

# **Darlington Borough Council**

## **Council Tax Support scheme**

### **2013 - 2014**

## 1 Introduction

- 1.1.1 In April 2013, Council Tax Benefit, the current means of helping people on low incomes meet their Council Tax obligations, will be replaced by a new localised Council Tax Support scheme defined by each Council.
- 1.1.2 Council Tax Benefit will be abolished from 31<sup>st</sup> March 2013 and anyone entitled to Council Tax Benefit on that date will automatically transfer to the Council Tax Support scheme, providing that they remain entitled to a reduction under the new local scheme.
- 1.1.3 The Government has stated that pensioners will be protected from the effects of the local schemes by a national framework of rules and eligibility. Working aged people will however be subject to the provisions of the locally defined scheme.
- 1.1.4 This document sets out Darlington Borough Council's scheme for 2013/2014 and should be read in conjunction with the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 and Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012.

## 2 Executive Summary

### 2.1 Overview of the Council Tax Benefit scheme

- 2.1.1 Council Tax Benefit is an income related benefit which may be claimed by an eligible person who is liable to pay Council Tax in respect of their sole or main residence. Council Tax Benefit is a national benefit with policy and rules set by central Government, but administered by local councils. Administration is linked to the Council Tax billing arrangements and usually takes the form of a reduction to the Council Tax a person would otherwise be liable to pay.
- 2.1.2 The amount of Council Tax Benefit entitlement is calculated on a weekly basis according to a person's daily liability for Council Tax, after deducting any disability reductions, discounts or transitional relief. Entitlement takes into account the means of the person claiming and of their household.
- 2.1.3 The means test for Council Tax Benefit follows the rules for other income related benefits such as Income Support and income-based Jobseekers Allowance, and is based on a system of applicable amounts for living expenses set according to the circumstances of the family unit. The person's applicable amount is compared to their income and capital, including that belonging to any partner.
- 2.1.4 People with income at, or below, the level of the applicable amount are entitled to maximum Council Tax Benefit. This is the whole of their weekly eligible Council Tax less any set contributions assumed for non-dependant adults who live in the household, but are not themselves liable for Council Tax. People who are not claiming income related benefits, including people who are working, may get Council Tax Benefit, subject to an income taper. Claimants lose 20 pence in Council Tax Benefit for each additional pound of income that exceeds their applicable amount.
- 2.1.5 In Council Tax Benefit there is a lower capital limit; £6,000 for people of working age and £10,000 for pensioners, above which an assumed income from capital is taken into account. Council Tax Benefit is not payable to people with capital above the upper limit of £16,000 unless they are entitled to one of the income-related benefits.
- 2.1.6 Alternative maximum Council Tax Benefit, more commonly known as Second Adult Rebate, may be awarded to the claimant if they would be better off with this than with Council Tax Benefit under the main rules. Second Adult Rebate may apply when the claimant, as the owner or tenant of a property, shares their home with a non-dependant person (aged 18 or over) who has no responsibility to pay Council Tax and is not on the list of disregarded persons. The amount of the rebate is based on the gross income of the non-dependant person excluding any income related benefits, Attendance Allowance or Disability Living Allowance. The claimant's own income is ignored and the

maximum amount of Second Adult Rebate is limited to 25% of Council Tax liability.

## 2.2 Prescribed requirements

- 2.2.1 There are a number of prescribed requirements that will apply to all local Council Tax Support schemes and are therefore not included in Darlington's local scheme. These are set out in the Government's *Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012* and *Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012*, copies of which can be found at:
- 2.2.2 [www.legislation.gov.uk/uksi/2012/2885/contents/made](http://www.legislation.gov.uk/uksi/2012/2885/contents/made) and [www.legislation.gov.uk/uksi/2012/3085/contents/made](http://www.legislation.gov.uk/uksi/2012/3085/contents/made)
- 2.2.3 Where the prescribed regulations apply, reference has been made to the relevant parts in the Council Tax Support scheme. A summary of the key features of the draft regulations are as follows:
- 2.2.4 There is a prescribed scheme for persons who have reached the qualifying age for state retirement pension, which will be similar to the existing Council Tax Benefit scheme.
- 2.2.5 There are the same restrictions as exist under the current Council Tax Benefit scheme to exclude foreign nationals with limited immigration status and non-economically active European Union individuals.
- 2.2.6 Individuals with refugee status, humanitarian protection, discretionary or exceptional leave to remain granted outside the immigration rules and who are exempt from the habitual residence test will continue to be entitled to support with their Council Tax.
- 2.2.7 Regulations allow current arrangements for a person to act on behalf of another, for example where a person has been granted a power of attorney over a liable Council Tax payer.
- 2.2.8 Regulations provide that a person who is in receipt of Council Tax Benefit, or who is waiting for a decision about a claim for Council Tax Benefit, immediately before 1<sup>st</sup> April 2013 is to be treated as having made an application for reduction under the Council Tax Support scheme.
- 2.2.9 Formal rights of appeal are set out in the regulations and appeals will be heard by Valuation Tribunals.
- 2.2.10 Billing authorities are required to consider whether to revise or replace their Council Tax Support schemes each year and under such circumstances, to consider what transitional arrangements may be required to move from an existing local scheme to a replacement scheme. Schemes cannot be amended within a financial year.

## 2.3 Key features of Darlington's Council Tax Support scheme

2.3.1 The requirements for Council Tax Support schemes are set out in an amendment to the Local Government Finance Act 1992, under schedule 1A. This includes, that before making a scheme, the Council must (in the following order):

- Consult major precepting authorities, which have a power to issue a precept to it.
- Publish a draft scheme in such a manner as it thinks fit.
- Consult such other persons as it considers are likely to have an interest in the operation of the scheme.

2.3.2 The fundamental difference between the existing Council Tax Benefit scheme and the Council Tax Support scheme is that entitlement for working aged claimants will be worked out on 80% of their Council Tax liability (as opposed to Council Tax Benefit, where entitlement is based on 100%).

