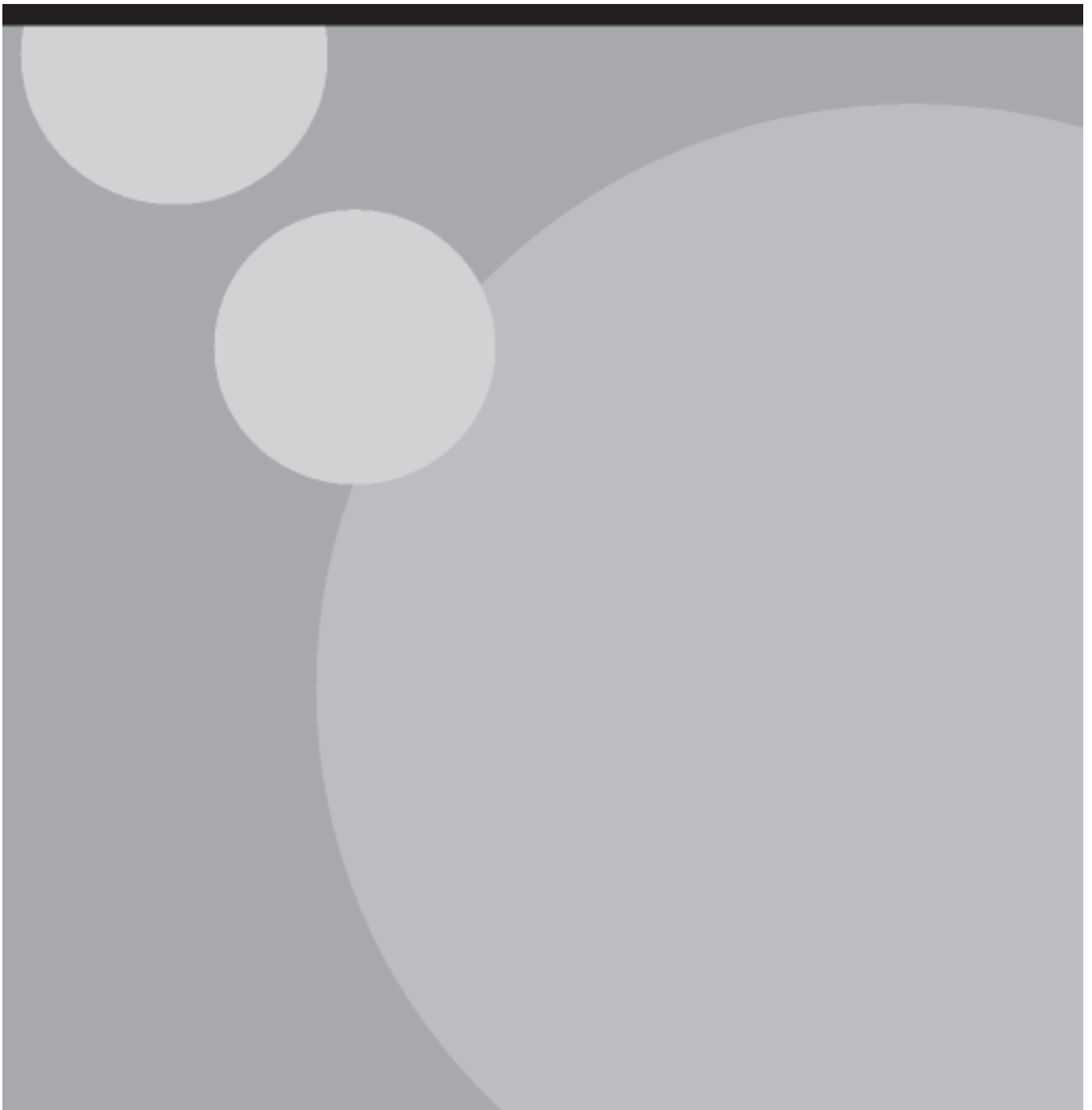




Localising support for council tax

A Statement of Intent on information sharing and powers to tackle fraud





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Any enquiries regarding this document/publication should be sent to us at:

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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Chapter 1

Introduction

- 1.1 On 17 May the Government published a statement of intent on the localisation of council tax support, and made a commitment to publish additional policy statements of intent while the Bill is still before Parliament.
- 1.2 This supplementary document sets out two further policy statements of intent. They are:
 - **Information sharing**
 - This statement explains the purposes relating to council tax for which regulations will permit information held by Her Majesty's Revenue and Customs to be supplied to billing authorities in England. The statement also sets out the purposes relating to council tax for which information may be supplied by the Department for Work and Pensions to billing authorities under existing powers in the Welfare Reform Act 2012.
 - **Powers to tackle fraud**
 - This statement explains the regulations that will be made to bring in the necessary powers, offences and penalties, to allow local authorities to investigate and tackle potential fraudulent council tax support claims. These will be similar to existing rules in relation to council tax benefit which will end in April 2013.

