



Department for  
Communities and  
Local Government

# Localising council tax support

Administrative matters – guidance note

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March, 2013

ISBN: 978-1-4098-3826-5

# Introduction

1. The localising council tax support regulations prescribe:
  - (a) requirements for all council tax reduction schemes (including provisions relating to persons who have attained the qualifying age for state pension credit and who are not in receipt of work-related benefits – in this note referred to as ‘pensioners’) (the Prescribed Requirements Regulations<sup>1</sup>); and
  - (b) the default council tax reduction scheme (the Default Scheme<sup>2</sup>).
2. Regulations also set out powers to require information, offences that may be committed and penalties that may be imposed by authorities, relating to reduction schemes<sup>3</sup>.
3. This explanatory note provides additional commentary on how it is intended that local council tax reductions will be administered within the council tax system.
4. Broadly, the matters covered in this note include:
  - (a) calculations of liability;
  - (b) application and decision making process;
  - (c) granting reductions and considering appeals;
  - (d) ongoing alterations;
  - (e) information sharing; and
  - (f) fraud detection and enforcement.

## Calculations of liability

5. Council tax liability is calculated on a daily basis and that calculation includes an assessment of whether any amount is subject to a council tax discount. The system is based upon an assumption that the state of affairs subsisting at the end of the day has subsisted throughout the day.
6. Local council tax support schemes will create a means of calculating a further discount that may be applied on a particular day. Billing authorities should note that the Prescribed Requirements Regulations require provision to be made in respect of back-dating of applications made by pensioners and about the date on which a change resulting from a change of circumstances takes effect for them.

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<sup>1</sup> The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (SI 2012/2885).

<sup>2</sup> The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 (SI 2012/2886).

<sup>3</sup> The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 (SI 2013/501).

7. Authorities will make their own decision for their locally adopted schemes about whether working age applicants should be entitled to any back-dated reduction, and the date from which a change of circumstances will affect the amount of any reduction.
8. The calculation of a reduction for each day will be in accordance with the local schemes adopted for each area. Where a person is entitled to a reduction under an authority's scheme the calculation of their liability for a day may need to be reassessed where there is a change in circumstance or fact that is applied to the calculation.
9. Authorities will be aware that they will also have discretion to apply a further reduction under section 13A(1)(c) of the Local Government Finance Act 1992<sup>4</sup>.

## Application and decision making process

10. Billing authorities must set out in their schemes how a person can apply for a local council tax reduction<sup>5</sup>. Applications will need to be made to authorities themselves and not to the Department for Work and Pensions.
11. However, from 1 April 2013 the Department for Work and Pensions will ask applicants for existing benefits, such as Jobseeker's allowance, Employment and Support Allowance, or State Pension Credit whether they also want to apply for council tax support.
12. If the applicant does want to, the Department for Work and Pensions will forward the relevant data to the billing authority that may assist in the consideration of an application. This will not in itself constitute an application for council tax support.
13. It will be for billing authorities to design their own application process for a local council tax support scheme. Schemes must include discretion for billing authorities to allow an application under their local schemes to be treated as an application for a further reduction under section 13A(1)(c) of the Local Government Finance Act 1992 where the authority has made a determination under that section in relation to a class of persons in respect of whom liability will be reduced<sup>6</sup>
14. For example, if a billing authority, outside of their scheme, wished to introduce an additional discretionary disregard for a war widow pension above the £10 in the prescribed requirements regulations, for those of pension credit eligible age. Of course, a billing authority could introduce such an additional disregard as part of their adopted scheme.

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<sup>4</sup> As substituted by section 10 of the Local Government Finance Act 2012.

<sup>5</sup> Paragraph 2(5) of Schedule 1A to the Local Government Finance Act 1992

<sup>6</sup> See paragraph 9 of Schedule 7 of the Prescribed Requirements Regulations and paragraph 11 of Schedule 1 to the Default Scheme.

