

Proposed Draft Council Tax Reduction Scheme

This document sets out the proposed draft council tax reduction scheme as required under proposed legislation contained in section 13(1)(a) of the Local Government Finance Bill currently going through Parliament.



Introduction

The Local Government Finance Bill makes provision for the localisation of council tax support by imposing a duty on Crawley Borough Council, as a billing authority, to set up a local council tax reduction scheme by 31 January 2013.

Under the scheme pensioners will be protected and their reduction will be based on the same eligibility and award rules as exist under the council tax benefit scheme.

The amount of support available to working age people will be based upon individual circumstances and there will be two classes of applicant.

In all cases individuals must not be of a prescribed (by legislation) class exempted from support, such as a person from abroad with limited leave to remain.

Classes

There will be two main working age classes, each of which have a number of qualifying criteria.

Class 1

The applicant must:

- be a person who has not yet attained the qualifying age for state pension credit;
- be a person whose partner has not yet attained the qualifying age for state pension credit, except where the applicant is in receipt of income support, income-based jobseeker's allowance or income-based employment and support allowance;
- be liable to pay council tax in respect of a dwelling in which they are resident;
- be somebody in respect of whom a maximum council tax reduction amount can be calculated;
- not have capital savings above £9,000;
- have applied for the scheme;
- be a person in respect of whom a day in which s/he is liable to pay council tax falls within a week in respect of which the person's income is less than their living allowance/applicable amount (as defined in regulations).

Class 2

The applicant must:

- be a person who has not yet attained the qualifying age for state pension credit;

- be a person whose partner has not yet attained the qualifying age for state pension credit, except where the applicant is in receipt of income support, income-based jobseeker's allowance or income-based employment and support allowance;
- be liable to pay council tax in respect of a dwelling in which they are resident;
- be somebody in respect of whom a maximum council tax reduction amount can be calculated;
- not have capital savings above £9,000;
- have applied for the scheme;
- be a person for whom Class 1 is not fulfilled, but amount A exceeds amount B, where amount A is the appropriate maximum council tax liability in their case and amount B is a prescribed percentage (30%) of the difference between their income in respect of the week in which the day falls and the appropriate living allowance/applicable amount in his case (both as defined in regulations).

Reductions attracted by classes: working age awards

Class 1 Reduction

If an individual matches the criteria in Class 1, including that *income* is less than their *applicable amount*, that person qualifies for 100% reduction on their council tax liability (after discounts and other reductions) subject to the non dependent deduction rules.

Class 1 and working age benefits

An individual in receipt of income support, income-related jobseeker's allowance or income-related employment and support allowance will have income and earnings counted as zero. This means that the individual's income will automatically be less than their applicable amount, and they will qualify for 100% reduction of their council tax liability.

Class 2 Reduction

If an individual matches the criteria in Class 2:

- In all cases the individual will be means tested and a calculation comparing their income and applicable amount will be carried out.
- The individual may qualify for a maximum of 100% reduction of their council tax liability (after discounts and reductions) subject to the non dependent deduction rules.

Where:

1. the individual's income is greater than their applicable amount/living allowance, 30% of the difference between the two will then be subtracted from this individual's maximum council tax liability (after discounts and reductions) subject to the non dependent deduction rules.
2. the individual's income is equal to their applicable amount they will be entitled to this individual's maximum council tax liability (after discounts and reductions) subject to the non dependent deduction rules.

This draft scheme proposes that alternative council tax benefit (second adult rebate) will no longer be awarded either through a direct claim or 'better buy' calculation. In effect there will be no provision for such reductions,

Non-dependent deductions

Once the reduction award is calculated, it will continue to be subject to a downwards adjustment to take into account non-dependent adults that normally reside in the dwelling who would be expected to contribute to household expenses, including council tax.

It is proposed that deductions for such non-dependent adults will be calculated with differing amounts being deducted according to individual circumstances and income.