2.3.3 In general, the Council Tax Support scheme will follow the principles of the existing Council Tax Benefit scheme.

2.3.4 However, the key changes in the Council Tax Support scheme are as follows:

## 2.4 Temporary absence from home

2.4.1 The rules for restricting support for people who are temporarily absent from their home has been removed. Anyone who is liable for Council Tax and not subject to one of the existing Council Tax exemptions will be able to claim Council Tax Support.

2.4.2 This change has been included to ensure anyone absent from their home can either claim Council Tax Support or a Council Tax exemption.

## 2.5 Students

2.5.1 The rules for restricting support to students have been removed. Again, anyone who is liable for Council Tax and not subject to the Council Tax student exemption will be able to claim Council Tax Support.

2.5.2 This change has been included to ensure anyone who is a student can either claim Council Tax Support or a Council Tax exemption.

## 2.6 Extended payments

2.6.1 The rules for extended payments have been relaxed, to remove some of the restrictions under the current Council Tax Benefit scheme. Anyone losing entitlement to a qualifying benefit, such as Income Support or income-based Jobseekers Allowance due to moving into work or increasing their hours or pay, will automatically qualify for a 4 week run on of their Council Tax

Support.

2.6.2 This change has been included to increase work incentives, particularly for people considering temporary work, or for those who frequently move in and out of work.

## 2.7 Backdating

2.7.1 An automatic backdating rule has been introduced for new Council Tax Support claims, although backdated Council Tax Support will be limited to a maximum of one month only.

2.7.2 The existing rule, where a person has to show 'good cause' as to why they didn't claim earlier has been removed.

2.7.3 This change has been included to make the process of claiming Council Tax Support for an earlier period clearer and fairer.

## 2.8 Second Adult Rebate

2.8.1 Second Adult Rebate for working aged recipients has been abolished.

2.8.2 This change has been included because the take-up and amounts of Second Adult Rebate awarded are very low, but complex to claim.

## 2.9 Overpayments

2.9.1 All overpayments of Council Tax Support, however they were caused, will be recoverable, although the Council will still have the discretion not to recover an overpayment.

## 2.10 Discretionary discounts

2.10.1 The Council will still retain the power under section 13A of the Local Government Finance Act 1992, to reduce the Council Tax liability of a person "to such an extent as it thinks fit". This includes the power to reduce the amount to nil.

### **3 People who can claim Council Tax Support**

#### **3.1 Who can claim**

3.1.1 The rules for making an application to Council Tax Support is set out in Schedule 8, Part 2, paragraph 4 of the regulations. These state:

- In the case of a couple or members of a polygamous marriage an application is to be made by whichever one of them they agree should apply or, in default of agreement, by such one of them as the council decides.
- Where the person who is liable for Council Tax is unable to act the Council will accept or appoint a person who may make an application on their behalf.

3.1.2 The scheme is open to the following groups:

#### **3.2 People in receipt of a qualifying benefit**

- Working aged
- Liable to pay Council Tax on a dwelling they occupy as their sole or main residence
- Entitled to Income Support, income-based Jobseekers Allowance or income-related Employment and Support Allowance
- Have made a claim for Council Tax Support

3.2.1 Will be entitled to the maximum support of 80% of their eligible Council Tax, less any deductions for non-dependants

#### **3.3 People with income equal to or less than their living allowance**

- Working aged
- Liable to pay Council Tax on a dwelling they occupy as their sole or main residence
- Capital is less than £16,000
- Income is equal to or less than their living allowance
- Have made a claim for Council Tax Support

3.3.1 Will be entitled to the maximum support of 80% of their eligible Council Tax, less any deductions for non-dependants

#### **3.4 People with income more than their living allowance**

- Working aged
- Liable to pay Council Tax on a dwelling they occupy as their sole or main residence
- Capital is less than £16,000
- Income is more than their living allowance



- Have made a claim for Council Tax Support

3.4.1 Income will be compared to the living allowance. The amount of Council Tax Support will be reduced by 20% of the amount the income exceeds the living allowance. Entitlement will be up to a maximum of 80% of their eligible Council Tax, less any deductions for non-dependants

### 3.5 Pensioners with war pensions

- Pension aged
- Liable to pay Council Tax on a dwelling they occupy as their sole or main residence
- In receipt of War Disablement Pension, War Widow's Pension or War Widower's Pension
- Have made a claim for Council Tax Support

3.5.1 Council Tax Support entitlement will be assessed in accordance with the prescribed regulations for pensioners. War Disablement Pension, War Widow's Pension and War Widower's Pension will be fully disregarded.

### 3.6 Pensioners

3.6.1 The provisions for pensioners are set out in Schedules 1 to 6 of the regulations.

3.6.2 The meaning of who is and who is not a pensioner is set out in paragraph 3 of the regulations. These state:

- A person is a 'pensioner' if they have attained the qualifying age for state pension credit; and
- They, or their partner is not in receipt of income support, income-based jobseeker's allowance, income related employment and support allowance, or universal credit.

### 3.7 Membership of a family

3.7.1 Council Tax Support will be calculated based on a means test, which takes into account the income, capital and "living allowance" for the claimant and, where appropriate, members of their family.

3.7.2 The meaning of a 'couple' is set out in paragraph 4 of the regulations. These state a 'couple' is:

- A man and woman who are married to each other and are members of the same household,
- A man and a woman who are not married to each other but are living together as husband and wife,
- Two people of the same sex who are civil partners of each other and are members of the same household; or

- Two people of the same sex who are not civil partners of each other but are living together as if they were civil partners.

3.7.3 The rules for polygamous marriages are set out in paragraph 5 of the regulations. This regulation applies to:

- A person who is a husband or wife by virtue of a marriage entered into under a law which permits polygamy, and
- Either party to the marriage has for the time being any spouse additional to the other party.

