claimant in determining what information is required and where possible, will use reasonable resources to help support the collation of necessary information.
- 6.6.4 Where the Council is in receipt of all of the information required in respect of a claim in scope, a reassessment of the claim will be undertaken.
- 6.6.5 Where the Council is not in receipt of all of the information required in respect of a claim in scope, a reassessment will not be possible.

### **6.7 Unreported Changes**

- 6.7.1 There is a legal duty for all claimants in receipt of CTS to notify the Council of any changes in circumstances which may affect the level of their Council Tax Reduction.
- 6.7.2 It is also important to clarify that the Council should, ordinarily, carry out periodic reviews of all cases as a matter of general housekeeping. It is upon such a housekeeping review that changes in circumstances are ordinarily discovered.
- 6.7.3 Failure by any claimant to notify the Council of any change in circumstances which may affect their Council Tax Reduction could:
  - i. result in the receipt of CTS which the claimant is not entitled to and which the Council would seek to recover as a debt from the claimant; or
  - ii. amount to a criminal offence which the Council may be legally obliged to pursue via a prosecution against the claimant.
- 6.7.4 The Council has standard protocols which are applied in the event of debt recovery action and/or criminal prosecutions:
  - i. The Council has automated systems which underpin and support the Council's processes in respect of debt recovery action;
  - ii. In respect of debt recovery, the Council can determine what, if any, recovery action it takes in respect of its outstanding debts;
  - iii. In respect of any case involving fraudulent offences and potential prosecution action, the Council's ability to determine what must be done is curtailed by legislation and as such, its internal protocol requires a referral of the case to the Council's audit team who undertake initial assessments, to be followed by



a referral of the case to the Council's legal team for review, assessment and a determination of whether, based on the evidence available, prosecution action should or should not be initiated.

- 6.7.5 The Council's protocols for its enforcement of debt recovery and prosecution in respect of fraudulent activity are aimed at ensuring that legal obligations are fulfilled and that all cases are treated fairly, transparently, and consistently.
- 6.7.6 As a result of the VT decision, the Council temporarily paused any enforcement and prosecution action whilst it assessed the situation, took advice and determined a plan for the management of claims both retrospectively and in going forward.
- 6.7.7 Having due regard to the Council's usual protocols and also to the highly unusual circumstances which have led to the Council needing to reassess claims as detailed in this report, it is proposed that the current pause on enforcement action for debt recovery will continue throughout the period of reassessment and re-commence following that period. This will allow the Council to focus on the reassessment process and will avoid the potential for recovery action being taken against residents who may in fact be entitled to more relief than they actually received under the earlier assessment.
- 6.7.8 The exercise to identify the cases for restitution has highlighted that there may be some instances of unreported changes amongst those claims that could be reassessed if requested.
- 6.7.9 As part of this reassessment process, it is possible that the Council will identify changes of circumstances in a particular claim which should have been declared to the Council at the time, which could mean that there has been an overpayment by the Council in respect of that claim. In such cases, the Council could seek to recover that overpayment by using its debt recovery arrangements.
- 6.7.10 It should be noted that the Council proposes a series of measures as set out in paragraph 6.5.3 in respect of engaging with in-scope claimants at the outset of the process. These measures aim to ensure that each claimant is properly advised before making a claim for reassessment.

### **Reasons for Recommendations**

Having identified the steps that need to be taken in respect of the Council's Council Tax Reduction Scheme and assessed the viability of any options available, this report sets out the steps which must now be taken and the decisions which are required in order to progress those required steps.

**Key Decision:** Yes

**If Key Decision, has 28-day notice been given?** Yes

**Finance Officer Clearance** GB

**Legal Officer Clearance** EM

**[CORPORATE] DIRECTOR'S SIGNATURE**

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.

DRAFT