The exceptions that exist in the current Council Tax Benefit Scheme will continue to apply in respect of applicants that are exempt from non dependent deductions, namely those that are registered blind or in receipt of Disabled Living Allowance (Care Component),

However, all non dependent adults will be expected to contribute to household expenses, including council tax, unless they are exempt as shown:¹

Earnings Band 2012/13 (gross per week)	Proposed Income Band	Deduction 2012/13	Proposed deduction
Less than £183.00	Less than £100	£3.30	£5.00
£183.00 to £315.99	£100 to £199.99	£6.55	£10.00
£316 to £393.99	£200 to £299.99	£8.25	£15.00
£394 and over	£300+	£9.90	£20.00
Other Circumstances			
Adult in receipt of pension credit	nil		£5.00
Adult in receipt of Job Seekers Allowance – contribution based or income based	nil		£5.00
Adult in receipt of ESA - work related component or contribution based	£3.30		£5.00
Adult in receipt of Employment Support Allowance (main or assessment)	nil		£5.00

¹ Non Dependents who are 18 but child benefit still payable, prisoner, severely mentally impaired, in hospital for 52 weeks (or readmitted after 28 days!), full time student.

Adult in receipt of Income Support	nil	£5.00
Any other circumstances	£3.30	£5.00

Determination of class and award

Determination of the class the individual is put into, and the reduction they will receive, will continue to be determined through means-testing, according to the same rules and criteria in SI 2006/215 except where decided otherwise within the scheme.

Definitions

In dealing with the means test, it is intended that the intent and effect of definitions (in SI 2006/215), including in respect of regulations 1-11 will be replicated within the council tax reduction scheme except where indicated.

Means-test for Class 1 and Class 2

The means-test is based on a comparison of income and a deemed living allowance (known as the applicable amount under the council tax benefit scheme). The way in which these elements will be defined and evaluated for the default scheme is explained in greater detail below.

Living allowance – the applicable amount

The individual's *living allowance* or *applicable amount* will be made up of four elements. These will be:

- (i) a personal allowance in respect of the applicant (and partner, where relevant);
- (ii) an amount in respect of any child or young person who is part of the family;
- (iii) a family premium element (where the applicant is part of a family of which at least one member is a child or young person); and
- (iv) any premium amount, set out in regulations, which is applicable to the individual as set out in the scheme and that was immediately prior to 1 April 2013 set out in SI 2006/215 regulations 12, Schedule 1.

These allowances and premiums may be subject to change at the discretion of the Council and will be reviewed annually.

Calculation of Income and capital

Income and capital will be calculated for a person who has *not* attained the qualifying age for state pension credit in line with current provisions under existing council tax regulations (SI 2006/215, regulations 15 – 56), except where indicated below.

The income and capital of an applicant's partner (or in the case of a polygamous marriage, partners) will be treated as income of the applicant.

Income or capital of any child or young person will not to be treated as income or capital of the applicant.

The income or capital of a non-dependent will be treated the as if it were the income or capital of the applicant in a case where it appears to the Council that the two have entered into arrangements to take advantage of the system, except for those on income-related jobseekers allowance and income-related employment and support allowance.

Income and capital for those on prescribed working age benefits (income support, income-related jobseekers' allowance, income-related employment and support allowance)

There will be special treatment of income and capital for those in receipt of income support, income-related jobseekers' allowance and income-related employment and support allowance.

For those in receipt of these benefits, the whole of their income and capital will be disregarded. This will mean that they automatically qualify, under Class 1, for 100% council tax reduction, subject to any non dependent deduction.

The council reserves the right to review this provision in the future and amend the scheme.

Calculation of income where not in receipt of a prescribed working-age benefit

Other provisions relating to income, its calculation on a weekly basis, what is to be regarded as income and what is to be disregarded as income will operate in the same way as existing council tax regulations (SI 2006/215, regulations 15 – 56) except where detailed below. In particular, the earnings of employed earners (net of tax and contributions) will be taken into account as set out in SI 2006/215.

- **Self Employed Earners**

Earnings of self-employed earners (net of tax and contributions) will be taken into account as set out in, except that:

Self employed earnings will be subject to a minimum income rate amounting to the equivalent of 18 hours at minimum wage level where the employed earner has been in business for less than 3 months.

This is intended to support business start up.

During the 3 month start up period self employed earnings will be based upon declared earnings and expenses.

