



# Council Tax Support Scheme 2016/17

**Summary (DRAFT)**

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## Localised Support for Council Tax

### Part 1 – Introduction

1. In April 2013, the system of helping people on low incomes to meet their Council Tax obligations, known as Council Tax Benefit, was abolished. The Local Government Act 2012 introduced a requirement for Councils such as Pendle to introduce a Council Tax Support (CTS) Scheme from 1<sup>st</sup> April 2013.
2. This document sets out in summary Pendle Borough Council's Council Tax Support (CTS) Scheme which has been produced in compliance with Section 13A of the Local Government Act 2012.
3. The detailed policy and regulations underpinning the Scheme are also available upon request by writing to:-

The Revenues and Benefits Manager  
Number One Market Street  
Market Street  
Nelson  
Lancashire  
BB9 7LJ

4. The CTS Scheme to which this summary refers was approved by a meeting of Council on 17<sup>th</sup> December 2015 and will be effective from 1<sup>st</sup> April 2016.

## **Part 2 – Prescribed Requirements**

### **Introduction**

1. The Government's prescribed requirements regulations are set out in The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (SI 2012/ 2885).
2. The Prescribed Requirements Regulations preserve existing provision for pensioners such that council tax reductions in all authorities will be calculated in the same way as under existing council tax secondary legislation (The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006). This reflects the Government's stated policy intention, as set out in its consultation response of December 2011 and Updated Impact Assessment of June 2012, that vulnerable pensioners should not be disadvantaged in terms of the calculation of their council tax awards as a result of the changes.
3. The Prescribed Requirements also cover other matters that are required to be consistent in all Council Schemes. They will affect both Working Age and Non-Working age claims alike and are shown below.

### **Persons from Abroad**

4. The restrictions that existed under the former Council Tax Benefit scheme to exclude foreign nationals with limited immigration status and non-economically active European Economic Area (EEA) individuals who are not exercising European Union (EU) treaty rights from receiving Council Tax reductions continue to apply. The prescribed requirements relating to immigration status mean that individuals subject to immigration control under Section 115 of the Immigration and Asylum Act 1999 and non-economically active EEA nationals who fall into various categories to be set out in regulations, will not benefit from Council Tax reductions. The Prescribed Requirements replicate those in existing Council Tax Benefit Regulation 7 in Statutory Instrument 2006/215 and 2006/216.

### **Refugees**

5. Those persons that have recognised refugee status, humanitarian protection, discretionary leave or exceptional leave to remain in the country outside of the immigration rules and who are exempt from the habitual residence test will be entitled to apply for Council Tax Support as long as their status has not been revoked.

### **Permitting a person to act for another person**

6. Previous arrangements for a person to act on behalf of another continue under the Council Tax Support Scheme. For example, where a person has been granted a power of attorney for a Council Tax Payer or in cases where a couple wishes to make an application.

## Part 3 – Pension Age Claimants

### Introduction

1. There are three main classes under the prescribed Pension Credit Age Scheme, details of which are set out in The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (SI 2012/ 2885). For each, there are a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from support defined within statute, such as a person from abroad with limited leave to remain as outlined in Section 2 – Prescribed Requirements.

The definition of a pension credit age person is a person who,

- (a) Has attained the qualifying age for state pension credit, and
- (b) Is not, or if they have a partner, their partner is not;
  - i. a person on income support, on an income-based job seeker's allowance or on an income related employment and support allowance, or;
  - ii. a person with an award of universal credit.

### Pension Age Claimants – Classes of Persons

2. The three prescribed classes concerned are outlined below:

#### ***Class A - the individual must:***

- 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 £16,000;
- 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 applicable amount (as defined in regulations);
- be a person whose income (if any) for the relevant week does not exceed his applicable amount
- have made an application under the Council's scheme.

#### ***Class B - the individual must:***

- 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 £16,000;
- whose income for the week is greater than his applicable amount;

- be a person in respect of whom amount A exceeds amount B where:-
  - A is the maximum council tax reduction in respect of the day in the applicant's case; and
  - B is 2 6/7 percent of the difference between his income for the relevant week and his applicable amount have applied for the scheme;
- Have made an application under the Council's scheme.

***Class C – the individual must:***

- 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;
  - have made an application under the Council's scheme;
  - be somebody who has at least one second adult living with them who is not their partner, not somebody who pays rent, and who is on a prescribed low wage and/or prescribed benefit, as set out in regulations.
3. The reduction to which persons in each class are to be entitled (and different reductions may be set out for different classes)

***Class A Reduction***

4. If an individual matches the criteria in Class A, including that income is less than their Applicable Amount (as set out in regulations) in their case, that person qualifies for 100% reduction on their Council Tax liability.
5. The Regulations require that an individual in receipt of State Pension Credit Guarantee Credit from the Department for Work and Pensions (Pensions Service) will have their income and capital 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.
6. Where a person has been awarded only the savings credit element of State Pension Credit, regulations will define the way in which this is to be treated for the purposes of the Council Tax Support scheme.

***Class B Reduction***

7. If an individual matches the criteria in Class B, it will mean that their income is greater than their Applicable Amount (both as defined in regulations). Twenty per cent of the difference between the two will be subtracted from this individual's Council Tax liability.

