

Calculation of North Yorkshire Council's Council Tax Reduction Scheme (working age claimants)

Contents

Council Tax Reduction Schemes	1
Overview – North Yorkshire Council Tax Reduction Scheme	2
2024/25 Income banding	3
2024/25 Main provisions – outline	3
How to calculate Council Tax Reduction (working age)	4
Passporting – Income Support, income-related Employment and Support Allowance or income-based Jobseeker's Allowance	5
Council Tax Reduction income disregards	5
Contributory Employment and Support Allowance support component disregard ..	6
Carer's Allowance disregard	6
Universal Credit housing element disregard	6
Disability income disregard	6
North Yorkshire Council Tax Reduction and Universal Credit	7
Universal Credit and housing costs element	8
North Yorkshire CTR and larger families	9
Exceptional Hardship Policy	9
Challenging CTR decisions	9
Appendix 1: Challenging the negative impact on larger families	11
Appendix 2: Challenging the inclusion of the UC limited capability for work-related activity element in CTR income	12
Appendix 3: Challenging the inclusion of the UC carer element in CTR income	13
Appendix 4: Challenging the use of UC housing costs element as CTR income	14

Council Tax Reduction Schemes

The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 allow local authorities to develop their own schemes for working

age residents, providing discretion to vary financial conditions. Visit www.legislation.gov.uk/ukxi/2012/2885/contents/made

Some local authorities have maintained a 'default' scheme which largely follows Council Tax Benefit criteria. Other local authorities, such as North Yorkshire Council, have adopted a banding system in which the level of Council Tax discount is determined by an income band.

The prescribed requirements are limited to who is included in the household; working age definition; immigration criteria; presence; minimum standards for the claims process, decisions and appealing.

The authority must review the local scheme annually and consult residents about any changes. The Scheme rules must be published, including any revisions.

Banding schemes can make it easier for residents as they are less likely to experience frequent changes to their bills when income fluctuates, and the schemes are often easier to understand. They can cut administration costs for local authorities, sometimes making a higher level of discount more affordable. Banding can also allow more flexibility for authorities to prioritise different groups (eg. carers).

However, there is concern about the negative effects of banding. In particular, small changes in income can lead to a marked increase in Council Tax liability. Also, banding schemes can have a negative effect on specific groups as they do not mirror the extra amounts awarded within means-tested benefits (eg. larger families, residents with limited capability for work). Also, many seem to create discrepancies for Universal Credit claimants compared to legacy benefit claimants.

There is a separate Council Tax Reduction (CTR) Scheme for State Pension age residents.

Individuals and households may also be able to get discounts or exemptions on their Council Tax bill, for more information visit www.gov.uk/council-tax

Note: this overview presents the current WBU analysis of North Yorkshire Council's Council Tax Reduction Scheme. As with any new rules, they are open to interpretation and another view could be taken about their application. Scenarios not already considered may come to light as the Scheme is implemented.

Overview – North Yorkshire Council Tax Reduction Scheme

Information about the North Yorkshire Council Tax Reduction Scheme (working age) can be found online:

- Overview, including income bands – [Online overview](#)

To note: it does not appear that the NYC benefit calculator is accurate in all scenarios and may indicate that a claimant is entitled to a higher or lower amount of Council Tax Reduction.

- Scheme wording – [North Yorkshire Council S13A CTR Scheme 2024/25](#)
- Exceptional Hardship Policy (Scheme wording, paragraph 75 – policy outlines detail) [North Yorkshire Council CTR Exceptional Hardship Policy](#)

2024/25 Income banding per week

Council Tax Reduction Level	Passported (IS, ibJSA, irESA)	Single	Couples	Family with one child	Family with two or more children
100%	Relevant benefit	£0 to £142	£0 to £196	£0 to £258	£0 to £319
75%	-	£142.01 to £189	£196.01 to £244	£258.01 to £307	£319.01 to £367
50%	-	£189.01 to £248	£244.01 to £307	£307.01 to £355	£367.01 to £416
25%	-	£248.01 to £312	£307.01 to £367	£355.01 to £416	£416.01 to £465

2024/25 Main provisions – outline

The table below provides a quick reference guide. Refer to the Scheme wording for more detail (paragraphs given in brackets) or later sections in this factsheet (*).