The existing council tax benefit regulations also list a number of elements and amounts which *should not* be taken into account in the calculation of earnings. Amounts to be disregarded in this way from an applicant's weekly earnings are set out in SI 2006/215 Schedule 3 and will be replicated in the Council's scheme except that:

- The earned income disregard for a couple and lone parent will be equalised at £15.

Unearned income – income other than earnings

The existing council tax benefit regulations lists amounts to be disregarded in terms of income other than earnings (SI 2006/215 Schedule 4) and these will also be replicated in the Council's scheme except that:

- Maintenance received for children will no longer be disregarded and will be taken fully into account as income
- War widow's pension, war widower's pension and war disablement pension will be fully disregarded and not be regarded as income.

Treatment of other income (in relation to which the applicant has deprived him or herself) will be calculated according to the same rules as currently under SI 2006/215 regulation 32. This

means that where the council considers that someone has failed to claim a benefit or other income that would be available to them and/or has deliberately deprived themselves of in order to obtain support from the scheme, an appropriate amount may be assumed as income.

Welfare Reform Act 2012

Consideration will be given as to how to determine income from the benefits introduced by the Welfare Reform act 2012, particularly Universal credit and Personal Independence Payments, when regulations relating to the entitlement to and calculation of such benefits are issued.

Students

The Council's scheme in relation to students will replicate the national default scheme and regulations.

In general this will mean that the income of those liable to pay council tax (and are not therefore excluded from council tax reduction schemes) will include grants, loans, access funds and some elements of income which will be treated as if they are capital (for example, certain lump sums or tax refunds). Relevant student income and capital disregards will be applied,

(The provisions will replicate council tax benefit regulations SI 2006/215 regulations 44 – 56.)

Calculation of capital where this is not disregarded

Capital will be defined replicating the existing legislation. This includes what is regarded as capital SI 2006/215 regulations 33 – 42 and what is not (disregarded) SI 2006/215 Regulation 35 and Schedule 5

There will be an absolute capital limit of £9,000, after which individuals will not be eligible for council tax reductions.

Certain elements of income will be treated as capital (for example, in relation to certain lump sum payments or tax arrears) in accordance with existing regulations.

Notional capital

Individuals may be treated as possessing capital of which they have deprived themselves for the purposes of securing council tax reductions. Any capital which would become available to the applicant on application will be treated as belonging to him/her.

This notional capital (of which the individual is treated as in possession) will be reduced over time to reflect payment of additional council tax liabilities incurred.

Calculation of Reductions

Calculation of Class 1 and Class 2

Once the total income amount has been calculated, it will be compared with the living allowance/ applicable amount, to determine whether the individual falls into Class 1 (income less than living allowance/applicable amount) or Class 2 (income greater than living allowance/applicable amount).

Calculation of Class 1

Persons in Class 1 will receive 100% council tax reduction against their Council Tax liability (net of any council tax discounts under the Local Government Finance Act 1992) less any non-dependent deductions as set out in the Council's scheme.

Calculation of Class 2

Persons in Class 2 will receive 100% council tax reduction against their Council Tax liability (net of any council tax discounts under the Local Government Finance Act 1992) LESS

- a reduction equivalent to 30% of the difference between their income and living allowance/applicable amount. This amount is deducted from their net council tax liability AND
- any non-dependent deductions as set out in the Council's scheme.

It is proposed that this will be the manner of calculation of entitlement for a maximum of Year 1 (2013/14). Thereafter the council will review the scheme and may change any element, method or class in order to ensure an effective local scheme that also takes into account wider welfare reforms such as the roll out of Universal Credit

Extended periods of Support or Run Ons

Where an applicant has been on means tested or contribution based Job Seekers Allowance, Income Support, means tested Employment Support Allowance, contribution based Employment Support Allowance or Severe Disablement Allowance for a period of three months and starts work or self employment, their council tax reduction will continue to be calculated as if the change had not take place for period of 6 weeks.

Such an extended reduction will only be applied on one period in any financial year (1st April to 31 March).

Applications

Existing recipients of Council Tax Benefit will not have to make a new application, although they must notify the council of any change that might affect the level of reduction.

