

## Final Proposed Scheme Changes

The proposed scheme from April 2017 onwards will be the scheme currently in place (2016/17) with the changes outlined below.

### **1 April 2017 - reducing the maximum level of support for working age customers from 75% to 72.5%**

### **1 April 2018 - reducing the maximum level of support for working age customers from 72.5% to 70%**

*2016/17 Council Tax Reduction scheme, section 57, paragraph 57.1.*

Torbay Council currently requires all working age recipients of Council Tax Support to make a minimum payment of 25% towards their Council Tax.

This would increase to 27.5% from 01/04/17 and 30% from 1 April 18.

### **1 April 2017 - Removing the Family Premium for all new working age applicants**

*2016/17 Council Tax Reduction scheme Schedule 1 Paragraph 3.*

The removal of family premium from 1st April 2017 for new claims will bring the Council's Council Tax Support scheme in line with Housing Benefit. The family premium is part of how we assess the 'needs' (Applicable Amounts) of any claimant which is compared with their income. Family Premium is normally given when a claimant has at least one dependant child living with them. Removing the family premium will mean that when we assess a claimant's needs we would not include the family premium (currently £17.45 per week). This change would not affect those on Universal Credit, Income Support, Income Related Employment and Support Allowance or Income Based Jobseeker's Allowance.

### **1 April 2017 - Reducing Backdating to 1 month**

*2016/17 Council Tax Reduction scheme, section 69.9.*

Currently claims for Council Tax Support from working age claimants can be backdated for up to 6 months where an applicant shows they could not claim at an earlier time. Central Government has reduced the period for Housing Benefit claims to one month. It is proposed that the Council's Council Tax Support Scheme be aligned with the changes for Housing Benefit.

### **1 April 2017- Reducing the period for which a person can be absent from Great Britain and still receive Council Tax Support to 4 weeks**

*2016/17 Council Tax Reduction scheme, section 8.0.*

Within the current scheme, applicants can be temporarily absent from their homes for 13 weeks (or 52 weeks in certain cases) without it affecting Council Tax Support. This replicates the rule within Housing Benefit. Housing Benefit has been changed so that if a person is absent from Great Britain for a period of more than 4 weeks, their benefit will cease. It is proposed that the Council Tax Support scheme is amended to reflect the changes in Housing Benefit. There will be exceptions for certain occupations such as mariners and the armed forces. The 4 weeks can be extended to 8 weeks in special circumstances.

**1 April 2017 - Minimum set income for self-employed earners after one year's trading**

*2016/17 Council Tax Reduction scheme, section 20.*

In order to align Council Tax Support with Universal Credit, the Council proposes to use a minimum level of income (minimum income floor) for those who are self-employed. This would be in line with the National Living Wage for 35 hours worked per week. The income would not apply for a designated start-up period of one year from the start of the business. Variations would apply to any person who is both employed and self-employed.

For full details on this change see pages 3 to 7.

**1 April 2017 - Limiting the number of dependant children within the calculation for Council Tax Support to a maximum of two**

*2016/17 Council Tax Reduction scheme, schedule 1 paragraph 2.*

Within the current scheme, claimants who have children are awarded a dependant's addition of £66.90 per child within the calculation of their needs (Applicable Amounts). There is no limit to the number of dependant's additions that can be awarded. From April 2017 Central Government will be limiting dependant's additions in Universal Credit, Housing Benefit and Tax Credits to a maximum of two. This will only affect households who have a third or subsequent child on or after 1st April 2017. It is proposed that the Council Tax Support scheme is amended to reflect the changes in Housing Benefit and Central Government Benefits.

***In the unlikely event that this proposed change is not effected by Central Government by 1st April 2017, the scheme will not be amended for 2017 but will be amended from 2018.***

**1 April 2018 - Restrict the level of support to a maximum of Council Tax band D**

*2016/17 Council Tax Reduction scheme, section 57, paragraph 57.1.*

The current Council Tax Support Scheme uses the full amount of Council Tax charge irrespective of the band of the property. There are eight Council Tax Bands A to H with Band D being the national average. It is proposed that where an applicant lives in a property which is Band E, F, G or H then Council Tax Support will be calculated on the basis of a Band D charge.

