



Deposited via The University of York.

White Rose Research Online URL for this paper:

<https://eprints.whiterose.ac.uk/id/eprint/239642/>

Version: Accepted Version

Article:

MEERS, Jed (2026) A Local Means-Test for Local People: Discrimination and Council Tax Support. *Journal of Social Welfare and Family Law*. pp. 241-244. ISSN: 1469-9621

<https://doi.org/10.1080/09649069.2026.2660511>

Reuse

This article is distributed under the terms of the Creative Commons Attribution (CC BY) licence. This licence allows you to distribute, remix, tweak, and build upon the work, even commercially, as long as you credit the authors for the original work. More information and the full terms of the licence here:

<https://creativecommons.org/licenses/>

Takedown

If you consider content in White Rose Research Online to be in breach of UK law, please notify us by emailing eprints@whiterose.ac.uk including the URL of the record and the reason for the withdrawal request.

A Local Means-Test for Local People: Discrimination and Council Tax Support

Jed Meers

York Law School, University of York, York, UK

KEYWORDS Council Tax Reduction Schemes; local welfare; discrimination; Equality Act 2010; means testing.

Council tax in England is at a crisis point. Arrears have surged past £6 billion – double that owed in 2019/20 – as unpaid bills continue to rise by £50 million each week (Department for Levelling Up, Housing & Communities 2024). At the same time, fewer households are receiving support for their council tax bills than ever before (Clegg, 2025). In the wake of the Welfare Reform Act 2012, the national Council Tax Benefit was abolished and responsibility was passed down to local authorities to design their own schemes (but with the budget cut by 10 per cent). One national benefit has been replaced by 296 individually designed means-tested Council Tax Reduction Schemes (CTRS) sitting at the local level, no two of which are alike (Policy in Practice 2025, p. 12). The judgment in *R (on the application of) LL and AU v Trafford Metropolitan Council* [2025] EWHC 2380 (Admin) – the most detailed judicial interrogation of a CTRS to date – illustrates the legal risks that result from pushing these schemes down to the local level.

Trafford Metropolitan Council, like all billing authorities, has operated a CTRS since 2013. In common with around 40 per cent of authorities, Trafford operated a banded scheme: residents are placed in an income band to determine the level of support they receive (Policy in Practice 2025, p. 33). The two claimants, LL and AU, had both received a 100 per cent council tax reduction until 2025, when Trafford's revised scheme moved them to being liable for the full bill. The problem lay in Trafford's calculation of income under the means test. Residents qualifying for support were almost certain to be in receipt of Universal Credit (UC) and any health-related elements of UC were excluded from the means test. However, other income alongside UC – such as Carer's Allowance (as in AU's case) or a private occupational pension (as in LL's case) – was not excluded and was therefore counted as income. Critically, this other income also *reduces* UC eligibility, generally pound for pound. The effect was double-counting: the income reduced a claimant's UC, only to then be counted again under the council's means test. Two claimants with exactly the same weekly income as LL and AU could therefore receive completely different treatment – one paying no council tax and the other a full bill (paras. 18–19).

The claimants successfully argued that Trafford's scheme was contrary to sections 15 and 19 of the Equality Act 2010, was unlawfully adopted, breached the Public Sector Equality Duty, and was irrational. Taking discrimination first, this case represents the first occasion on which a claim of indirect associative discrimination has been allowed under s.19A since the provision came into force in 2024 (see Hand 2024, pp. 23–24). It was not in dispute that by providing a

CTRS, Trafford was providing a service and therefore had an obligation not to discriminate under the Equality Act 2010 (para. 67). For LL, the double-counting constituted discrimination arising from disability under s.15: the scheme treated LL unfavourably because of a kind of income that had arisen as a result of their disabilities (paras. 68–69). It was also indirectly discriminatory under s.19, as a provision, criterion or practice applied equally to disabled and non-disabled people but which placed disabled people at a particular disadvantage. For AU, the scheme was indirectly discriminatory under s.19A of the Equality Act 2010, placing disabled people at a particular disadvantage and placing AU at that same disadvantage as a carer by association with her disabled daughter. These flaws could not be justified as a proportionate means of achieving a legitimate aim. As the court concluded, the scheme was simply ‘badly drafted’ (para. 69).

In common with other social security challenges, Trafford sought to blame its computer system, arguing that the software was unable to disregard all the elements of UC intended to be disregarded (para. 20). Such rudimentary limitations of software will be unsurprising to those in local government, where acute financial pressures, a lack of investment, and complex procurement rules can heavily constrain the ability to innovate software systems (Bennett and Meers 2025). The court gave the argument short shrift - it could not be that the scheme should be designed to fit within the parameters of the software, as to do so would be, as the court put it, ‘a case of the tail wagging the dog’ (para. 79). More fundamentally, the problem lay with the scheme itself. Even if entitlement was calculated with pen and paper, the claimants would not have qualified for full relief (para. 78).