### ***Class C Reduction***

8. Under the existing national Council Tax Benefit scheme, the Class C reduction is known as Second Adult Rebate. This may be awarded in respect of a second adult sharing the household who would normally be expected to contribute towards the council tax bill but who cannot afford to do so based on their low income as indicated by prescribed low wages bands or prescribed Working-Age benefit indicators.
9. This reduction will equate to the existing Second Adult Rebate and may be awarded at 100%, 25%, 15% or 7.5% of the Council Tax liability, depending upon individual circumstances.

### **Non Dependent Deductions**

10. Once a reduction amount is calculated, it will continue to be subject to a downward adjustment to take into account non-dependent adults that normally reside in the dwelling who would be expected to contribute to Council Tax. Deductions for such non-dependent adults will be calculated in the same way as formerly under Statutory Instrument 2006/216 Regulation 42 with differing prescribed amounts being deducted according to individual circumstances, and with the same exceptions applying.

### **Determination of Class and Award**

11. Determination of the class an individual is put into, and the reduction they will receive, will continue to be determined in two ways:
  - a. in respect of Class A and Class B, through means testing which will continue according to the same rules and criteria as now (with the exception of disregards for War Pensions); and
  - b. through application of rules for calculation of Class C formerly known under Council Tax Benefit as the alternative maximum Council Tax Benefit calculation under Statutory Instrument 2006/216 Regulation 46.

### **Means Test for Class A and Class B**

12. The means test will be defined within regulations and aligned with former regulations for Council Tax Benefit for those of State Pension Credit Age. The means test is based upon a comparison of income defined in regulations and an Applicable Amount also defined in regulations. The way in which these elements will be defined and evaluated for the Pension Credit Age Scheme is set out below.

## **The Applicable Amount (or Living Allowance)**

13. The individual's living allowance or applicable amount will be made up of five elements. These will be for example:
  - i) a personal allowance in respect of the applicant;
  - ii) any disability premium (where applicable);
  - iii) an amount in respect of any child or young person who is part of their family;
  - iv) 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
  - v) any premium amount set out in regulations that is applicable to the individual.
14. The elements and calculation methodology for the applicable amount will be as set out in regulations (and will reflect what was formerly Statutory Instrument 2006/216 Regulation 12 and Schedule 1 or as otherwise may be provided for within statute).

## **Calculation of Income and Capital**

15. Income and capital will be calculated for a person who has reached the qualifying age for State Pension Credit in line with the previous provisions under Statutory Instrument 2006/216 Regulations 13 to 39. The income and capital of a claimant's partner or partners in the case of a polygamous marriage will continue to be treated as income of the claimant.
16. Income or capital of any child or young person will not be treated as income or capital of the claimant. The regulations will allow for the Council to treat the income or capital of a non-dependent 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 with the same exception to this rule for those on income-related jobseekers allowance and income-related employment and support allowance.

### *Income and capital for those on State Pension Credit*

17. There will be special treatment of income and capital for those in receipt of State Pension Credit.
18. For those in receipt of the Guarantee Credit element of State Pension Credit, the whole of their income and capital will be disregarded meaning that they will automatically qualify under Class A for a 100% Council Tax reduction.

19. For those in receipt of the Savings Credit element of State Pension Credit, the Council will be able to use the Department for Work and Pensions' Pension Service's assessed income figure for the individual, and adjust this to take into account income from this benefit and any other relevant requirements (as set out previously in Statutory Instrument 2006/216, Regulation 17).

*Calculation of income where a person is not in receipt of State Pension Credit*

20. For those who have reached the qualifying age for State Pension Credit, but are not in receipt of this benefit themselves, 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 replicate the operation of Council Tax Benefit under Statutory Instrument 2006/216 Regulations 19 to 39. In particular, earnings of employed earners and earnings of self-employed earners will be taken into account as previously set out in Statutory Instrument 2006/216.
21. The Prescribed Requirements 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 a claimant's weekly earnings are as previously set out in Statutory Instrument 2006/216 Schedule 2 of the Council Tax Benefit regulations, and such provision will be applied for those who have attained the eligible age for State Pension Credit.
22. Amounts to be disregarded in terms of income other than earnings under the former Council Tax Benefit for those who have reached eligible age for State Pension Credit are as set out in Statutory Instrument 2006/216 Schedule 3, and these disregards of income have been recreated under the new regulations. Treatment of other income (in relation to which the applicant has a right) will be calculated according to the same rules as under Statutory Instrument 2006/216 Regulations 31 to 32.

*Calculation of capital where a person is not in receipt of State Pension Credit*

23. Provisions relating to capital – for example, the capital savings limit of £16,000 (after which individuals will not be eligible for Council Tax reductions), what is to be regarded as capital, what is to be disregarded as capital and other capital calculations, will operate in the same way as existing SI 2006/216 Regulations 33 to 39. Amounts to be disregarded as capital will be set out under provisions replicating existing Statutory Instrument 2006/216 Schedule 4.

*Notional capital*

24. Regulations stipulate that individuals will be treated as possessing capital of which they have deprived themselves for the purposes of securing Council Tax reductions.

25. The determination of notional capital will continue on the same basis, for example, disregarding the value of any holding in a company where the applicant is the sole owner or partner (or where they hold an analogous position), but will include an amount of capital equal to the value (or their share of the value of) the capital of such a company. This notional capital (which the individual is treated as in possession of) will be reduced over time as set out in regulations, to reflect payment of additional Council Tax liabilities incurred.

#### Tariff income on capital

26. In line with the former Council Tax Benefit regulations, once an amount of capital is calculated, net of any amounts to be disregarded, this will be treated as if it is income of £1 for every £500 (or part of £500) in excess of £10,000. This amount of tariff income will be added to the initial income calculation to give a total income amount.