15. Authorities will need to consider what they may require to enable them to make a decision on an application (in terms of both prescribed and localised elements) and:
- (a) make clear to the applicant that there is a duty to notify the authority of relevant changes in circumstances;
  - (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
  - (c) set out the circumstances in which a change in circumstances might affect entitlement to the reduction or its amount.<sup>7</sup>
16. For those applicants in transition, i.e. those deemed to have made an application for localised council tax support under transitional arrangements that were set out in regulations<sup>8</sup>, (either because they are already in receipt of Council Tax Benefit or because they have an outstanding application), no further application will be required.
17. For this group of applicants the duty to notify will only apply from when the decision letter is issued (see paragraph 21 below).
18. Where an application is defective or further information is required the billing authority will be able to request further information to be provided within one month or within such a longer period as it considers reasonable.
19. Following that month or, where the billing authority allows, a further time period, the billing authority will be able to make a decision on the application based upon the information that has been provided at that time.
20. Where a person fails to provide further information or amend a defective claim within the time period allowed the billing authority can make a decision based upon the application and information provided.

## Granting reductions and considering appeals

21. Whether or not an applicant is awarded a reduction, a decision letter must be sent. The decision letter, which is a separate letter to the Demand Notice, will need to set out both the outcome of the application and how an appeal may be made<sup>9</sup>.
22. Where a reduction is awarded the decision letter will also need to:
- (a) inform the applicant that there is a duty to notify the authority of relevant changes in circumstances;

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<sup>7</sup> See paragraph 4(7) of Schedule 8 to the Prescribed Requirements Regulations and paragraph 109 of the Default Scheme.

<sup>8</sup> The Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013 (SI 2013/215).

<sup>9</sup> See paragraph 12 of Schedule 8 to the Prescribed Requirements Regulations and paragraph 117 of the Default Scheme.

- (b) explain the possible consequences (including prosecution) of failing to comply with that duty; and
- (c) set out the circumstances in which a change in circumstances might affect entitlement to the reduction or its amount.

23. Generally those who are entitled to support under a scheme will receive their reduction as a discount to their council tax bill. The calculation of a reduction for each day will be in accordance with the local schemes adopted for each area, including the extent or not of any backdating rules that are to be applied.

24. Existing council tax rules for making backdated payments of reductions will apply, so where an applicant has already paid the full liability but they are entitled to a backdated reduction within the rules of a local scheme, a billing authority could use the entitlement to a reduction to offset future payments. Or it may be paid to the applicant - for example, where they are no longer liable for council tax.<sup>10</sup>

25. However, provision is made in the Default Scheme and the Prescribed Requirements Regulations for billing authorities to make a payment instead to:

- (a) a person who is jointly and severally liable for council tax and in respect of whom an authority determines a reduction will be inappropriate; or
- (b) a nominated person in cases where such a person is acting on behalf the person who is entitled to the reduction.<sup>11</sup>

26. This replicates similar provisions currently made under the Council Tax Benefit system.

27. Where an applicant is aggrieved by a decision of the billing authority which affects their entitlement to a reduction or the amount of any reduction they may appeal under section 16 of the Local Government Finance Act 1992. As with all appeals under section 16 the person will need to write to the authority setting out the grounds on which they are aggrieved.

28. The person may only appeal to the Valuation Tribunal where:

- (a) they are notified in writing by the authority that it believes the grievance is not well founded, but they are still aggrieved;
- (b) they are notified in writing that steps have been taken to deal with the grievance, but they are still aggrieved; or
- (c) the period of two months, beginning with the date of service of their notice, has ended and they have not received notification under paragraph (a) or (b) above.

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<sup>10</sup> Council Tax (Administration and Enforcement) Regulations 1992 (SI 1992/613).

<sup>11</sup> See paragraph 14 of Schedule 8 to the Prescribed Requirements Regulations and paragraph 118 of the Default Scheme.