Issue	Notes
Maximum amount	100%
Capital limit (11, 12, 26-34, Sch 3)	£6,000 (if on IS, ibJSA or irESA – whole of capital disregarded if no more than £16k – Sch 3 para 7)*
Income bands (48, Sch 1) – two child limit, no exceptions	100%, 75%, 50%, 25%
Treatment of earnings – disregard single (20.2)	£25
Treatment of earnings – disregard couple or lone parent (20.2)	£50
Earnings	Employee: net and 50% pension contribution disregard (14, 19, 20) Self-employed: earnings, appropriate period (15, 21-23)
Treatment of other income (16, 24, 25)	Taken into account unless specified in Schedule 2
Students (35-47)	On IS, ibJSA or irESA, lone parent, PIP, partner and responsible for a child, child placed with them by local authority, some qualifying young people or under 21 Check Scheme wording (36.3)

Issue	Notes
Disability income disregard (Sch 2, para 72)	£40 “where the applicant would, but for the implementation of this scheme, be entitled to a disabled child premium, disability premium, an enhanced disability premium or a severe disability premium, a further disregard of £40 shall be made from their income”*
Income disregards – disability benefit (Sch 2, para 9 and 12)	DLA, PIP, AA, AFIP
Income disregards – ESA support component (Sch 2, para 68)	In full*
Income disregards – Carer’s Allowance (Sch 2, para 67)	In full*
Other income disregards – incomplete list (Sch 2)	Child Maintenance, Guardian’s Allowance, Child Benefit, charity payments, voluntary payments, personal injury trust/annuity, £15 of spousal maintenance if the household includes a child or young person (Sch 2 para 46 – see also para 17(2)), War Disablement Pension, War Widow’s Pension, AFCS, £15 of Widowed Mother’s Allowance and Widowed Parent’s Allowance, boarders (Sch 2 para 25) – £20 plus 50%, lodgers (Sch 2 para 24) – £20, HB/UC housing element* (Sch 2 para 39 and 69), any bereavement payment, Homes for Ukraine payments. Check Scheme wording.
Non-dependant deduction	None
Backdating (52.10)	12 months at local authority’s discretion

How to calculate Council Tax Reduction (working age)

Step 1: Check **Council Tax** annual bill, ensure any discounts or exemptions have been appropriately applied.

Step 2: If receiving Income Support, income-related Employment and Support Allowance or income-based Jobseeker’s Allowance, passported to 100% discount (no Council Tax to pay). Visit [Passporting](#) section below.

Step 3: Check capital. If £6,000 or over then no CTR entitlement.

Step 4: If Step 2 does not apply, calculate weekly **income** taken into account. Remember income disregards, including but not limited to:

- Earnings disregard
- Employment and Support Allowance support component
- Carer’s Allowance

- Disability income disregard (£40 per week).

If a Universal Credit claim includes the housing cost element check whether it will be taken into account on a pro rata basis (visit section below [Council Tax Reduction and Universal Credit](#)). For more information on disregards and the treatment of the UC housing element, visit section [Income disregards](#) below.

Step 5: Compare weekly income against **CTR income bands** to find applicable discount rate.

Step 6: Apply discount to annual Council Tax bill.

Example

Sid lives alone and owns his flat in Birdforth. He receives contributory ESA (support group, £138.20 per week), Universal Credit (£210.77 per month/£48.64 per week) and Personal Independence Payment. He has £4,000 in an ISA.

Step 1: His Council Tax bill is £1,118.62 per annum. This includes a single person discount.

Step 2: He does not receive Income Support, income-related Employment and Support Allowance or income-based Jobseeker's Allowance.

Step 3: His savings are below the capital limit.

Step 4: Income for Council Tax Reduction:

PIP is disregarded

cESA support component is disregarded (£47.70)

Disability income disregard applies (£40)

ESA £90.50 + UC £48.64 = £139.14 – disability income disregard £40 = £99.14
Income of £99.14 is taken into account.