#### Income and wider welfare changes

27. In relation to income, wider welfare changes mean new Working Age benefits will be introduced to replace some of the existing Working Age benefits.
28. Despite these changes being mainly to Working-Age benefits, they may have relevance for individuals living with a person of Pension Credit Age and consequently, it may be taken into consideration in the assessment.
29. New applicants will be migrated onto these benefits over time, so both benefits will co-exist for a number of years (for example, the migration to Universal Credit). Where such benefits are mentioned in these regulations, an equivalent approach for an individual on the new benefit will be identified and agreed with the Department for Work and Pensions.

#### **Calculation of Reduction**

30. Once the total income amount has been calculated, it will be compared with the Applicable Amount, to determine whether the individual falls into Class A (income less than Applicable Amount) or Class B (income greater than Applicable Amount).
31. Persons in Class A will receive 100% Council tax reduction against their Council Tax liability. (This liability will be net of any Council Tax discounts under the Local Government Finance Act 1992 and non-dependent deductions under the regulations for persons of Pension Credit eligible age).
32. Persons in Class B will receive a reduction equivalent to 20% of the difference between their income and applicable amount on their net Council Tax liability.

33. Where a person of Pension Credit age is jointly liable for council tax with a second adult who is not their partner and does not pay rent in respect of the dwelling, they may fall under Class C, where conditions to be set out in regulations corresponding to Statutory Instrument 2006/216 Schedule 6 are met.
34. The table below sets out the possible reductions for this class on maximum daily council tax liability (after discounts, and with reductions varying according to individual circumstances). The alternative maximum council tax reduction is calculated in relation to the income and circumstances of the second adult – the applicant’s income and capital is not taken into account.

| <b>Second adult</b>   | <b>Alternative maximum council tax reduction (net of discounts) due in respect of a day</b> |
|---|---|
| a) The second adult (or all second adults) are in receipt of income support, income-related employment and support allowance, state pension credit or income-based jobseeker’s allowance.                                     | a) 25%  |
| b) Where the gross income or aggregate gross income of any second adult(s) – disregarding any income support - is:<br>b)(i) less than £187.00 per week;<br>b)(ii) not less than £187.00 but less than £243.00 per week.       | b)(i) 15%<br>b)(ii) 7.5%  |
| c) If the dwelling is occupied by a second adult/adults on state pension-credit, income-related jobseeker’s allowance, income-related employment and support allowance or income support, living with a full-time student(s). | c) 100%   |

35. If it appears to the Council that the claimant is entitled to both a means-tested council tax reduction and a second adult rebate (“alternative maximum council tax benefit”), a comparison of the two reductions will be made. The claimant will then be awarded the greater reduction of the two.

### **Extended payments**

#### General

36. Prescribed regulations for all schemes set out that an individual who is:

- i) approaching Pension Credit eligible age, and who is
- ii) in receipt of a local council tax reduction and not in receipt of Working Age benefits (income support, income-related jobseeker's allowance, income related employment and support allowance), or
- iii) whose partner has claimed State Pension Credit,

will continue to receive an extended payment of their localised council tax reduction for a prescribed period of **four weeks**, whilst they or their partner apply for the State Pension Credit eligible age scheme.

37. The Pension Credit Eligible Age Regulations will state that from the point at which the person already in receipt of a council tax reduction reaches the eligible age for Pension Credit they will, for the prescribed extended payment period of **four weeks**, be entitled to whatever award is greater – the local working age scheme award or the award under the scheme for those of State Pension Credit Eligible age.

Extended payments – qualifying contributory benefits – i.e. (i) severe disablement allowance; (ii) incapacity benefit; (iii) contributory employment and support allowance

38. Regulations set out that a person in receipt of one of the above benefits, who ceases to receive that benefit because they have returned to work, increased their earnings or increased their hours (and where that improvement in their situation is expected to last five weeks or more), will continue to receive a council tax reduction calculated as if they were still in receipt of these benefits for four weeks (where the resulting reduction amount is greater than the reduction amount taking into account their loss of these benefits).
39. If a Pension Credit age person moves to the area of a new Local Authority in the period from the Monday following the move to the point where entitlement to the qualifying benefit ceases (when the extended payment rule applies), the first billing authority will pay the second billing authority or the individual their reduction amount for the extended payment period.
40. If the person applies for a council tax reduction in the second Local Authority, the second authority will net off the reduction amount received from the first authority. Any balance of reduction award will be paid to the claimant (and the full amount will be paid to the claimant if there is no council tax liability in the second local authority). After the extended payment period ends, the first local authority's liability in relation to extended payments will cease and the new authority's reduction will apply.

## Part 4 – Working–Age Claimants

### Introduction

1. The Scheme for Working Age Claimants is largely based on The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 (SI 2012/ 2886). As with the former Council Tax Benefit system, the amount of support will be based upon individual circumstances and changes of circumstances will also be taken into account.
2. There are three main classes of Working Age Claimants. For each, there are a number of qualifying criteria. In all cases individuals must not be of a prescribed class exempted from support defined within statute, such as a person from abroad with limited leave to remain as outlined in Section 2 – Prescribed Requirements.