## **Self Employed Minimum Set Income (Regulation Changes)**

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Regulations 27.0 to 29.6A would be applied

### **27.0 Earnings of self-employed earners**

27.1 Subject to paragraph 27.2, 'earnings', in the case of employment as a self- employed earner, means the gross income of the employment plus any allowance paid under section 2 of the 1973 Act or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to the applicant for the purpose of assisting him in carrying on his business unless at the date of claim the allowance has been terminated.

27.2 'Earnings' shall not include any payment to which paragraph 27 or 28 of Schedule 4 refers (payments in respect of a person accommodated with the applicant under arrangements made by a local authority or voluntary organisation and payments made to the applicant by a health authority, local authority or voluntary organisation in respect of persons temporarily in the applicant's care) nor shall it include any sports award.

27.3 This paragraph applies to—

- a. royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
- b. any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the applicant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book of work concerned.

27.4 Where the applicant's earnings consist of any items to which paragraph 27.3 applies, those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction is to be treated as a corresponding fraction of a week) by dividing the earnings by

- (a) the amount of the reduction under this scheme which would be payable had the payment not been made, plus
- (b) an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 3 (sums to be disregarded in the calculation of earnings) as appropriate in the applicant's case.

### **28.0 Calculation of net profit of self-employed earners**

28.1 For the purposes of section 20 (average weekly earnings of self- employed earners) the earnings of an applicant to be taken into account shall be

- a. in the case of a self-employed earner who is engaged in employment on his own account, the net profit derived from that employment;
- b. in the case of a self-employed earner whose employment is carried on in partnership or is that of a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975, his share of the net profit derived from that employment,

less–

- i. an amount in respect of income tax and of social security contributions payable under the Act calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
- ii. one-half of the amount calculated in accordance with paragraph (28.11) in respect of any qualifying premium.

28.2 There shall be disregarded from an applicant's net profit, any sum, where applicable, specified in paragraph 1 to 14 of Schedule 3.

28.3 For the purposes of paragraph 28.1 a) the net profit of the employment must, except where paragraph 28.9 applies, be calculated by taking into account the earnings for the employment over the assessment period less

- a. subject to paragraphs 28.5 to 28.7, any expenses wholly and exclusively incurred in that period for the purposes of that employment;
- b. an amount in respect of;
  - (i) income tax, and
  - (ii) social security contributions payable under the Act, calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
- c. one-half of the amount calculated in accordance with paragraph (28.11) in respect of any qualifying premium.

28.4 For the purposes of paragraph 28.1b) the net profit of the employment shall be calculated by taking into account the earnings of the employment over the assessment period less, subject to paragraphs 28.5 to 28.8, any expenses wholly and exclusively incurred in that period for the purposes of the employment.

28.5 Subject to paragraph 28.6 no deduction shall be made under paragraph 28.3 a) or 28.4, in respect of–

- a. any capital expenditure;
- b. the depreciation of any capital asset;
- c. any sum employed or intended to be employed in the setting up or expansion of the employment;
- d. any loss incurred before the beginning of the assessment period;
- e. the repayment of capital on any loan taken out for the purposes of the employment;
- f. any expenses incurred in providing business entertainment, and
- g. any debts, except bad debts proved to be such, but this sub-paragraph shall not apply to any expenses incurred in the recovery of a debt.

28.6 A deduction shall be made under paragraph 28.3 a) or 28.4 in respect of the repayment of capital on any loan used for–

- a. the replacement in the course of business of equipment or machinery; and
- b. the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair.

28.7 The authority shall refuse to make deduction in respect of any expenses under paragraph 28.3 a. or 28.4 where it is not satisfied given the nature and the amount of the expense that it has been reasonably incurred.

28.8 For the avoidance of doubt–

- a. deduction shall not be made under paragraph 28.3 a) or 28.4 in respect of any sum unless it has been expended for the purposes of the business;
- b. a deduction shall be made thereunder in respect of–
  - i. the excess of any value added tax paid over value added tax received in the assessment period;
  - ii. any income expended in the repair of an existing business asset except to the extent that any sum is payable under an insurance policy for its repair;
  - iii. any payment of interest on a loan taken out for the purposes of the employment

28.9 Where an applicant is engaged in employment, as a child minder the net profit of the employment shall be one-third of the earnings of that employment, less an amount in respect of

- a. income tax; and
- b. social security contributions payable under the Act, calculated in accordance with section 29 (deduction of tax and contributions for self-employed earners); and
- c. one-half of the amount calculated in accordance with paragraph 28.11 in respect of any qualifying contribution

28.10 For the avoidance of doubt where an applicant is engaged in employment as a self-employed earner and he is also engaged in one or more other employments as a self-employed or employed earner any loss incurred in any one of his employments shall not be offset against his earnings in any other of his employments.