Step 5 & 6: Sid is entitled to 100% discount and will not have to pay Council Tax.

Note: if Sid is entitled to UC housing costs element the calculation would be different (visit section [UC and housing costs element](#)).

Passporting – Income Support, income-related Employment and Support Allowance or income-based Jobseeker's Allowance

Although the capital limit is £6,000, Schedule 3 paragraph 7 states 'where an applicant is on Income Support, an income-based Jobseeker's Allowance or an income-related Employment and Support Allowance, the whole of his capital [is disregarded] provided that it is no more than £16,000.'

Council Tax Reduction income disregards

When calculating income for CTR, refer to the Schedule to check treatment of that specific income. These largely follow expected disregards based on means-tested benefit rules (eg. disability benefits and child maintenance are ignored). The following disregards are specific to the North Yorkshire scheme.

Contributory Employment and Support Allowance support component disregard

Disregard the support component (£47.70 in 2024/25).

To note: there is no disregard of the UC limited capability for work-related activity element.

Carer's Allowance disregard

Disregard in full (£81.90 in 2024/25).

To note: there is no disregard of the Universal Credit carer element.

Universal Credit housing element disregard

Disregard the housing costs element if the resident receives their maximum UC amount.

To note: the housing element will be taken into account on a pro rata basis if the resident's Universal Credit award is reduced by other income (eg. contributory Employment and Support Allowance, Carer's Allowance or earnings). See section below, [Council Tax Reduction and Universal Credit](#).

Disability income disregard

If the claim includes entitlement to a disability benefit an additional £40 per week is disregarded.

The Scheme wording states:

'Where the applicant, would, but for the implementation of this scheme, be entitled to a disabled child premium, disability premium, an enhanced disability premium or a severe disability premium, a further disregard of £40 shall be made from their income.'

North Yorkshire Council have advised that only one disability income disregard will be applied per claim even if there is more than one disabled person in the household.

Example

Simon is unable to work due to ill health and has been assessed as having limited capability for work-related activity. He is single, lives alone and has no housing costs. The CTR discount he receives will differ depending on whether he receives Universal Credit or Universal Credit 'tops up' contributory Employment and Support Allowance – even though the amount of income received is the same.

As an example, Council Tax in a Band A property, after the single person discount, in Coneysthorpe would be approximately £1,118.62 per annum (£21.50 per week).

Universal Credit only

Simon receives £186.84 per week, paid monthly. His CTR discount is 75% and he has to pay £279.66 per annum.

Income used in CTR calculation: £186.84

Universal Credit and contributory Employment and Support Allowance

Simon receives £186.84 per week (£48.64 UC + £138.20 ESA), paid monthly. His CTR discount is 100% and he does not have to pay any Council Tax.

ESA support component (£47.70) is disregarded

£48.64 Universal Credit plus £90.50 cESA = £139.14

Income used in CTR calculation: £139.14

Note: if Simon is entitled to UC housing costs element the calculation would be different (visit section [UC and housing costs element](#)).

Example

Ash and Devi live with their two children. They claim UC (£285.89 per week). They receive 100% discount and have no Council Tax to pay.

Ash starts to provide care for his grandma. If Ash tells the DWP that he is a carer his Universal Credit will increase by £198.31 per month (£45.76 per week). He will no longer have to look for work or manage other work-related requirements so that he can provide care. If Ash claims Carer's Allowance it will not increase family income but is beneficial, in this scenario, to CTR entitlement.

UC carer element only (no Carer's Allowance claim): Universal Credit is £331.65 per week, **CTR reduces to 75% discount**.

As an example, Council Tax in a Band C property in Little Fenton would be approximately £1,988.66 per annum (£38.24 per week). Ash and Devi would now have to pay £497.17 each year.

Income used in CTR calculation: Universal Credit at £331.65 per week

UC carer element and claims Carer's Allowance: benefit income is £331.65 per week (£249.75 UC + £81.90 CA), **CTR remains at 100%**.