### Working Age Claimants – Classes of Persons

3. The three classes concerned are outlined below:

#### ***Class D - the individual must:***

- have not attained qualifying age for state pension credit; or
- have attained the qualifying age for state pension credit if, and his partner, is a person on income support, on an income based jobseekers allowance or on an income-related employment and support allowance or in receipt of an award of Universal Credit;
- be liable to pay Council Tax in respect of a dwelling in which he is solely resident;
- is not deemed to be absent from the dwelling;
- who does not fall within a class of person for prescribed purposes;
- be somebody in respect of whom a maximum Council Tax Support amount can be calculated;
- not have capital savings above £16,000;
- be a person in respect of whom a day in s/he is liable to pay Council Tax falls within a week in respect of which the persons income is **less** that their (living allowance) applicable amount or the applicant or partner is in receipt of Income Support, Jobseekers Allowance, (income based) or Employment and Support Allowance (income related) and
- have made a valid application for support.

#### ***Class E - the individual must:***

- have not attained the qualifying age for state pension credit; or
- have attained the qualifying age for state pension credit if, and his partner, is a person on income support, on an income based jobseekers allowance or on an income-related employment and support allowance or in receipt of an award of Universal Credit;

- be liable to pay Council Tax in respect of a dwelling in which they are solely or mainly resident;
- is not deemed to be absent from the dwelling;
- who does not fall within a class of person for prescribed purposes;
- be somebody in respect of whom a maximum Council Tax Support amount can be calculated;
- not have capital savings above £16,000;
- be a person in respect of whom a day in s/he is liable to pay Council Tax falls within a week in respect of which the persons income is **more** that their (living allowance) applicable amount or the applicant or partner is in receipt of Income Support, Jobseekers Allowance, (income based) or Employment and Support Allowance (income related) or a person and
- has made a valid application for support
- be a person in respect of whom amount A exceeds amount B where:-
  - A is the maximum council tax reduction in respect of the day in the applicant's case; and
  - B is 2 6/7 percent of the difference between his income for the relevant week and his applicable amount have applied for the scheme;

***Class F - the individual must:***

- have not attained the qualifying age for state pension credit; or
  - have attained the qualifying age for state pension credit if, and his partner, is a person on income support, on an income based jobseekers allowance or on an income-related employment and support allowance or in receipt of an award of Universal Credit;
  - be liable to pay Council Tax in respect of a dwelling in which they are solely or mainly resident;
  - is not deemed to be absent from the dwelling;
  - who does not fall within a class of person for prescribed purposes;
  - be somebody in respect of whom a maximum Council Tax Support amount can be calculated;
  - has made a valid application for support
  - be somebody who has at least one second adult living with them who is not his partner, not somebody who pays rent and who is on a prescribed low wage and/or prescribed benefit as set out in regulations.
4. Determination of the amount of support shall be established through means-testing that will be applied using the broadly the same rules and criteria as previously applied for the purposes of the Council Tax Benefit scheme. These were as set out in Statutory Instrument 2006/215.
  5. In dealing with the means test it is intended that the intent and effect of definitions previously applied for the purposes of the Council Tax Benefit scheme in Statutory Instrument 2006/215, including those in respect of

Regulations 1 to 11, shall be replicated within the Council Tax Support scheme.

6. The means-test will be based upon a comparison of income and a deemed living allowance (known as the Applicable Amount). The way in which these elements will be defined and evaluated is explained in detail below.

### **Working Age Claimants – Criteria**

7. To be eligible for support, individuals must not be of a prescribed class exempted from support, such as a person from abroad with limited leave to remain as outlined in Section 2 – Prescribed Requirements.
8. Individuals who are entitled to a reduction under the Councils scheme must be within one of the Classes set out above.

### ***Non-dependent deductions***

9. Prior to the reduction award calculation, there will continue to be a deduction in support to take into account non-dependent adults that normally reside in the dwelling who would be expected to contribute to Council Tax.
10. Deductions for such non-dependent adults will be calculated with differing amounts being deducted according to the individual's circumstances.
11. As under the former Council Tax Benefit Scheme, a deduction will not be made where the relevant non dependant is disregarded for Council Tax discount purposes or in the circumstances listed below. It is intended that the former provisions are replicated within the Council Tax Support Scheme and that other existing provisions relating to non-dependants also continue to apply. These are, that
  - the person has their normal home elsewhere
  - the claimant or partner are registered blind or have recently regained their sight;
  - the claimant or partner are receiving the care component of a disability living allowance or attendance allowance;
  - the non-dependant is receiving pension credit, income support or income-based job seekers allowance or income-related employment and support allowance;
  - the non-dependant is a prisoner;
  - the non-dependant is severely mentally impaired;
  - the non-dependant is over 18 but child benefit is still payable for them;
  - the non-dependant is a student nurse or apprentice or on Youth Training;

- the non-dependant has been a hospital patient for 52 weeks or more. If the non-dependant leaves hospital but is readmitted to hospital within 28 days, the total number of days in hospital are added together;
- the non-dependant is living in a care home or nursing home;
- the non-dependant is a care worker;
- the non-dependant is a resident of a hostel or night shelter for the homeless;
- the non-dependant is a full-time student (even if they work full-time in the summer vacation).

