

Cabinet

30 June 2026

Council Tax

Portfolio Holder: Councillor Vince Maple, Leader of the Council
Report from: Phil Watts, Chief Operating Officer
Author: Gemma Gilley, Head of Benefits and Financial Welfare

Summary

This report seeks Cabinet's approval to prescribe a class person, those who receive transitional protection within Universal Credit, as a result of which their Council Tax liability can be reduced.

1. Recommendations

- 1.1. Cabinet is recommended to agree to prescribe that Medway Council as a billing authority, exercise its power to determine a class of person, to reduce or remit council tax liability under S.13A(1)(c) and S.13A(7) of the Local Government Finance Act 1992 (the 1992 Act) where:
- (1) any person, who -
 - (a) is liable for council tax in the authority's area; and
 - (b) is entitled to an award of Universal Credit; and
 - (c) whose award of Universal Credit includes an amount identified as a transitional protection element.
 - (2) for the purposes of calculating the person's income under this Scheme, any amount of Universal Credit attributable to a transitional protection element shall be disregarded in full.

- 1.2. Cabinet is asked to delegate authority to the Chief Operating Officer, in consultation with the Leader of the Council, to prescribe classes of people under Section 13A(1)(c) Local Government Finance Act 1992.

2. Suggested reasons for decision

- 2.1. The Council has the discretion to prescribe individuals and or certain classes of people and thus reduce their council tax liability. By prescribing those in receipt of transitional protection to their universal credit benefit the Council is supporting families who may be experiencing financial strain.

3. Budget and policy framework

- 3.1. The impact of this decision will not be seen in 2026/27 finances as it relates to the collection fund. It will not materialise until setting the budget for 2027/28 and will manifest in a potential deficit on the Collection Fund at the end of 2026/27.

4. Background

- 4.1. The Local Government Finance Act 1992 (as amended by the 2012 Act) requires each billing authority to make and maintain a Council Tax Reduction Scheme (CTRS) specifying reductions for persons in financial need and such a scheme requires approval by Full Council.
- 4.2. The Council is under a legal duty (Schedule 1A of the 1992 Act) to consider each year whether to revise its CTRS or to replace it with another scheme. Schedule 1A provides that any revision to the scheme, or any replacement scheme, must be made no later than 11 March in the financial year preceding that for which the revision or replacement scheme is to have effect. Any revision to or replacement of the CTRS must be the subject of consultation.
- 4.3. The Cabinet considered the CTRS for 2026/2027 on 10 February 2026 with a recommendation to Full Council that the scheme be adopted. Full Council agreed the adoption of the scheme on 26 February 2026 (Council minute 736 refers).
- 4.4. Whilst our governance processes were already in motion the matter of R(Bleakley) v Three Rivers DC (2026) was determined, which held that treating transitional protection in Universal Credit as income was unlawfully discriminatory.
- 4.5. Transitional protection in Universal Credit is a temporary top-up payment designed to ensure that a person's income does not reduce immediately when they migrate to Universal Credit. This acts as a transitional safety net which is fixed and erodes over time.
- 4.6. Medway's CTRS, was consulted upon and written prior to the aforementioned matter being settled and too late for us to revise our CTRS. By prescribing the class of persons in receipt of universal credit transactional protection that element of their benefit will no longer be treated as income and they will see a reduction in their liability.

5. Options

- 5.1. Option One – retain the CTRS as is:
 - 5.1.1. The Council has received a number of complaints on our treatment of transitional protection and there are several cases before the Valuation Tribunal (VT). Whilst the VT will determine complaints under the approved the scheme they could make non-binding comment on our treatment of transitional protection.

5.2. Change the CTRS:

5.2.1. The Council is under a legal duty under (Schedule 1A of the 1992 Act) to consider each year whether to revise its CTRS or to replace it with another. Following a period of statutory consultation any revisions/ replacement scheme must be made no later than 11 March in the financial year preceding that for which it is to have effect. Due to the statutory date, it was not possible to make these changes the 2026/27 scheme. The next opportunity will be as part of budget setting for 2027/28.

5.3. Prescribe pursuant S.13A of the 1992 Act:

5.3.1. S.13A(1)(c) and S.13A(7) of the 1992 Act allows the billing authority to exercise its power to determine a class of person to reduce or remit council tax liability and the power sits outside of the CTR scheme. This could be exercised immediately to support families in such circumstances.

5.3.2. Where a person is in receipt of Universal Credit and their award includes a transitional protection element, the authority will treat that element as disregarded income. This applies to the class of persons whose entitlement to Council Tax Reduction would otherwise be reduced solely due to the inclusion of transitional protection.

6. Advice and analysis

6.1. It is recommended that Cabinet decide to take the action recommended in paragraph 5.3 prescribing class in alignment with paragraph 5.3.2.

7. Risk management

7.1. Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community. Using the following table this section should therefore consider any significant risks arising from your report.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Budgetary pressure	The decision is not without its financial implications	Revising the treatment of transitional protection will mitigate financial hardship for the prescribed class of person and mitigate against any possible legal action.	B2

Risk	Description	Action to avoid or mitigate risk	Risk rating
Breach of the Equality Act	Vulnerable residents potentially being discriminated against.	Prescription of the class of persons brings us in line with recent judicial commentary of the law.	B2
Different outcomes for different households	Making individual decisions leaves the risk of inequality.	Prescribing a class enables equitable treatment for all persons receiving transitional protection.	B3

For risk rating, please refer to the following table

Likelihood	Impact:
A Very likely	1 Critical
B Likely	2 Major
C Unlikely	3 Moderate
D Rare	4 Minor

8. Financial implications

- 8.1. If we choose to disregard Transitional Protection in 2026/27, the cost to the collection fund would be approximately £180,000. As Transitional Protection erodes over time (because of benefit uprating), this amount should decrease year on year.
- 8.2. This will not fall to the general fund in 2026/27 as it will not materialise until setting the budget for 2027/28 and will manifest in the surplus or deficit on the Collection Fund at the end of 2026/27.

9. Legal implications

- 9.1. The Three Rivers case was ultimately settled by consent of the parties however the court made judicial comment that such treatment of transitional protection would be deemed unlawful. Whilst this method of resolution does not create binding legal precedent it is likely that in the future the Court will follow will this commentary in making decisions in other such challenges.
- 9.2. Following judicial clarification on the treatment of transitional protection the Council should take steps to ensure compliance with the interpretation of the law, failure to do so may result in legal action, incurring additional cost to taxpayers.
- 9.3. By prescribing the class of persons as set out in the report the Council can prevent such claims being brought and the associated costs.

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Appendices

None

Background papers

None