New applicants can make an application by phone, in person, in writing (or on line).

A claim made by telephone (or on line) will be treated as an intention to apply and will be treated as properly made provided that a properly signed statement is made within one month of the request.

An application may be made by either party in the case of a couple, it is not required to that the actual council tax payer applies as adjustment will be made where necessary to ensure the council tax account reflects the position regarding joint and several liability.

An application must be signed by either the liable person or their partner.

The application must be supported by information and evidence as reasonably required to determine entitlement.

If an application is not correctly or fully completed, the Council will treat the claim as properly made provided the information and/or evidence required is received within one month of the Council notifying the applicant of the further information and/or evidence required.

Where the Council considers an application to be incomplete because it has not been fully completed or evidence not provided no decision will be made on that application.

An application made within one month of a bill showing no reduction will be treated as being made on the date of issue of that bill.

Entitlement

It is proposed that entitlement to working age council tax reduction will begin on the date of claim (daily paid).

It is proposed that without exception this will apply to all applications and any legislation relating to backdating of a reduction will not be covered by the scheme.

It is proposed that any entitlement to a council tax reduction that is less than £5.00 per week will be treated as nil entitlement for the purpose of determining the amount of reduction awarded.

It is proposed that there will be no limit to the period of a council tax reduction except where the council decide the applicant's circumstances are subject to a predictable change, in which case there will be a time limited reduction.

Where there is a change of circumstances that affects the amount of reduction, the change will be applied on the day it occurs. Similarly any termination will apply from the date that caused the reduction to be cancelled, subject to any extended period or run on.

The council may periodically review the level of reduction awarded and, if the applicant fails to respond to a request for information or evidence within one month of such a request, without good reason, any council tax reduction will be terminated on that date.

Decisions

Where practicable, the council will seek to notify the applicant of its decision in writing within 14 days of receipt of all relevant information and evidence relating to the application. This will be in the form of a council tax bill showing the applicable council tax reduction. Such notification will also include appeal rights.

Should the applicant require a full breakdown of the calculation, this will be provided within 14 days, or as soon as reasonably practicable.

Changes of Circumstance

It is proposed that:

Applicants will be required to notify the Council of ALL changes in income and capital. The council will decide whether or not these affect the amount of council tax reduction awarded.

Similarly, applicants should notify any change in their circumstances relating to family or household make up or address.

Failure to do so may result in a penalty being applied in accordance with proposed legislation, section 14C of the Local Government Finance Act.

The Council will terminate any council tax reduction where:

- there is doubt about any income, capital or other entitlement condition
- the applicant (or anyone acting on their behalf) has failed to provide information or evidence requested in order to ensure the correct reduction is applied.

Time and manner of granting reductions and recovering overpaid reductions

Where the council tax payer is entitled to an increase or decrease in their reduction following a change of circumstances, the council will issue a substitute (bill) demand notice taking account of the increase or decrease in liability. Under the Local Government Finance Act 1992:

- any over- award of council tax reduction will be recovered – in effect this means that there has been an underpayment of council tax and instalments will be recalculated to recover the underpayment
- take recovery action as appropriate, which may include court action
- refund any under-award- in effect this means that there has been an overpayment of council tax which will be repaid either by altering instalments or actual refund.

Uprating

It is proposed that the council will consider up rating of any of the incomes, living allowances/applicable amounts or any other figures used in the calculation of council tax reduction annually, based upon consumer price index, retail price index or any other rate decided by the council. Consideration will be given to changes applied to national welfare benefits.

Any such changes will take effect on the 1st April each year as decided.

Where this is the only change the council will not consult on such changes.

Appeals

It is proposed that:

An applicant will be able to ask for a reconsideration of the award of a council tax reduction where they believe the decision is incorrect, disagree with the amount or believe the council has not correctly administered the scheme.

In the first instance the council will reconsider its decision and take account of any additional evidence provided.

If the council considers its original decision is incorrect, any award will be recalculated. However, if the council believes its original decision is correct it will explain why in writing.

If the applicant still believes the decision is incorrect they will have the right of appeal. Regulations will be made to define this process and the council will apply those.