12. The table below sets out the current and proposed weekly amounts of deductions to be applied to the proposed local Council Tax Support scheme. All amounts will be subject to an annual review.

| <b>Description of Deduction</b>   | <b>Amount of Weekly Deduction in 2015/16</b> | <b>Proposed Weekly CTS Scheme Deduction</b> |
|---|--|---|
| Adult in receipt of pension credit guarantee credit or savings credit   | Nil  | Nil   |
| Adult in receipt of employment support allowance (income related) main or assessment phase                          | Nil  | Nil   |
| Adult in receipt of Job Seekers Allowance (Contribution Based) or Employment Support Allowance (Contribution Based) | £3.74  | TBD   |
| Gross income of adult in remunerative work is less than £189  | £3.74  | TBD   |
| Gross income of adult in remunerative work is greater than or equal to £189 but less than £328                      | £7.52  | TBD   |
| Gross income of adult in remunerative work is greater than or equal to £328 but less than £408                      | £9.49  | TBD   |
| Gross income of adult in remunerative work is greater than or equal to £408   | £11.36                                       | TBD   |

| <b>Description of Deduction</b>  | <b>Amount of Weekly Deduction in 2015/16</b> | <b>Proposed Weekly CTS Scheme Deduction</b> |
|--|--|---|
| Adult in receipt of Job Seekers Allowance (income Based)                                       | Nil  | Nil   |
| Adult in receipt of Income Support   | Nil  | Nil   |
| Adult working less than 16 hours per week or is on maternity, paternity adoption or sick leave | £3.74  | TBD   |
| Any other adult not included in the above descriptions   | £3.74  | TBD   |

### **The Applicable Amount (or Living Allowance)**

13. The claimant's Applicable Amount will be made up five elements. These will be:
- i) a personal allowance in respect of the claimant (and partner, where relevant);
  - ii) any disability premium (where applicable);
  - iii) an amount in respect of any child or young person who is part of their family;
  - iv) a family premium element (where the claimant is part of a family of which at least one member is a child or young person); and
  - v) any premium amount, which is applicable to the individual as set out in the local Council Tax Support scheme and that was immediately prior to the 1st April 2013 defined for the purposes of the Council Tax Benefit scheme within Statutory Instrument 2006/215 regulations 12 Schedule 1.

### **Calculation of Income and capital**

14. Income and capital will be calculated for a person who has not attained the qualifying age for State Pension Credit in line with the former provisions for Council Tax Benefit under Statutory Instrument 2006/215 Regulations 15 to 56. The income and capital of a claimant's partner or partners in the case of a polygamous marriage will continue to be treated as income of the applicant.
15. Income or capital of any child or young person will not be treated as income or capital of the claimant. The Council shall be permitted to treat the income or capital of a non-dependent 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.

16. The same exception to this rule will apply for those on income-related jobseekers allowance and 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.
17. For those in receipt of these benefits, the whole of their income will be disregarded. Provided that capital held is less than £16,000, this shall also be disregarded. This will mean that they automatically qualify for 80% council tax reduction after any non-dependant deductions.
18. Former national Council Tax Benefit arrangements whereby £10 of weekly war widow's pension, war widower's pension and war disablement pension and certain other guaranteed income payments including for example under the Armed Forces and Reserve Forces Compensation Scheme is disregarded, shall be replicated.
19. Additionally, the Council Tax Scheme replicates existing local arrangements whereby the remainder of any weekly war widow's pension, war widower's or war disablement pension are also disregarded in full in the assessment of a claimant's income within the local Council Tax Support scheme.

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

20. 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 under former Council Tax Benefit Statutory Instrument 2006/215 Regulations 15 to 56. In particular, earnings of employed earners and earnings of self-employed earners (both net of tax and contributions) will be taken into account as currently set out in Statutory Instrument 2006/215.
21. Former Council Tax Benefit regulations list a number of elements and amounts which should not be taken into account in the calculation of earnings. These are known as Disregards. Amounts to be disregarded in this way from an applicant's weekly earnings are currently set out in Statutory Instrument 2006/215 Schedule 3 and are replicated within the Council's local Council Tax Support scheme. All amounts will, however, be subject to an annual review.
22. Amounts to be disregarded in terms of income other than earnings for the purposes of the former Council Tax Benefit regulations are currently set out in Statutory Instrument 2006/215 Schedule 4 and these shall be replicated within the Council Tax Support scheme subject to the proposal to treat Personal Independence Payments in the same manner as Disability Living Allowance (i.e. fully disregarded) and to fully disregard income received for war disablement pension, war widower's pension and war widow's pension.

23. Treatment of other income (in relation to which the applicant has deprived themselves of) will be calculated according to the same rules as currently applied for Council Tax Benefit purposes under Statutory Instrument 2006/215 Regulation 32.

Calculation of capital where this is not disregarded

24. Provisions relating to capital, including for example, what is to be regarded as capital and what is to be disregarded as capital, will operate in the same way as for Council Tax Benefit purposes under Statutory Instrument 2006 / 215 Regulations 33 to 42.
25. Amounts to be disregarded as capital in the Council's local Council Tax Support scheme will replicate the existing Statutory Instrument 2006/215 Regulation 35 and Schedule 5. There will also be provision for certain elements of income to be treated as capital (for example, in relation to certain lump sum payments or tax arrears).

Notional income

26. Individuals may be treated as possessing capital of which they have deprived themselves for the purposes of securing council tax reductions. 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.

Tariff income

27. Once an amount of capital is calculated, net of any amounts to be disregarded, this will be treated as if it is income of £1 for every £250 (or part of £250) in excess of £6,000 up to a limit of £16,000. This amount of tariff income will be added to the initial income calculation to give a total income amount.
28. Any Claimant with capital in excess of £16,000 will not be entitled to Council Tax Support.

**Students**

29. It is proposed that existing Council Tax Benefit scheme requirements as set out in Statutory Instrument 2006/ 215 Regulations 44 to 56 shall be replicated within the local Council Tax Support scheme. This will mean that full time students and students who are persons from abroad will be excluded from entitlement to Council Tax Support unless they meet one of the conditions contained within the existing Regulations.