## Ongoing alterations

29. In regard to dealing with changes in circumstance of a person in receipt of a reduction under a scheme, the existing capability within the council tax system for dealing with over and under payments will apply. An over- and under-allowance of a reduction is equivalent to an under- or over-payment of council tax.
30. Where a person, due to a change in circumstance, has a change in the amount of reduction for which they are eligible under a local scheme, a billing authority will be required to issue a further decision letter. This ensures that an applicant is always aware of the reason for the change in the reduction.
31. Where there has been an over- or under-payment of reduction the existing provisions for under- or over-payment of council tax will ensure that the situation is rectified. Where the facts assumed to apply relating to a day have changed a billing authority will be able to recalculate the liability for that day based upon the new facts that apply, in accordance with their local scheme.
32. Where a person has paid too much council tax, a billing authority will be able to offset the amount against future liability for council tax or make a payment to the applicant where, for example, they are no longer liable for council tax. Where a person has paid too little council tax a billing authority will be able to recover any monies they are owed under the same council tax processes for recovering unpaid council tax.<sup>12</sup>
33. Delivering council tax support as a reduction means there is no further need for the Council Tax Benefit rules which applied in respect of suspensions and terminations.
34. This is because if the billing authority considers the facts on a particular day have changed in a way that affects the reduction, or lack of a reduction, they are able to make a new decision, inform the tax payer and re-bill accordingly with any change in reduction.
35. If person disagrees, as with the appeals process outlined at paragraphs 27-28 above, they will first need to write to an authority setting out the grounds by which they are aggrieved by the new calculation of their bill.
36. If the amount of a reduction calculated was greater than it should have been the billing authority will be able to continue to make decisions to recover on a case-by-case basis.

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<sup>12</sup> Council Tax (Administration and Enforcement) Regulations 1992 (SI 1992/613)

## Information Sharing

37. Where local authorities need to exchange information the Council Tax (Administration and Enforcement) Regulations 1992 allows them to do so. As such there is no need to replicate the sections in the current Council Tax Benefit regulations<sup>13</sup> relating to information sharing.

## Fraud Detection and Enforcement

38. The current powers of local authorities to investigate and prosecute fraudulent claims for council tax benefit will not be available for use in reduction schemes. While false claims for council tax support will remain a possible offence under the Fraud Act 2006, replacement powers and offences have been set out in the Detection of Fraud and Enforcement regulations<sup>14</sup> to ensure authorities can secure evidence of wrongdoing and prosecute.

39. Billing authorities will need to authorise individuals to undertake investigations and require information from individuals/organisations. The powers to require information are broadly similar to those available for Housing Benefit and Council Tax Benefit, however these new powers are restricted to the 'prevention, detection and securing evidence of the commission of an offence'.

## Offences

40. Offences have been created, which cover

- (a) Intentional delay or obstruction of an authorised officer,
- (b) Making a false statement to obtain a reduction and
- (c) Knowingly failing to give a prompt notification of a change in circumstances affecting a reduction.

41. Authorities will be able to offer to impose a penalty on an individual, rather than undertake a prosecution. If the person agrees, then they will need to both repay the outstanding council tax and pay a penalty. The level of the penalty will be calculated based on 50% of the 'excess reduction' that the person received. This 'excess reduction' would be from the date that the incorrect reduction was awarded, to the date that the authority becomes aware (or reasonably should have become aware) that it had been awarded. The penalty would have a minimum of £100 and a maximum of £1,000.

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<sup>13</sup> Council Tax Benefit Regulations 2006 (SI 2006/215) and the Council Tax Benefit (persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI2006/216)

<sup>14</sup> The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 (Draft SI 2013/501).

42. Authorities will need to be aware of the offences and note where they differ slightly from those available for Housing Benefit and Council Tax Benefit offences. Differences are generally due to the changed context of support schemes from that of welfare benefits, but also reflects changes in how such regulations are able to be drafted since the benefit offences were originally created.
43. Authorities will also need to ensure that they are aware of how these penalties as an alternative to prosecution would be calculated and consider whether the authority needs a policy on the circumstances under which they would be offered. Administrative processes for issuing notices to individuals and including the penalty on the council tax bill will need to be considered also.

## Penalties

44. There are similar powers for authorities to impose fixed financial penalties (£70), to those currently available in relation to council tax discounts.
- (a) Where a person is negligent in making an incorrect statement or
  - (b) Where a person, without reasonable excuse, fails to notify a change in circumstances,
45. In both cases, these are for situations where the person is not believed to have committed a criminal offence.
46. Authorities will need to consider whether to, or under what circumstances they would, impose these penalties. To ensure a consistency of approach between cases. As well as any changes to internal processes to handle the imposition of these new penalties alongside existing council tax discount ones.