Carer's Allowance (£81.90) is disregarded

Universal Credit £249.75

Income used in CTR calculation: £249.75

Note: if Ash and Devi are entitled to UC housing costs element the calculation would be different (visit section [UC and housing costs element](#)).

North Yorkshire Council Tax Reduction and Universal Credit

The DWP will notify North Yorkshire Council if a Universal Credit claimant has notified them that they wish to claim help with Council Tax.

North Yorkshire Council will use information provided by the DWP to calculate Council Tax Reduction (paragraph 12.0 to 12.6), including details of the UC award, earnings and capital. Incorrect information can be amended by the Council.

The weekly UC amount is determined by multiplying the UC award amount by 12 and dividing by 52.

North Yorkshire Council have advised that the amount of entitlement is taken into account, even if the amount paid has been reduced (eg. due to third party deductions).

Universal Credit and housing costs element

Universal Credit housing costs element is disregarded if a resident is entitled to their Universal Credit maximum amount. If any other income is used in the UC award calculation (eg. earnings, Carer's Allowance, private pension), North Yorkshire Council have advised that they will take the housing costs element into account on a pro rata basis.

This can mean that residents with identical levels of income may receive different levels of Council Tax discount. Advice about claiming Carer's Allowance or contributory Employment and Support Allowance will therefore need to take into account the impact on the CTR award.

We understand that the following method will be used to calculate the pro rata amount (the information is not included within the Scheme wording):

1. Calculate 'non-housing costs UC entitlement' as a percentage of UC maximum amount:

non housing costs amounts divide by UC maximum multiply by 100 = %
(eg standard allowance plus amount
elements other than housing
element)

2. UC entitlement multiplied by 'non-housing costs UC entitlement' % = monthly amount of UC used in the CTR calculation. Calculate the weekly figure.

Example

Jeannie lives alone and rents her flat. She receives Universal Credit of £938.45 per month (£216.57 per week). This is made up of £393.45 standard allowance and £545 housing costs. As she receives her UC maximum amount the UC housing costs element is not taken into account. Her income for CTR purposes is the standard allowance of £90.80 per week and she receives 100% Council Tax discount.

If Jeannie claims contributory Employment and Support Allowance she will continue to receive the same amount of total income whilst she is assessed – now made up of ESA (£392.16 per month/£90.50 per week) and Universal Credit (£546.28 per month/£126.07 a week). However, the income used for the Council Tax Reduction will now include a pro rata amount for housing costs.

Universal Credit award: £938.45 per month – £392.16 cESA = £546.29

For CTR:

1. Calculate "non-housing costs UC entitlement" as a percentage of UC maximum amount

£393.45 standard allowance / £938.45 Universal Credit maximum = 0.4193 x 100 = 41.93%

2. UC entitlement multiplied by “non-housing costs UC entitlement” % = amount of UC used in the CTR calculation

UC entitlement £546.29 x 41.93% = £229.06 per month (£52.86 per week)

Income for CTR: ESA £90.50 per week plus UC £52.86 per week = £143.36

CTR entitlement reduces to 75% discount, although Jeannie’s total income has not changed.

North Yorkshire CTR and larger families

The highest Council Tax Reduction income band is limited to a ‘family with two or more children’. If a resident is not on Income Support, income-related Employment and Support Allowance or income-based Jobseeker’s Allowance, extra amounts allowed within means-tested benefits for two plus children are likely to reduce the amount of discount allowed under the CTR scheme.

Exceptional Hardship Policy

Residents are able to apply for help if they are facing exceptional hardship. This can be understood as ‘hardship beyond that which would normally be suffered’ and payments are designed to offer short-term help. Payments will be made direct to the applicant’s Council Tax account.

The Exceptional Hardship Fund is open to residents who have an award of Council Tax Reduction that does not meet 100% of their Council Tax liability.

The fund is also open to residents who do not qualify for Council Tax Reduction if they apply to the fund within one month of receiving the decision from the Council, and they have exceptional circumstances beyond a financial reason. This does not apply if they are precluded from the CTR scheme under the Prescribed Requirements Regulations (eg. person subject to immigration control).