## The Reduction for Eligible Claimants

30. If an individual matches the criteria shown above, providing that income is less than their applicable amount in their case, that person qualifies for Council Tax Support entitlement.
31. The amount of a claimant's maximum daily Council Tax Support in respect of a day for which they are liable to pay council tax shall be the amount calculated by applying the following formula-

$$A - (((B - C) \times D) \times (1-E))$$

where—

- a. **A** is the weekly gross Council Tax for the relevant financial year in respect of the dwelling in which they are a resident and for which they are liable, subject to any discount which may be appropriate to that dwelling under the Local Government Finance 1992 Act; and;
- b. **B** is the weekly amount of income as calculated according to the Statutory Instrument 2006/215;
- c. **C** is the Applicable Amount as calculated according to the Statutory Instrument 2006/215 (using the relevant amounts for allowances and disregards).
- d. **D** is the Income Taper which will be set at 20%

less any deductions in respect of non-dependants.

- e. **E** is the reduction which will be 20%

32. 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. The same shall apply to capital held that totals less than £16,000. This means that the individual's income will automatically be less than their applicable amount, and they will qualify for Council Tax Support entitlement calculated by applying the following formula-

$$A \times (1-E)$$

where—

- f. **A** is the weekly gross Council Tax for the relevant financial year in respect of the dwelling in which they are a resident and for which they are liable, subject to any discount which may be appropriate to that dwelling under the Local Government Finance 1992 Act; and;
- g. **E** is the reduction which will be 20%

less any deductions in respect of non-dependants.

33. With the introduction of Universal Credit, which started to replace these income-related benefits for new applicants from October 2013, it is proposed that an equivalent consideration is applied subject at all times to any statutory requirements concerning its treatment.
34. In calculating a person's maximum Council Tax Support any reduction in the amount that person is liable to pay as a consequence of any enactment made by or under the Local Government Finance Act 1992 such as Disabled Person's Reduction for example, shall also be taken into account.
35. Where a claimant is jointly and severally liable for Council Tax in respect of their home with one or more other persons but excepting any person residing with the claimant who is a student excluded from entitlement to local Council Tax Support, in determining the maximum Council Tax Support in their case, the amount A shall be divided by the number of persons who are jointly and severally liable for that tax.
36. Where a claimant is jointly and severally liable for council tax in respect of a dwelling with only their partner, the paragraph immediately above shall not apply.
37. In any case where an extended payment has been allowed to a claimant, their entitlement shall be adjusted in such circumstances and by such amount as defined within the local Council Tax Support Scheme.

### **Extended payments**

38. It is proposed that existing provisions concerning extended payments for Working Age claimants shall continue as currently set out within the existing Council Tax Benefit scheme as follows:

#### *Income Related Benefits*

39. An applicant (or their partner) in receipt of Employment Support Allowance (Income Related), Job Seekers Allowance (Income Based), Job Seekers Allowance (Contribution Based) or Income Support continuously for at least 26 weeks, who ceases to receive any of these benefits (other than Job Seekers Allowance (Contribution Based) because they have returned to work, increased their earnings or increased their hours (and where that improvement in their situation is expected to last five weeks or more), will continue to receive a council tax reduction calculated as if they were still in receipt of these benefits for **four weeks** where the resulting reduction amount is greater than the reduction amount would be if it were re-calculated to take into account their loss of these benefits.

40. If a person moves from the Pendle Borough Council area to the area of a new Council during the week where entitlement to the qualifying benefit ceases, as now Pendle Borough Council will pay the individual the reduction amount due to them for the extended payment period.
41. The Universal Credit will provide for transition into work for claimants from October 2013 onwards. Consequently, the above provision for income related benefits will not apply to Universal Credit claimants that would have met the above conditions had Universal Credit not become effective.

#### Qualifying Contributory Benefits

42. An applicant (or their partner) in receipt of Employment Support Allowance (Contribution Based), Incapacity Benefit or Severe Disablement Allowance or any combination of these continuously for at least 26 weeks, who ceases to receive that benefit because they have returned to work, increased their earnings or increased their hours (and where that improvement in their situation is expected to last five weeks or more), will continue to receive a council tax reduction calculated as if they were still in receipt of these benefits for **four weeks** where the resulting reduction amount is greater than the reduction amount would be if it were re-calculated to take into account their loss of these benefits.
43. If a person moves from the Pendle Borough Council area to the area of a new Council during the week where entitlement to the qualifying benefit ceases, as now Pendle Borough Council will pay the individual the reduction amount due to them for the extended payment period.
44. After the extended payment period, Pendle Borough Council shall have no liability in respect of the claimant and the new Council's Council Tax Support scheme shall apply as appropriate.

#### **Welfare Changes**

45. In relation to income, wider welfare changes mean new Working Age benefits will be introduced to replace some of the existing Working Age benefits mentioned in Statutory Instrument 2006/215.
46. New applicants will be migrated onto Universal Credit and other new benefits over time, so both old and new benefits will co-exist for a number of years. It is proposed that an equivalent approach for an individual on the new benefit will be incorporated within the Council's local Council Tax Support scheme.

## **Part 5 – General Matters**

### **Introduction**

1. The Council's Scheme incorporates a range of administrative arrangements which replicate the current Council Tax Benefit Scheme.