3.7.4 The meaning of 'family' is set out in paragraph 6 of the regulations. These state a 'family' is:

- A couple
- A couple and a member of the same household for whom one of them is or both responsible and who is a child or a young person
- A person who is not a member of a couple and a member of the same household for whom one of them is or both responsible and who is a child or a young person

3.7.5 The rules for circumstances in which a person is to be treated as responsible or not responsible for another is set out in paragraph 7 of the regulations. These state:

- A person is to be treated as responsible for a child or young person who is normally living with them.
- The arrangements for children or young people who spend equal amounts of time in different households.

3.7.6 The rules for membership of a household is set out in paragraph 8 of the regulations. These state:

- The claimant and any partner who are treated as responsible for a child or young person, that child or young person and any child of that child or young person, are to be treated as members of the same household.

### 3.8 Non-dependants

3.8.1 The meaning of non-dependants is set out in paragraph 9 of the regulations. These state a 'non-dependant' is:

- Any person who normally resides with the claimant or with whom the claimant normally resides.
- This excludes any member of the claimant's family, any person who is jointly and severally liable to pay Council Tax in respect of the dwelling, and any person who is liable to make payments on a commercial basis to the claimant or their partner in respect of occupation of the dwelling.

### 3.9 Persons from Abroad

3.9.1 The rules for persons treated as not being in Great Britain are set out in paragraph 12 of the regulations. These state:

- Persons treated as not being in Great Britain are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in the Council's scheme.
- A person is to be treated as not being in Great Britain if the person is not habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland.
- A person must not be treated as habitually resident in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland unless the person has a right to reside in one of those places.

3.9.2 The rules for persons subject to immigration control are set out in paragraph 13 of the regulations. These state:

- Persons subject to immigration control are a class of person prescribed for the purposes of paragraph 2(9)(b) of Schedule 1A to the 1992 Act and which must not be included in the Council's scheme.
- 'Persons subject to immigration control' has the same meaning as in section 115(9) of the Immigration and Asylum Act 1999.

### 3.10 Living allowances

3.10.1 The Living Allowance will be made up of a number of elements. These may include, depending upon individual circumstances:

- A personal allowance for the claimant and their partner.
- An amount for every child or young person who is a member of the family.
- A "family addition" where at least one child or young person is part of the family.
- Additions for people in receipt of Employment and Support Allowance.
- Additions which may apply in special circumstances.

3.10.2 The weekly amounts to be included in the living allowance are detailed below. The qualifying conditions for each of these personal allowances and additions are set out in Schedule 3 of The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012. These state:

<b>Personal allowances</b>	<b>Weekly amount</b>
Single claimant aged 18 to 24	£56.80
Single claimant aged 25 or over	£71.70
Lone parent	£71.70
Couple	£112.55
Plus for every child or young person until the day before their twentieth birthday	£65.62
Plus for every household which includes a child or young person	£17.40

<b>Employment and Support Allowance additions</b>	<b>Weekly amount</b>
Claimant in receipt of the work related activity component of Employment and Support Allowance	£28.45
Claimant in receipt of the support component of Employment and Support Allowance	£34.80
<b>Special circumstances additions (entitlement to only one of the additions below)</b>	<b>Weekly amount</b>
<p>Disability Addition (single) – the claimant is registered blind, or in receipt of one or more of the following:</p> <ul style="list-style-type: none"> <li>• Attendance Allowance</li> <li>• Disability Living Allowance</li> <li>• Mobility Supplement</li> <li>• Long term Incapacity Benefit</li> <li>• Severe Disablement Allowance</li> <li>• The disability or severe disability element of working tax credit</li> <li>• Personal Independence Payment</li> <li>• Armed Forces Independence Payment</li> </ul>	£31.00
<p>Disability Addition (couple) – the claimant or partner is registered blind, or in receipt of one or more of the following:</p> <ul style="list-style-type: none"> <li>• Attendance Allowance</li> <li>• Disability Living Allowance</li> <li>• Mobility Supplement</li> <li>• Long term Incapacity Benefit</li> <li>• Severe Disablement Allowance</li> <li>• The disability or severe disability element of working tax credit</li> <li>• Personal Independence Payment</li> <li>• Armed Forces Independence Payment</li> </ul>	£44.20
Carers addition – the claimant or partner is entitled to Carers Allowance	£33.30
<b>Special circumstances additions (these can apply as well as any others awarded)</b>	<b>Weekly amount</b>
<p>Severe disability addition (single rate) - for a single claimant, lone parent or couple where:</p> <ul style="list-style-type: none"> <li>• The claimant or partner is receiving Attendance Allowance, or the care component of Disability Living Allowance at the higher or middle rate, or the</li> </ul>	£59.50

<p>daily living component of Personal Independence Payment, or Armed Forces Independence Payment, and</p> <ul style="list-style-type: none"> <li>No one is in receipt of a Carers Allowance for looking after them.</li> </ul>	
<p>Severe disability addition (double rate) - for a couple where:</p> <ul style="list-style-type: none"> <li>Both the claimant and partner are receiving Attendance Allowance, or the care component of Disability Living Allowance at the higher or middle rate, or the daily living component of Personal Independence Payment, or Armed Forces Independence Payment, and</li> <li>No non-dependant adults reside with them, and</li> <li>No one receives Carers Allowance for looking after both of them.</li> </ul>	£119.00
<p>Enhanced disability addition (single) – where:</p> <ul style="list-style-type: none"> <li>The claimant has limited capability for work related activity, or</li> <li>The highest rate care component of Disability Living Allowance is payable for the claimant or any member of the claimant’s family, or</li> <li>The daily living component of Personal Independence Payment for the claimant or any member of the claimant’s family.</li> </ul>	£15.15
<p>Enhanced disability addition (couple) – where:</p> <ul style="list-style-type: none"> <li>The claimant or partner has limited capability for work related activity, or</li> <li>The highest rate care component of Disability Living Allowance is payable for the claimant or any member of the claimant’s family.</li> </ul>	£21.75
<p>Enhanced disability addition (disabled child) – where:</p> <ul style="list-style-type: none"> <li>The highest rate care component of Disability Living Allowance is payable for a dependent child.</li> <li>The daily living component of Personal Independence Payment for a dependant child.</li> </ul>	£23.45
<p>Disabled child addition – where a dependent child:</p> <ul style="list-style-type: none"> <li>Receives Disability Living Allowance, or</li> <li>Receives Personal Independence Payment, or</li> </ul>	£57.89