Applicants need to complete a form, provided by the Council, which requires full financial details (income and expenditure). They are expected to accept assistance from the Council or third parties and take action to manage their financial situation (eg. change payment methods, reduce non-essential expenditure). See the Scheme wording for more detail.

Exceptional Hardship Fund decisions can be appealed, initially to the Council and then to a Valuation Tribunal.

Challenging CTR decisions

A CTR decision notice should give information about how to appeal the decision. An appeal can be made about entitlement under the scheme or the amount of any reduction. The appeal must be made in writing and state ‘the matter by which, and the grounds on which, [the applicant is] aggrieved’ (paragraph 73).

It is advisable to apply for an Exceptional Hardship award as well as submitting an appeal. It should also be made clear that recovery action can continue whilst waiting for an appeal to be heard and it would be advisable to seek debt advice if not making payment.

If the resident does not agree with the authority's further decision on appeal, or a response is not given within two months, they can appeal to the [Valuation Tribunal](#).

An appeal to the authority or to the Valuation Tribunal cannot challenge the legality of the CTR Scheme. However, the Valuation Tribunal can determine whether the authority has appropriately applied the Scheme criteria.

An appeal may query the calculation used to determine a resident's CTR entitlement, following the Scheme wording and guidance given by North Yorkshire Council. WBU suggest that further challenges could be considered on the grounds of:

- requirement to publish Scheme details
- interpretation of Scheme wording
- use of discretion
- fairness and rationality
- discriminatory impact on residents, particularly Universal Credit claimants.

Further information and suggested arguments are given in the appendices.

Calculations given within the appendices may be used to support arguments given, as well as using the client's individual position.

Advisers could also support residents to inform their local councillors about their situation, or their MP. It is usually most effective to do this in person at one of their surgeries.

Appendix 1: Challenging the negative impact on larger families

The following arguments could be utilised when appealing a CTR decision relating to a larger family on UC or tax credits. It is important to present arguments in context of the resident's individual circumstances as well as broad arguments (eg. provide a comparison between their entitlement and that of someone on Income Support).

The DWP introduced a two-child limit on means-tested benefits in 2017, affecting families with children born after this time. Child elements of benefits are limited to a maximum of two for children born after April 2017, except in specified circumstances (eg. adoption, multiple births). North Yorkshire Council have applied a two-child limit by limiting the banding to families with two or more children. This disproportionately affects families on Universal Credit and tax credits in comparison to families who are passported to 100% discount because they are on Income Support, income-related Employment and Support Allowance or income-based Jobseeker's Allowance.

Public bodies have to follow public law requirements. The ordinary principles of good decision-making and administrative law require that interpretation of criteria should be fair, and discretion should be applied rationally. This requirement is relevant to this decision, as shown:

- **For UC:** the limit on the income banding applicable to larger families on UC is unfair as residents on Income Support, income-related Employment and Support Allowance or income-based Jobseeker's Allowance legacy receive 100% discount despite receiving an equivalent amount of financial support for children. Allowing additions to the income band in line with child elements or providing 100% discount for families who have income equivalent to their UC maximum amount would strengthen the fairness of the Scheme.
- **For UC and tax credits:** restricting the income bands for families who are entitled to additional child elements under the DWP and HMRC criteria is unfair as it causes severe hardship and reduces the amount of benefit available to pay for essential costs such as food and fuel.

Some families with disabled children receive less on Universal Credit than on legacy benefits as the lower disabled child element is less than the disabled child premium. The inequity of this may also be a factor when showing comparative support for families.

Appendix 2: Challenging the inclusion of the Universal Credit limited capability for work-related activity element in CTR income

The following arguments could be utilised when appealing a CTR decision relating to the inclusion of the UC limited capability for work-related activity element in CTR income without a disregard. It is important to present arguments in context of the resident's individual circumstances as well as broad arguments (eg. provide a comparison between their entitlement and that of someone on income-related Employment and Support Allowance).