### **Applications**

2. Prescribed requirements for those of Pension Credit Age provide that the date of the original application will apply where individuals need to amend a properly completed application. If the Council chooses to accept amendments over the phone, it will have to confirm these with the applicant.
3. The Council will also be able to accept withdrawal of applications (where it has not yet made a decision). This will take effect on the same day any notice of withdrawal is received by the Council.
4. Provision may also be made for the use of electronic forms, where the Council provides this option.
5. A person may apply for Council Tax Support:-
  - a) in writing using the Council's application form for that purpose and sending it to the address designated by the Council for that purpose;
  - b) online via the Council's website where such an option is published for that purpose;
  - c) by telephone where the Council publishes a telephone number for that purpose;
  - d) by visiting a local Customer Services Office and making an application in person.
6. An application form submitted in writing must be signed by the claimant and may also be signed by their partner if applicable and shall be supported by such information or evidence as is reasonably required to enable entitlement to be determined.
7. An application made online or by telephone shall be subject to such validation as is reasonably necessary to enable a determination of entitlement to be made.
8. The Council shall not determine entitlement for an incomplete claim including one that is not signed until the relevant information, signature or both as appropriate is received and provided that at all times, this is within a period of one month from the date of the Council request or such longer period as may be reasonable in the circumstances.

## Decisions

9. The Scheme Regulations for persons who have attained the qualifying age for State Pension Credit require the Council to notify the applicant in writing of its decision within 14 days from the date that all relevant information and evidence relating to the application has been received by the billing authority, and will include information on how an appeal to the Council Tax bill can be made by the applicant.
10. In respect of Working Age Claimants, the Council will also seek to notify the applicant in writing of its decision within 14 days from the date that all relevant information and evidence relating to the application has been received. Again, this will include information on how an appeal to the Council Tax bill can be made by the applicant (see below).

## Entitlement

11. Subject to the Transitional Arrangements referred to below, in all cases there will be no entitlement to Council Tax Support for periods before 1<sup>st</sup> April 2013.

### Pension Age Claimants

12. Entitlement to Pension Credit Eligible Age Council Tax reduction will begin on the first day of the first week after a full completed application is made.
13. In terms of back-dating, regulations will set out that people of Pension-Credit Eligible age will be able to back-date their applications by three months, provided they were entitled to pension-credit age reduction at the start of the three month back-dated period.
14. Applicants will be able to notify the Council of their intent to apply for a reduction, which can then be treated as the date of the application or, where appropriate, the basis for determining the date of entitlement, provided the applicant submits a fully completed application in the manner prescribed. These arrangements will include any advance applications made for Council Tax reduction support.

### Working Age Claimants

15. Entitlement to a Working Age Council Tax reduction will begin on the first day of the first week after fully completed application is made.
16. In terms of back-dating, people of working age will be able to back-date their applications by up to six months, provided they are able to prove that from a day (up to six months) in the past, they had continuous good cause for failing to make an application.

17. Any entitlement to Council Tax Support shall normally be awarded from the Monday following the date of receipt of a claim.
18. Where a claimant becomes liable for Council Tax at their home in the same week that they apply for Council Tax Support, any entitlement shall be awarded from the date that their liability for Council Tax commences. For the purposes of Council Tax Support, a week in this context shall comprise a Monday to Sunday.
19. If a claimant notifies the Council of an intention to claim Council Tax Support and submits their application form using one of the specified approaches for claiming within one month of when it was sent out or such longer period as may be reasonable in the circumstances, the date of the claim shall be the date of notice of their intention and any entitlement to Council Tax Support shall be awarded from the Monday following that date.
20. If a claimant applies for Council Tax Support within one month of the death or separation from their partner and the partner was in receipt of Council Tax Support at the time of their death or separation, the date of claim shall be the date of the death or separation in question and any entitlement to Council Tax Support shall be awarded from the Monday following the date of their claim.
21. Council Tax Support may be backdated for up to six months prior to a written request being received if good cause can be shown as to why the claim was not made earlier. In such circumstances, the Council Tax Support rules prevailing at the date the claim is backdated to shall apply.
22. A claimant may apply for Council Tax Support up to 13 weeks prior to an event that would entitle them to Council Tax Support.
23. A claimant may apply for Council Tax Support up to 8 weeks prior to becoming liable for Council Tax at their home.
24. Where a Council Tax is set after 31st March and a claim for Council Tax Support is made within four weeks following the date the Council Tax was set, the date of claim shall be treated such that entitlement begins either on the 1st April in the year concerned or from the week in which their entitlement begins if this is between the 1st April and the date their claim was received.
25. There shall be no fixed limit to an award for Council Tax Support although entitlement may change or cease if there is a change of circumstances or be terminated if the claimant fails to respond to a request for information or evidence within one month or such longer period as may be considered reasonable in the circumstances.

26. The Council does, however, reserve the right to amend the amount of support provided under a Council Tax Support Scheme following the annual review of the Scheme.

### **Changes of circumstance**

#### *Pension Age Claimants*

27. It is envisaged that changes of circumstances for Council Tax Support will follow existing Council Tax Regulations (as amended if applicable).
28. Regulations set out the dates from which various prescribed changes of circumstance are to take effect. In particular, regulations will set out the dates from which changes of circumstance in relation to awards of state pension credit will be taken into account, replicating Statutory Instrument 2006 / 216, Regulations 48 to 51.
29. Regulations will prescribe that applicants will have one month to provide additional information and evidence when requested by the Council. The Council, under local discretion, may allow more time if it sees fit.