28.11 The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this section the daily amount of the qualifying premium shall be determined

- a. where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and divided the product by 365;
- b. in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.

28.12 In this section, 'qualifying premium' means any premium which is payable periodically in respect of a personal pension scheme and is so payable on or after the date of claim.

## **29.0 Deduction of tax and contributions of self-employed earners**

29.1 The amount to be deducted in respect of income tax under section 28.1b) i), 28.3 b) i) or 28.9 a) i) (calculation of net profit of self-employed earners) shall be calculated on the basis of the amount of chargeable income and as if that income were assessable to income tax at the basic rate of tax applicable to the assessment period less only the personal relief to which the applicant is entitled under section 257(1) of the Income and Corporation Taxes Act

1988(personal allowances) as is appropriate to his circumstances; but, if the assessment period is less than a year, the earnings to which the basic rate of tax is to be applied and the amount of the personal reliefs deductible under this paragraph shall be calculated on a pro rata basis.

29.2 The amount to be deducted in respect of social security contributions under paragraphs 28.1 b)(i); 28.3 b) ii) or 28.9 a shall be the total of–

- a. the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Act at the rate applicable to the assessment period except where the applicant's chargeable income is less than the amount specified in section 11(4) of the Act (small profits threshold) for the tax year applicable to the assessment period; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced pro rata; and
- b. the amount of Class 4 contributions (if any) which would be payable under section 15 of the Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable to the assessment period on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year applicable to the assessment period; but if the assessment period is less than a year, those limits shall be reduced pro rata.

29.3 In this section 'chargeable income' means–

- a. except where sub-paragraph (b) applies, the earnings derived from the employment less any expenses deducted under paragraph 28.3(a) or, as the case may be, 28.4 of section 28;
- b. in the case of employment as a child minder, one-third of the earnings of that employment

29 A.1 Where no start up period (as defined within 29A.2) applies to the applicant and the income from self employment of the applicant or partner as calculated by reference to parts 27 to 29 of this scheme is less than an amount to be determined as appropriate for the employment market that the claimant or partner is operating in, the income used by the Council in the calculation of their award will be substituted to that appropriate amount. This amount shall not be less than 35 x the hourly minimum wage for an ordinarily employed worker, or where higher the number of hours declared by the applicant multiplied by the minimum wage for an ordinary employed worker. From that the Council will deduct only an estimate for tax, national insurance and half a pension contribution (where a pension contribution is being made), as if estimating the income of an ordinarily employed worker.

29 A.2 The Council shall determine an appropriate start up period for the employment activity being conducted by the claimant or partner. This will normally be one year from the date of claim, or one year from the date of commencement of the employment activity, whichever is sooner. During this period no Minimum Income Floor shall be applied. The start-up period ends where the person is no longer in gainful self-employment.

29 A.3 Where a claimant or partner holds a position in a company that is analogous to that of a sole owner or partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case be subject to the Minimum Income Floor where appropriate.

29 A.4 Ordinarily, no start-up period may be applied in relation to a claimant where a start-up period has previously been applied, whether in relation to a current or previous award of a Council Tax Relief or where one would have been applied, if not for the operation of Council Tax Benefit. The Council may allow a subsequent employment to qualify for a start up period based on the previous history of the claimant and an assessment of such evidence that would support a decision to allow for a subsequent start up period.

29 A.5 In order to establish whether to award a start up period, or at its discretion a subsequent start up period, the claimant must satisfy the Council that the employment is

- Genuine and effective. The Council must be satisfied that the employment activity is being conducted.
- Taking up at least 35 hours per week
- Being conducted with the intention of increasing the income received to the level that would be conducive with that form of employment.

29 A.6 For the purposes of determining whether a claimant is in gainful self-employment or meets the conditions for a start up-period, the Council will require the claimant to provide such evidence or information that it reasonably requires to make that decision, the Council may also require the self employed person to attend an interview for the purpose of establishing whether the employment is gainful or whether the conditions for a start up period are met.