Residents who are unable to work or prepare for work because they have limited capability for work-related requirements are assessed using the Work Capability Assessment. The WCA is used to determine if someone is entitled to National Insurance credits, contributory Employment and Support Allowance and Universal Credit. Someone receiving contributory Employment and Support Allowance will have the support element disregarded as income (£47.70 per week in 2024/25), which is positive support for a vulnerable group of residents. However, the same disregard is not applied to someone on Universal Credit only even though they have been subject to exactly the same assessment.

Public bodies have to follow public law requirements. The ordinary principles of good decision-making and administrative law require that interpretation of criteria should be fair, and discretion should be applied rationally. This requirement is relevant to this decision, as shown:

- Failure to disregard an equivalent amount in relation to the those entitled to the UC limited capability for work-related requirements element is irrational as residents have been assessed under the same criteria and yet one group of benefit claimants is being treated differently to another.
- Assessment for the ESA support component and the UC limited capability for work-related requirements element is identical. Applying a disregard to one and not the other is unfair.

UC is a means-tested benefit i.e. it provides subsistence income. UC claimants are therefore more likely to be on a low income as contributory Employment and Support Allowance is not a means-tested benefit. Failure to disregard a similar amount is unfair as it reduces the amount of benefit available to pay for essential costs such as food and fuel.

North Yorkshire Council's failure to apply an equivalent disregard to the limited capability for work-related requirement element in Council Tax Reduction calculation may lead to indirect discrimination (Equality Act 2020, Section 19). Indirect discrimination may occur when a service provider applies an apparently neutral provision, criterion or practice (PCP) which puts persons sharing a protected characteristic at a particular disadvantage. People on UC without contributory Employment and Support Allowance are more likely to have been unable to pay National Insurance, for example because of ill health or caring responsibilities. This is more likely to affect protected groups.

Appendix 3: Challenging the inclusion of the Universal Credit carer element in CTR income

The following arguments could be utilised when appealing a CTR decision relating to the inclusion of the UC carer element in CTR income. It is important to present arguments in context of the resident's individual circumstances as well as broad arguments (eg. provide a comparison between their entitlement and that of someone on Carer's Allowance).

North Yorkshire Council has recognised the contribution made by carers and included a disregard of Carer's Allowance when calculating Council Tax Reduction. Carers on Universal Credit can receive the carer element without making a Carer's Allowance application. However, someone on Universal Credit only will not have the same disregard although they meet the same definition of being a carer.

Public bodies have to follow public law requirements. The ordinary principles of good decision-making and administrative law require that interpretation of criteria should be fair, and discretion should be applied rationally. This requirement is relevant to this decision, as shown:

- Failure to disregard an equivalent amount in relation to the those entitled to the UC carer element is irrational as residents have been assessed under the same criteria and yet one group of benefit claimants is being treated differently to claimants on a different benefit.
- Assessment for Carer's Allowance and the UC carer element are identical (except for work-related provision). Applying a disregard to one and not the other is unfair.
- UC claimants are more likely to be on a low income as Carer's Allowance is not a means-tested benefit. Failure to disregard a similar amount is unfair as it reduces the amount of benefit available to pay for essential costs such as food and fuel.

	On IS, irJSA or ibESA	On UC
Carer's Allowance claim made	<ul style="list-style-type: none"> • Better off by carer premium • CA ignored for CTR purposes • Passported to 100% CTR 	<ul style="list-style-type: none"> • Better off by carer element • CA ignored for CTR purposes • Housing costs will be taken into account on a pro rata basis • CTR discount may increase or decrease based on individual circumstances
Carer not made Carer's Allowance claim	<ul style="list-style-type: none"> • No extra amount for being a carer • Passported to 100% CTR 	<ul style="list-style-type: none"> • Better off by carer element • % CTR may decrease: UC increases so may lose CTR entitlement if change bands

Appendix 4: Challenging the use of Universal Credit housing costs element as CTR income

The following arguments could be utilised when appealing a CTR decision relating to the inclusion of the UC housing costs element on a pro rata basis. It is important to present arguments in context of the resident's individual circumstances as well as broad arguments (eg. provide a comparison between their entitlement with and without the inclusion of housing costs).