<ul style="list-style-type: none"><li>• Is registered blind.</li></ul>	
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## 4 Making a claim

4.1.1 The rules by which a person may apply for a reduction under an authority's scheme is set out in Schedule 7, Part 1 of the regulations. These regulations state that:

- The claim may be made in writing, by electronic communication means or by telephone.
- A claim made in writing must be made to the Council on a properly completed form.
- Where a claim is defective because it is not accepted as being properly completed or has not been made on a form approved for the purpose, the Council may request the claimant to complete an approved form or supply other information and evidence.
- The Council must provide the claimant with sufficient opportunity to correct any defect with their claim.

### 4.2 Time and manner of making a claim

4.2.1 A claim for Council Tax Support will be made with the Council and in writing on a form prescribed and provided by the Council. A claim made in any other way will not be accepted by the Council.

4.2.2 Where the Council becomes aware that a person may be entitled to Council Tax Support, or where a claim form has been requested, they will invite a claim by sending the person a claim form.

4.2.3 The Council will offer assistance to the claimant to make their claim for Council Tax Support, where this is requested or where assistance is required.

### 4.3 Evidence and information

4.3.1 The rules for the evidence and information required to support a claim or ongoing award of Council Tax Support is set out in Schedule 8, Part 2, paragraph 7 of the regulations. These state:

- The claim must be accompanied by a statement of the person's national insurance number and information and evidence to establish that that number has been allocated to that person.
- Where the person has applied for a national insurance number, the claim must be accompanied by evidence of the application for a national insurance number to be allocated.
- The claim must be accompanied by any certificates, documents, information and evidence in connection with the claim or an award as may reasonably be required by the Council to decide the claim or a continuing award.
- The claimant must provide the Council with the information and evidence it requires to decide the claim or a continuing award within one month of a

request to do so, or such longer time as the Council may consider reasonable.

#### 4.4 Amendment and withdrawal of claim

4.4.1 The rules for the amendments and withdrawal of a claim for Council tax Support is set out in Schedule 8, Part 2, paragraph 8 of the regulations. These state:

- A person who has made a claim may withdraw it at any time before a decision has been made on it.



## 5 Income and capital

### 5.1 Treatment of income and capital

- 5.1.1 The income of the claimant and their partner will be added together, for the purpose of calculating entitlement to Council Tax Support.
- 5.1.2 Income will be calculated on a weekly basis. Any income paid for a period other than on a weekly basis, will be converted to a weekly figure.
- 5.1.3 The income to be taken into account will be the likely average weekly income of the claimant and partner. This will be calculated over such a period as is likely, in the opinion of the Council, to provide the most accurate estimate.
- 5.1.4 In the case of earnings from employment, where employment is due to commence, an estimate of likely earnings will be based on information available from the employer.

### 5.2 Earnings

- 5.2.1 The meaning of remunerative work is set out in paragraph 10 of the regulations. These state:
- A person must be treated as in remunerative work if they are engaged on average, for not less than 16 hours a week, in work for which payment is made or expected.
  - Where a person's hours fluctuate, regard must be had to the normal cycle of work, the number of hours they are expected to work, or the 5 weeks immediately prior to the date of claim.
  - Where a person works at a school or other educational establishment, any vacation periods or holidays where they are not required to work will be disregarded for establishing the average hours for which they are working.
  - Any periods of absence from work, such as holiday, will be disregarded for establishing the average hours for which the person is working.
  - A person will not be treated as engaged in remunerative work if they are on maternity leave, paternity leave, adoption leave, or if they are absent from work because they are ill.
- 5.2.2 A claimant or partner's net earnings will be the gross earnings less:
- Income Tax
  - National Insurance contributions
  - Half of any sum paid by the employer towards an occupational or personal pension scheme.
- 5.2.3 The following sums will also be disregarded in the calculation of earnings:
- Temporary care provision payments in the calculation of earnings.
  - Any payment relating to former employment paid after retirement.
  - Compensation payments for loss of employment.
  - Guarantee payments on medical or maternity grounds.

- Any payments for items wholly, exclusively and necessarily incurred in the performance of the employment.
- For a single person, the first £5 per week of any earnings.
- For a couple, the first £10 per week of any earnings.
- For a lone parent, the first £25 per week of any earnings.
- For people in receipt of contribution-based Employment and Support Allowance, Incapacity Benefit or Severe Disablement Allowance, where a permitted earnings disregard applies, the first £95 per week of any earnings.
- For people entitled to the disability addition or the severe disability addition, the first £20 per week of any earnings, except where the permitted earnings disregard applies.
- For people entitled to the carers addition, the first £20 per week of any earnings.
- For people in certain special occupations, the first £20 per week of any earnings. These are:
  - Part-time fire-fighters.
  - Auxiliary coastguards.
  - Part-time life-boat workers.
  - Members of the Territorial Army or similar reserve force.
- For people in receipt of the additional earnings disregard in Working Tax Credit, an additional disregard of £17.10 per week of any earnings.
- Child care charges (see below).
- Drawings from a self-employed business.