The process for adopting the scheme was also unlawful. Under s. 67 of the Local Government Finance Act 1992, a CTRS must be passed by the full council. Following *R (Buck) v Doncaster Metropolitan Borough Council* [2012] EWHC 2293, this requirement extends to both the initial adoption of a scheme and revisions to it. In *Trafford*, the revised scheme was developed by the council’s Exchequer Services Department, presented to Trafford’s Executive Committee for approval at its budget meeting, and then put to the full council alongside a cornucopia of other issues. The court held that lumping the revised CTRS into the overall budget approval did not satisfy the requirement for full council approval; every outward manifestation of the decision-making process indicated it was taken by the Executive Committee rather than the full council (para. 51). The Equality Impact Assessment made matters worse: it failed to address the double-counting flaw at the heart of the case, was not shown to the Executive Committee, and described the impact of the scheme on disability as ‘neutral’ (paras. 66, 84). The adoption of the scheme was therefore also contrary to the Public Sector Equality Duty under s.149 of the Equality Act 2010.

Trafford is significant not merely for the range of defects it reveals in a single scheme, but for what it illustrates about the broader public law risks of transferring the design and delivery of means-tested support to local government (Meers, 2026). We are, perhaps unsurprisingly, beginning to see more cases on CTRS make it to court. In *R (Bleakley) v Three Rivers District Council* (AC-2025-LON-004451, 2 February 2026), Three Rivers conceded before a final hearing that its CTRS unlawfully discriminated against disabled residents by treating UC transitional protection payments as surplus income (Garden Court North Chambers, 2026).

With approximately one million households across the country having or due to receive transitional protection as part of a UC award, the potential scale of similar flaws elsewhere is considerable.

Accurately and effectively means-testing benefits has proven difficult enough for civil servants in the Department for Work and Pensions with the resources of a Government department behind them. A total of 296 individually designed schemes require 296 means tests and 296 software solutions, with all the potential for glitches, mistakes, and discriminatory effects that abound even in far better resourced centralised systems. This is not about the kind of different treatment between localities often derided as a ‘postcode lottery’ - differences in treatment are a feature of devolution, not a bug. The issue illustrated in *Trafford* is the transfer of entitlement-based decision-making to local authorities who are ill-equipped to effectively design and administer what are, in practice, complex means-tested schemes. In their recent report examining the case for reform, the Institute for Fiscal Studies found that the overall generosity of working-age council tax support in England has fallen by £630 million (14 per cent) since localisation, that the banded schemes used by around 40 per cent of authorities can produce unjustifiable inconsistencies between groups (Oulton and Wernham 2026). They conclude there is a strong case for integrating working-age council tax support into UC, which would reduce complexity for claimants and administrative burdens for councils.

Local authorities have long played a role in localised welfare decision-making to which they are better suited than central Government - for instance, homelessness support, crisis provision, and social care - where a deep understanding of the individual and the locality makes a difference. But CTRS is a different proposition. *Trafford* reveals the risks of discriminatory scheme design, irrationality, and unlawful policy-making that can result. Without the considerable barriers to challenging these schemes in the courts, *Trafford* would likely be but one example of many.

References

Bennett, H. and Meers, J., 2025. Devolving digitalisation: local government, local welfare and the digital welfare state. *Journal of Social Welfare and Family Law*, 47 (3), 356–378.

Clegg, A. 2025. *The localisation era: Assessing the post-2013 rise of localised social security*. Available from: <https://www.resolutionfoundation.org/publications/the-localisation-era/> [Accessed 29th March 2026].

Department for Levelling Up, Housing & Communities, 2024. *Collection Rates for Council Tax and Non-domestic Rates in England: 2023 to 2024*. Available from: <https://www.gov.uk/government/statistics/collection-rates-for-council-tax-and-non-domestic-rates-in-england-2023-to-2024> [Accessed 29th March 2026].

Garden Court North Chambers, 2026. Council Tax Reduction Scheme Unlawfully Discriminated Against Universal Credit Claimants. Available from: <https://gcnchambers.co.uk/three-rivers-district-councils-tax-reduction-scheme-declared-unlawful-by-high-court/> [Accessed 29th March 2026].

Hand, J., 2024. The Equality Act 2010 – changes in 2024 including Brexit-related codification. *International Journal of Discrimination and the Law*, 24 (1–2), 19–31.

Meers, J., 2026. Discrimination in the Local Welfare State. *Public Law*. (Forthcoming).

Oulton, M. and Wernham, T., 2026. *How Does Council Tax Support Shape Household Incomes and Work Incentives?* London: Institute for Fiscal Studies. Available from: <https://ifs.org.uk/publications/how-does-council-tax-support-shape-household-incomes-and-work-incentives> [Accessed 29 March 2026].

Policy in Practice, 2025. *A Path to Better Council Tax Support Schemes*. Available from: https://policyinpractice.co.uk/wp-content/uploads/2025/05/Report_A-path-to-better-Council-Tax-Support-schemes_Apr25-.pdf [Accessed 29th March 2026].