The Local Government Finance Act 1992 requires authorities to conduct a meaningful consultation on new schemes and publish its scheme rules. The inclusion of the UC housing costs element on a pro rata basis was not included in the consultation and is not given in the Scheme wording. A possible mention is Schedule 2 (Sums to be disregarded in the calculation of income), para 69, 'an amount the authority determines relates to the housing element of Universal Credit'. However, the North Yorkshire Council website specifically states, 'Universal Credit Housing element – the amount of Universal Credit which covers housing costs is fully disregarded'. The North Yorkshire Council scheme wording is clear: Schedule 2 (Sums to be disregarded in the calculation of income), paragraph 39 states that 'an amount of UC equal to the housing element' will be disregarded. However, this is not being followed. While Schedule 2 (Sums to be disregarded in the calculation of income), para 69 refers to, 'an amount the authority determines relates to the housing element of Universal Credit' the pro rata approach adopted in practice runs contrary to paragraph 39.

If it is not accepted that the Scheme wording clearly outlines that the UC housing costs element is to be disregarded, the discretion to disregard is given in paragraph 12.3, clearly stating that the authority may adjust the amount taken into account. The need to use this discretion is particularly pertinent when a resident receives the same amount as their UC maximum in total, however that income is made up, because UC amounts are the government-agreed minimum needed for cost of living. In *R(S) v Secretary of State for the Home Department* [2007] EWCA Civ 546 the Court of Appeal summarised this principle when it stated:

"[a] public authority may not adopt a policy which precludes it from considering individual cases on their merits".

North Yorkshire Council are applying a blanket policy when a resident has the UC housing costs element in their award and receives income that reduces their UC award.

Public bodies have to follow public law requirements. The ordinary principles of good decision-making and administrative law require that interpretation of criteria should be fair, and discretion should be applied rationally. This requirement is relevant to this decision, as shown:

- The inclusion of UC housing costs on a pro rata basis when someone has 'other income' but no increase in income is irrational. Someone who claims a benefit based on their National Insurance contributions or a non-means tested benefit (eg. Carer's Allowance) can find themselves with extra Council Tax liability without any increase in resources.

- The inclusion of UC housing costs is unfair as residents on legacy benefits receive help with housing costs separately as Housing Benefit and this is disregarded in full. UC housing costs are assessed in the same way as Housing Benefit, other than minor differences.
- The inclusion of UC housing costs is unfair as these costs provide financial support for rent and service charges. There is no intention within the UC system that this element is used as income for Council Tax. It is not money available to the claimant to pay Council Tax. Although UC is made as one payment aspects of the UC system mirror the treatment of housing costs as a separate, prioritised payment such that any amount left as an award is reduced is treated as housing costs (eg. managed payments to landlords, the Benefit Cap).
- The inclusion of UC housing costs is unfair as it causes severe hardship and reduces the amount of benefit available to pay for rent and other essential cost such as food and fuel.

North Yorkshire Council's inclusion of the UC housing costs element in the Council Tax Reduction calculation may lead to indirect discrimination (Equality Act 2020, Section 19). Indirect discrimination may occur when a service provider applies an apparently neutral provision, criterion or practice (PCP) which puts persons sharing a protected characteristic at a particular disadvantage.

The inclusion of UC housing costs only affects those in rented accommodation, not owner occupiers. Housing Benefit statistics show that certain protected groups are more likely to be in rented accommodation (Universal Credit figures are expected to mirror these but were not available). Information taken from Shelter shows that the protected groups affected include women, disabled people, Black and Bangladeshi families. North Yorkshire Council are required to show that this can be objectively justified as a proportionate means of achieving a legitimate aim.

www.england.shelter.org.uk/professional_resources/policy_and_research/policy_library/time_for_change_making_renting_fairer_for_private_renters

North Yorkshire Council are also subject to the Public Sector Equality Duty. Those subject to the equality duty must, in the exercise of their functions, have due regard of the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Having due regard for advancing equality involves:
 - Removing or minimising disadvantages suffered by people due to their protected characteristics.
 - Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
 - Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

North Yorkshire Council have failed to have due regard to the need to eliminate unlawful discrimination, by exercising a Council Tax Reduction Scheme in a way that may be indirectly discriminatory.