### 5.3 Child care charges

5.3.1 Child care charges up to a maximum of £175 per week for one child, or £300 per week for two or more children, will be deducted from earned income, plus any Working Tax Credit and Child Tax Credit where:

- A single claimant works 16 hours per week or more, or
- Both members of a couple work 16 hours per week or more, or
- Where one member of a couple works 16 hours per week or more and the other member of the couple is disabled, and the disability addition is included in the couples living allowance due to this disability, or
- Where one member of a couple works 16 hours per week or more and the other member of the couple is on maternity leave and receiving Statutory Maternity Pay or Maternity Allowance.

5.3.2 The child must be under 15 years of age, or 16 if they are disabled, and the care must be provided by one of the following:

- A registered Child minder.
- A registered nursery or play scheme.
- An out of hours scheme run by an approved provider.
- An out of hours club provided by a school on school premises (this applies only if the child is aged 8 or over).

## 5.4 Self-employed earnings

5.4.1 The weekly earnings of a self-employed claimant or partner will be calculated based on:

- The most recent year's trading accounts, if the claimant or partner have been self-employed for one year or more, or
- The estimated net weekly profit figure provided by the claimant or partner, if they have been self-employed for less than a year, together with any evidence of their recent actual income and expenses.

5.4.2 In calculating the estimated net weekly profit figure, the Council will include any expenses which are wholly and reasonably incurred for the purpose of the business. The following will not be allowable in the calculation of the estimated net weekly profit figure:

- Sums employed or intended to be employed in setting up or expanding the business.
- Capital repayments on business loans, except where these are for replacing business equipment or machinery.
- Any other capital expenditure.
- Depreciation of any capital asset.
- Losses incurred before the beginning of the assessment period.
- Debts, other than proven bad debts.
- Business entertainment.
- Any sum for domestic or private use.
- Drawings from the business.

5.4.3 For child minders, one third of the gross profit will be used to calculate the gross income. The net income will then be calculated by deducting tax, national insurance and half of any pension contributions.

5.4.4 In cases where tax and national insurance contributions are not provided, the Council will estimate the likely tax and National Insurance payable.

## 5.5 Student income

### 5.6 Student grant

5.6.1 The whole amount of a person's grant income will be taken into account, with the exception of the following:

- Payments for tuition fees or examination fees.
- Payments in relation to the student's disability.
- Payments for term-time residential study away from the student's educational establishment.
- Payments for another home at a place other than which the student resides during the course.
- Payments for books and equipment.
- Payments for travel expenses to attend the course.

- Payments for child care costs.
- Any other amounts intended for expenditure necessary to attend the course.

5.6.2 A student's grant income will be apportioned over the period of study the grant relates to.

## 5.7 Covenant income

5.7.1 Where a student is receiving a grant and a contribution has been assessed, the whole of the covenant income will be taken into account.

5.7.2 A student's covenant income will be apportioned over the whole calendar year and an amount of £5 per week will be disregarded.

5.7.3 Where a student is not receiving a grant, the whole of the covenant income will be taken into account. In these circumstances, a student's covenant income will be apportioned as follows:

5.7.3.1 Any covenant income up to the amount of the standard maintenance grant will be apportioned over the period of study, less any amounts to be disregarded as set out above in 'Grant Income'.

5.7.3.2 Any covenant income over the amount of the standard maintenance grant will be apportioned over the whole calendar year and an amount of £5 per week will be disregarded.

## 5.8 Student loans

5.8.1 The whole amount of a person's student loan will be taken into account, less any amounts to be disregarded as set out above in 'Grant Income'. A student's loan will be apportioned over the period of study the loan relates to and an amount of £10 per week will be disregarded.

5.8.2 A person will be treated as having a student loan in respect of an academic year where:

- A student loan has been made to them for that year, or
- They could have taken reasonable steps to acquire a loan. In these cases, the amount to be taken into account will be the maximum amount they could have acquired for that year.

5.8.3 A loan for fees, known as a fee loan or a fee contribution loan will be fully disregarded.

## 5.9 Payments from access funds

5.9.1 A payment from access funds will be disregarded as income, with the exception of any payments intended for:

- Food

- Ordinary clothing or footwear
- Household fuel
- Water charges
- Rent
- Council Tax

5.9.2 In these circumstances, the whole amount will be taken into account and an amount of £20 per week will be disregarded.

5.9.3 Where a payment from access funds is made to bridge the period until a student loan is received, the whole amount will be disregarded.

#### 5.10 Student income treated as capital

5.10.1 The following amounts paid to students will be treated as capital:

- A refund of tax deducted from a student's covenant income.
- An amount paid from access funds as a single lump sum, whatever the purpose of the payment.

#### 5.11 Notional income

5.11.1 A claimant will be treated as possessing income of which they or their partner have deliberately deprived themselves of, to qualify for Council Tax Support.

#### 5.12 Tariff income from capital

5.12.1 Where the claimant and their partner have capital in excess of £6,000 (but less than £16,000), a tariff income of £1 per week will be taken into account for every £250, or part of £250, over £6,000.

#### 5.13 Other income

5.13.1 Any other income of the claimant or partner will be taken fully into account, with the exception of 'income disregarded' below.

5.13.2 Where deductions are being made from income in the recovery of overpayments or taxes, by public bodies, the gross income amount will be taken into account.

#### 5.14 Income disregarded

5.14.1 The following income paid to the claimant or partner will be disregarded in full, unless otherwise stated:

- Any payment of expenses for participation in 'work for your benefit' schemes.
- Any payment of expenses for attending mandatory work activity, employment, skills or enterprise schemes.