#### *Working Age Claimants*

30. Matters relating to the duty for a claimant to notify the Council of a change of circumstances shall generally replicate those currently applied to the existing Council Tax Benefit scheme and set out in Statutory Instrument 2006/215 Regulation 67.
31. A claimant shall have one month, from the date requested in writing, to provide additional information and evidence. The Council may, at its own discretion, allow more time if it considers there are circumstances which support an extension to the deadline.

### **Time and manner of granting relief and recoveries / over-payments**

32. Matters relating to the time and manner of granting relief, persons paid and dealing with over- and under-payments shall operate in the local Council Tax Support scheme in a similar way to how they currently operate under the existing Council Tax Benefit scheme.
33. This includes payments to next of kin where a person in receipt of a Council Tax reduction dies, allowing the billing authority to make payment of the reduction amount to their personal representative or next of kin.
34. Where the Council Tax payer is entitled to an increase or decrease in their reductions following a reported change of circumstance, the Council can issue a revised Council Tax bill taking into account the increase or decrease in liability.

## **Wider welfare changes to benefits – Universal Credit and Personal Independence Payments**

35. The Government intends to reflect any relevant changes to the welfare and benefits system in regulations. In particular, the Universal Credit was introduced for some new and existing claimants from October 2013.
36. A number of benefits and tax credits (income support, income-based jobseeker's allowance, income-related employment and support allowance, housing benefit, working tax credit and child tax credit) will be incorporated within Universal Credit.
37. It is therefore proposed that treatment of Universal Credit under the Council's proposed local Council Tax Support scheme should wherever possible be made equivalent to the treatment of the corresponding income-related benefits (listed above) in existence prior to the introduction of Universal Credit, subject at all times to any statutory requirements concerning its treatment. A similar principle to this is intended to be applied to Personal Independence Payments that started to replace the Disability Living Allowance from April 2013 onwards.

## **Annual Updates**

38. The Local Government Finance Act 2012 requires that a local authority must, each financial year, 'consider whether to revise its scheme or replace it with another scheme'. Any updates to the scheme as it relates to Working Age claimants may therefore be considered at that time including for example uprating of allowances and premiums used to determine basic living needs for the purposes of the means test.

## **Other Prescribed Requirements Reflected in the Working Age Scheme**

39. It is intended that aspects of administration that may impact on the Council Tax Support award (particularly for the working-age claimant scheme) will continue. For example, existing backdating arrangements for those of working age (who are currently able to backdate their claim by up to six months under the Council Tax Benefit Scheme) where they are able to demonstrate continuous good cause throughout the period concerned, will continue.

## **Appeals**

40. A Council Tax Support Scheme must state the procedure by which a person can make an appeal against any decision of the Council which affects:-
  - a) the person's entitlement to a reduction under the scheme; or
  - b) the amount of any reduction to which the person is entitled.

41. Where an applicant is aggrieved by a decision of the Council 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.

### Outline Appeals Process

42. A claimant or a person acting on their behalf may appeal against the Council's decision concerning entitlement to a reduction under the local Council Tax Support Scheme or the amount of a reduction by writing to the Council at its designated office specifying the nature of the appeal and the grounds on which the appeal is made.
43. The Council will consider the appeal and notify the applicant in writing of the outcome of their appeal and the reasons for the decision.
44. Where the Council has considered the appeal and notified the applicant of the outcome in writing but they remain dissatisfied, or a response has not been given within a period of two months from the date of the written appeal, the applicant may further appeal in writing to the Valuation Tribunal for England or such other organisation as may be provided for within statute.
45. Where a response is not provided by the Council within two months of the appeal being made, any subsequent appeal to the Valuation Tribunal for England shall be made within four months of the date that the original appeal was sent to the Council.
46. The following specific matters shall not be the subject of an appeal under these provisions:
  - the local Council Tax Support Scheme provisions as agreed by the Council;
  - any discretion applied to recover an overpayment of Council Tax Support;
  - who to recover an overpayment of Council Tax Support from;
  - suspending or restoring Council Tax Support;
  - any decision to refuse the grant of a reduction under Section 13A(1)(b) of the Local Government Finance Act 1992.
47. A claimant may also at any time in writing request the Council to review their entitlement to Council Tax Support or the amount of any reduction to CTS Support outside of the provisions for appeals detailed above.
48. It should be noted that, as indicated, the person may also appeal to the Valuation Tribunal but only 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.

### **Department for Work and Pensions changes to State Pension Credit Age**

- 49. The Department for Work and Pensions is intending to make changes to the way in which new applicants comprising couples of mixed age (i.e. where one member of the couple has attained state pension credit qualifying age and one has not) are treated for new applications. Currently, such couples would generally be treated under pension credit age regulations apart from a few exceptions.
- 50. It is anticipated that this new measure to be implemented by the Department for Work and Pensions at some point in the next two years will apply to new pension credit applications only. It is likely to mean that in future (from the point of change and for new applicants only) it will not be possible for a couple to claim pension credit until both members have reached the qualifying age. It is anticipated that such couples will have access to Universal Credit though if they meet all the other eligibility criteria.
- 51. The Government proposes to align this change for new applicants to local Council Tax Support schemes on the same basis once it takes effect, so that Councils do not find themselves defining an individual in a mixed age couple differently from the way they are defined by the Department for Work and Pensions. It is the Government's intention that mixed age couples already applying for or receiving a pension-credit age council tax reduction at the point of change (whether or not they are also receiving pension credit), will retain pension-credit age council tax reduction whilst their entitlement continues.