- Any payment of expenses for a person who is a volunteer for a charitable or voluntary organisation.
- Any payment of expenses for a person who participates in a service user group.
- Certain state benefits and pensions:
  - Attendance Allowance.
  - Child Benefit.
  - Disability Living Allowance.
  - Discretionary Housing Payments.
  - Education Maintenance Allowance.
  - Guardian's Allowance.
  - Housing Benefit.
  - Income Support.
  - Income based Jobseekers Allowance.
  - Income related Employment and Support Allowance.
  - Mobility supplements.
  - Personal Independence Payments.
  - Armed Forces Independence Payments.
  - War Disablement Pension.
  - War Widow's Pension
  - War Widower's Pension.
  - Widowed Mother's Allowance.
  - Widowed Parent's Allowance.
- Any payment made to a person as a holder of the Victoria Cross or George Cross.
- Charitable or voluntary payments.
- Any income from capital.
- Any payments received from dependants or non-dependants.
- The first £20 per week of any rental payments from a person, other than a non-dependant, who occupies the claimant's home.
- The first £20 per week, and then 50% of any income over £20 per week, of any rental payments from a boarder, other than a non-dependant, who occupies the claimant's home.
- Any payment in kind made by a charity.
- Any income payable outside the United Kingdom where there is a prohibition against the transfer to the United Kingdom of that income.
- Any payment made for adoption, fostering, guardianship support or supported lodgings.
- Any payment made for a person who is not normally a member of the claimant's household, but is temporarily in their care.
- Any payment made by a Local Authority under section 17 of the Children's Act 1989.
- Any payment received under an insurance policy taken out to insure against the risk of being unable to maintain repayments of a loan.
- Any income treated as capital.
- Social Fund payments or its equivalent.

- Any payment for banking charges or commission, to convert a payment of income to sterling.
- Any payment made under the Eileen Trust, the Independent Living Fund, the Skipton Funds, the London Bombing Relief Charitable Fund, or the Variant Creutzfeldt-Jacob Disease Trust.
- Any payment of expenses for jurors, witnesses or prison visitors.
- Any refund of Council Tax.
- Child maintenance.
- The first £15 per week of any maintenance, other than child maintenance.
- Personal injury payments from a trust.
- Sports awards.

## 5.15 Capital

5.15.1 The capital of the claimant and their partner will be added together, for the purpose of calculating entitlement to Council Tax Support.

5.15.2 All capital of the claimant or partner will be taken fully into account, with the exception of 'capital disregarded' below.

5.15.3 Where capital is jointly held by the claimant or partner and one or more other persons, the Council will apportion the capital to decide what share is held by the claimant or partner.

5.15.4 Where the value of the capital item is not known, the Council will calculate the value of the capital item using the information available to provide the most accurate estimate, including:

- The current market or surrender value of the capital item.
- Less any costs for selling the capital item.
- Less any debt or charge secured against the capital item

## 5.16 Income treated as capital

5.16.1 The following payments will be treated as capital:

- Holiday pay, paid 4 weeks or more after termination of employment.
- Tax refunds.
- Lump sum charitable or subsistence payments.
- Arrears of Tax Credits.

## 5.17 Notional capital

5.17.1 A claimant will be treated as possessing capital of which they or their partner have deliberately deprived themselves of, to qualify for Council Tax Support.

## 5.18 Capital disregarded

5.18.1 The following capital held by the claimant or partner will be disregarded in full, unless otherwise stated:

- The dwelling normally occupied by the claimant as their home.
- Any property which is actively being sold.
- Any property acquired by the claimant which they intend to occupy as their home, whilst they are preparing for occupation.
- Any property acquired by the claimant, which they intend to occupy as their home, which is undergoing essential repairs or alterations.
- The proceeds of sale of any property formerly occupied by the claimant as their home, which is to be used for the purchase of another property intended for occupation.
- Any property occupied by a partner or relative of the claimant or any member of their family, where that person is a pensioner or disabled.
- Any property occupied by the former partner of the claimant as their home, where the former partner is a lone parent, or where the property is actively being sold.
- The capital of a person in receipt of Income Support, Income Based Jobseekers Allowance or Income Related Employment and Support Allowance.
- Any future interest in property, other than land or premises where the claimant has granted a lease or tenancy.
- The assets of any business owned by the claimant for the purpose of their self-employment.
- Any arrears of state pensions, benefits or tax credits.
- Any amount paid to the claimant, or acquired by the claimant as a loan, as a result of damage or loss of the home or personal possessions and intended for its repair or replacement.
- Any amount deposited with a Registered Provider, which is to be used for the purchase of another property intended for occupation.
- Any personal possessions.
- The value of the right to receive any income under an annuity or the surrender value of an annuity.
- Where the funds of a trust resulted from a payment for a personal injury to the claimant or their partner, the value of the trust fund and the right to receive any payment under that trust.
- The value of the right to receive any income under a life interest or from a life rent.
- The value of the right to receive any income payable in a country outside the United Kingdom where there is a prohibition against the transfer to the United Kingdom of that income.
- The surrender value of any life insurance policy.
- Where payments of capital are made by instalments, the value of the right to receive any outstanding instalments.
- Any payment made by a local authority under section 17 of the Children Act 1989.
- Any payment made for adoption, fostering, guardianship support or supported lodgings.
- Any social fund payment or its equivalent.



- Any refund of tax deducted on a payment of loan interest for the purpose of acquiring a home or carrying out repairs or improvement to the home.
- Where a payment of capital is made in a currency other than sterling, any banking charge or commission payable in converting that payment into sterling.
- Any payment made under the Eileen Trust, the Independent Living Fund, the Skipton Funds, the London Bombing Relief Charitable Fund, or the Variant Creutzfeldt-Jacob Disease Trust.
- The value of the right to receive any rent.
- Any payment in kind made by a charity.
- Any refund of Council Tax.
- Any payment made by a local authority to the claimant, to be used to purchase a property for occupation as their home, or to carry out repairs or alterations to the home.
- Any payments for:
  - travel expenses for hospital visits
  - medical supplies and vouchers
  - health in pregnancy grants
- Home Office payments for prison visits.
- Any payment made to assist a disabled person to obtain or retain their employment.
- Any payment made by a local authority under the Blind Homeworkers' Scheme.
- Any capital administered on behalf of a person by the High Court, County Court, or the Court of Protection.
- Any payment to the claimant as a holder of the Victoria Cross or George Cross.
- Any payment made to assist a person under the self-employment route.
- Any payment of a sports award.
- Any payment of an education maintenance allowance.
- Any payment made by a contractor for a person participating in an employment zone programme.
- Any arrears of subsistence allowance.
- Any payment made by a local authority for a service which is provided to develop or sustain the capacity of the claimant or their partner to live independently in their accommodation, including personal budgets.

## **6 Calculation of entitlement**

### **6.1 Maximum Council Tax Support**

6.1.1 The amount of a person's maximum Council Tax Support for a day which they are liable to pay Council Tax will be 80%.

6.1.2 The amount of Council Tax Support will be calculated as A divided by B and multiplied by 80% where:

- A is the amount of Council Tax set for the financial year for the dwelling the person resides in and for which they are liable, less any discount which applies
- B is the number of days in that financial year
- Less any non-dependant deductions.

6.1.3 Where a person is jointly and severally liable for Council Tax, which they are liable with one or more other persons, the maximum amount of Council Tax Support will be the amount in A divided by the number of people who are jointly and severally liable. This will not apply if the only person they are jointly and severally liable with is their partner.

### **6.2 Council Tax Support taper**

6.2.1 The percentage of excess income over the living allowance which will be deducted from the weekly maximum Council Tax Support will be 20%.

### **6.3 Non-dependant deductions**

6.3.1 A deduction from a person's maximum Council Tax Support will be made for non-dependants, as follows:

- A non-dependant aged 18 or over in remunerative work where their normal gross weekly income is:
  - Less than £186.00, the deduction will be £3.65 per week.
  - Between £186.00 and £321.99, the deduction will be £7.25 per week.
  - Between £322.00 and £400.99, the deduction will be £9.15 per week.
  - £401.00 or over, the deduction will be £10.95 per week.
- A non-dependant aged 18 or over not in remunerative work, the deduction will be £3.65 per week.

6.3.2 In calculating the gross income of a non-dependant, any amounts which would normally be disregarded for a Council Tax Support claimant, will also be disregarded for a non-dependant.

6.3.3 Only one non-dependant deduction will be made for a couple, and the amount deducted will be based on their joint income, calculated as above.

6.3.4 Where a person is jointly and severally liable for Council Tax for a dwelling they reside in, which they are liable with one or more other persons, the amount of the non-dependant deduction will be apportioned equally between those liable persons.

6.3.5 Non-dependant deductions will not be made in the following circumstances:

- Where the claimant or their partner is blind
- Where the claimant or their partner receives Attendance Allowance, or the care component of Disability Living Allowance, or the daily living component of Personal Independence Payment, or Armed Forces Independence Payment.
- Where the non-dependant normally resides elsewhere
- Where the non-dependant receives a training allowance
- Where the non-dependant is a full-time student
- Where the non-dependant is not residing with the claimant because they have been an in-patient for more than 52 weeks (without any break exceeding 28 days)
- Where the non-dependant receives Income Support, Income Based Jobseekers Allowance, Income Related Employment and Support Allowance, or Pension Credit
- Where the non-dependant is aged under 18.

6.3.6 Where the income of the non-dependant is not known or has not been provided, the Council will assume that the maximum deduction will apply.

#### 6.4 Date on which a claim is made and entitlement begins

6.4.1 Entitlement to Council Tax Support will begin on the Monday following the date the claim is received by the Council, unless the claim is treated as being made from a different date. Schedule 8, Part 2, paragraph 5 of the regulations sets out the rules for the date on which a claim is made. These state:

- Where an award of Income Support, income-based Jobseekers Allowance, income-related Employment and Support Allowance, or Universal Credit has been made to the claimant or their partner; and the claim for Council Tax Support is made within one month of the date of the claim for one of those benefits; the date of claim will be the first day of entitlement to those benefits.
- Where the claimant or their partner is on Income Support, income-based Jobseekers Allowance, income-related Employment and Support Allowance, or Universal Credit; and they become liable for Council Tax for the first time; and the claim for Council Tax Support is made within one month of the date of the change; the date of claim will be the date on which the change takes place.
- Where the claimant is the former partner of a person who was entitled to Council Tax Support before the date of death or separation; and the claimant makes a claim for Council Tax Support within one month of the

date of death or separation; the date of claim will be the date of death or separation.

- Where the claim for Council Tax Support is made within one month of a request to claim Council Tax Support, the date of claim will be the date on which the request was made.
- In all other cases, the date of claim for Council Tax Support will be the date the claim form is received by the Council.

6.4.2 Council Tax Support will be paid for an earlier period, up to a maximum of one month before the claim is made, where:

- Council Tax liability starts within one month before the claim is made.
- The claimant requests the claim is paid earlier than the claim is made.
- Providing that the claimant has supplied sufficient information and evidence for the Council to calculate entitlement to Council Tax Support for the earlier period.

## 6.5 Duration of award and reviews

6.5.1 Council Tax Support will be awarded for an indefinite period, until:

- Council Tax liability ends.
- A change in the claimant or partner's circumstances results in Council Tax Support ending.
- The claimant fails to respond to a request for information or evidence in connection with their claim or an award.

6.5.2 The Council may review a person's entitlement to Council Tax Support at any time.

## 6.6 Extended payments

6.6.1 A person who is entitled to Council Tax Support will be entitled to an extended payment where:

- The claimant or their partner were entitled to a qualifying benefit or any combination of those benefits of either;
  - Income Support, or
  - Jobseekers Allowance (income based or contributory), or
  - Employment and Support Allowance (income related or contributory), or
  - Incapacity Benefit, or
  - Severe Disablement Allowance.
- Entitlement to a qualifying benefit ceased because the claimant or their partner;
  - Commenced employment as an employed or self-employed earner, or
  - Increased their earnings from their employment, or
  - Increased the number of hours in their employment.

6.6.2 Providing that the claimant remains liable for Council Tax at the dwelling in which they reside during the extended payment period.

6.6.3 The extended payment period will start on the day after Council Tax Support would normally have ended after the qualifying benefit has ceased and will last for 4 weeks or up to the day Council Tax liability at the dwelling in which they reside ends, if this is earlier.

6.6.4 The amount of the extended payment will be the higher of:

- The amount of Council Tax Support which the claimant was entitled to before the qualifying benefit ceased, or
- The amount of Council Tax Support which the claimant is entitled to after the qualifying benefit ceased.

## 6.7 Extended payments – movers into Darlington

6.7.1 The rules covering people who move into Darlington who are in receipt of an extended payment is set out in Schedule 8, Part 1 of the regulations. These state:

- Where a claim for Council Tax Support is made and the claimant or their partner is in receipt of an extended payment from another authority, the Council must reduce any entitlement to Council Tax Support by the amount of that extended payment.

## **7 Decision making and notifications**

### **7.1 Decisions and notification**

7.1.1 The rules by which the Council must make and notify decisions for Council Tax Support are set out in Schedule 8, Part 3 of the regulations. These state:

- The Council must make a decision on a Council Tax Support claim within 14 days of receiving all the information and evidence for that claim, or as soon as possible after that date.
- The Council must notify the claimant in writing of any decision relating to a Council Tax Support claim within 14 days of making the decision, or as soon as possible after that date.
- The decision notice must include a statement informing the claimant of their duty to notify changes of circumstances, explaining the consequences of failing to comply with that duty, and setting out the changes which may affect entitlement to Council Tax Support.
- The decision notice must include the procedure by which an appeal may be made.
- The claimant may request a statement of reasons about the notification, within one month of the date of the notification. The statement of reasons must then be sent to the claimant within 14 days of the request, or as soon as possible after that date.

### **7.2 Payment of Council Tax Support**

7.2.1 The rules for the payment of Council Tax Support are set out in Schedule 8, Part 4 of the regulations. These state:

- Payment of Council Tax Support will be made to the person entitled to the reduction of their Council Tax liability.
- Where a person is jointly and severally liable for Council Tax, payment of Council Tax Support will be paid to the person entitled to the reduction of an appropriate amount of their Council Tax liability.

### **7.3 Electronic communications**

7.3.1 The rules by which the Council can undertake electronic communications is set out in Schedule 7, Part 4 of the regulations. These state:

- The Council must meet certain conditions to allow electronic communication in relation to its Council Tax Support scheme.
- The Council may use intermediaries in connection with electronic communication in relation to its Council Tax Support scheme.
- Any information delivered by the Council by electronic means must meet all the other conditions relating to its Council Tax Support scheme.
- Proof of identity of the sender or recipient of information will need to be verified where information is sent or received by electronic means.
- The Council will need to establish procedures to verify delivery of information by electronic means.

## **8 Changes in decisions**

### **8.1 Duty to notify changes of circumstances**

8.1.1 The duty to notify changes of circumstances is set out in Schedule 8, Part 2, paragraph 9 of the regulations. These state:

- The claimant must notify the Council of any changes of circumstances which they might reasonably be expected to know may affect their entitlement to Council Tax Support.
- Notification of a change of circumstances may be made in writing or by telephone and within 21 days of the change occurring, or as soon as possible after that date.

### **8.2 Date on which a change of circumstances will affect Council Tax Support**

8.2.1 The Council will review the amount of Council Tax Support, following a change of circumstances, as follows:

- Where entitlement to Council Tax Support continues after the change, Council Tax Support will change on the Monday following the date the change occurred.
- Where entitlement to Council Tax Support ends after the change, Council Tax Support will end on the Sunday of the week in which the change occurred.
- Where Council Tax liability changes or ends, Council Tax Support will be changed or ended on the same day.
- Where the claimant has delayed notifying the Council of a change in their circumstances, which results in more Council Tax Support being awarded, the change will be treated as occurring on the date the Council was notified of the change. A delay is counted as being more than one month after the change occurred.

### **8.3 Ending Council Tax Support**

8.3.1 Council Tax Support will end in the following circumstances:

- Council Tax liability ends.
- A Council Tax exemption applies.
- A change of circumstances occurs, which ends entitlement to Council Tax Support.
- A change of circumstances occurs, but there is insufficient information or evidence to decide if entitlement to Council Tax Support will continue.
- The claimant fails to provide, when requested, sufficient information or evidence to decide if entitlement to Council Tax Support will continue.

### **8.4 Revisions**

8.4.1 An original decision relating to a claim for Council Tax Support may be revised by the Council at any time.

## 8.5 Appeals

8.5.1 The rules by which a person may make an appeal against certain decisions of the authority is set out in Schedule 7, Part 2 of the regulations. These state:

- A person who disagrees with a decision in relation to their Council Tax Support claim may appeal, stating their grounds for appeal.
- The Council must consider the appeal and notify the person in writing of the outcome of their appeal and the reasons for the decision, within 2 months of the appeal being received.
- If the person is still aggrieved, they may appeal to a valuation tribunal under section 16 of the 1992 Act.

## 8.6 Discretionary reductions

8.6.1 The rules for an application for a discretionary reduction is set out in Schedule 7, Part 3 of the regulations. These state:

- An application for a reduction under section 13A(1)(c)(a) of the 1992 Act may be made in writing, by telephone, or by electronic means.
- A claim for Council Tax Support may also be treated as an application for a reduction under section 13A(1)(c) of the 1992 Act.



## **9 Overpayments**

### **9.1 Meaning of overpayment**

9.1.1 Overpayment means any amount which has been paid as Council Tax Support and to which there is no entitlement.

### **9.2 Recovery of overpayments**

9.2.1 All overpayments of Council Tax Support, however they were caused, will be recoverable.

9.2.2 Overpaid Council Tax Support will be recovered by an addition being made to the liable person's Council Tax account.

9.2.3 The Council will have the discretion not to recover an overpayment of Council Tax Support.