Chapter 2

Regulations permitting the supply of information from DWP and HMRC to local authorities for prescribed purposes relating to council tax

- 2.1. This Statement of Intent has been prepared by the Department for Communities and Local Government ('DCLG') to set out our intentions for regulations to be made under new paragraph 15A of Schedule 2 to the Local Government Finance Act 1992.

Purpose of the statement

- 2.2. To provide clarity on the purposes relating to council tax for which regulations will permit information held by Her Majesty's Revenue and Customs ('HMRC') to be supplied to billing authorities in England. The statement also sets out the purposes relating to council tax for which information may be supplied by the Department for Work and Pensions ('DWP') to billing authorities under existing powers in the Welfare Reform Act 2012.

Legislative context and territorial application

- 2.3. Clause 15 of the Local Government Finance Bill inserts new paragraph 15A into Schedule 2 to the Local Government Finance Act 1992. This provides powers for the Secretary of State to prescribe in regulations the purposes relating to council tax for which information held by HMRC in connection with a function of HMRC may be supplied to a qualifying person. Paragraph 15A (2) sets out who is a qualifying person. This includes a billing authority in England, a person authorised to exercise any function of such an authority relating to council tax and a person providing services to such an authority.
- 2.4. Information supplied under this paragraph for one of the prescribed purposes relating to council tax may be used for another prescribed purpose relating to council tax and supplied to another qualifying person for one of these prescribed purposes. New paragraph 15A applies only to England. Clause 15 also inserts new paragraphs 15B and 15C into Schedule 2 to the Local Government Finance Act 1992, providing similar regulation-making powers for Welsh and Scottish

ministers respectively in relation to the supply of data from HMRC to local authorities in the devolved administrations.

- 2.5. New paragraph 15D provides that in certain circumstances a person will be guilty of an offence if they disclose without lawful authority any information which relates to a particular person which they obtain from HMRC under the new provisions. A person guilty of an offence will, if convicted on indictment, be liable to a term of imprisonment of up to two years or a fine, or both. On summary conviction, a person will be liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum.
- 2.6. Section 131 of the Welfare Reform Act 2012 enables relevant information to be shared between DWP, local authorities and others in relation to prescribed purposes connected with welfare services, council tax and housing benefit. Section 131 of the Welfare Reform Act 2012 applies to England, Wales and Scotland.

Policy

- 2.7. The effective and efficient sharing of information held by public sector bodies is essential to maximise convenience to the customer, who should not have to provide the same information and evidence to different public bodies in order get benefits and financial support. Data sharing can also minimise the administrative costs to the public purse.
- 2.8. It is likely that under local council tax schemes there will be a large number of claimants eligible for a reduction in council tax liability who will also be in receipt of a social security benefit. They will already have submitted personal financial information to DWP, who will have used this information in the calculation of entitlement to benefit. It is in the interests of claimants and local authorities that details about their social security award, including the personal data used to assess that award, is made accessible to local authorities to help calculate any entitlement to local council tax reduction support.
- 2.9. Section 131 of the Welfare Reform Act 2012 provides a power for the Secretary of State to make regulations prescribing the purposes relating to council tax for which relevant social security benefit information may be supplied to local authorities and other “qualifying persons”. Relevant social security benefit includes information relating to benefits such as Jobseeker’s Allowance, Income Support and Employment and Support Allowance.
- 2.10. The Local Government Finance Bill includes provision to allow HMRC information to be supplied to billing authorities in England for prescribed purposes relating to council tax. Where HMRC data has been used by DWP in the calculation of a social security benefit, the supply of data will be by DWP under regulations made under section 131 of the Welfare Reform Act 2012.

- 2.11. Powers permitting the supply of DWP and HMRC data to local authorities will therefore be provided in two sets of regulations: those to be made under section 131 of the Welfare Reform Act, relating to social security information; and those to be made under new paragraph 15A of Schedule 2 to the Local Government Finance Act 1992, relating to HMRC data that has not been used by DWP to administer social security benefit.
- 2.12. In both sets of regulations it is intended that the purposes relating to council tax for which information may be supplied will be the purposes set out in paragraphs 2.13 to 2.20 below.

Administration of council tax reduction schemes by billing authorities

- 2.13. Information that is held by DWP in relation to a person's application for a social security benefit may be needed to help calculate a person's entitlement for council tax support under council tax reduction schemes. Information that is held by HMRC such as earnings and receipt of tax credits will also be required.
- 2.14. As set out in the Department's statement of intent published on 17 May 2012, the Government intends to make regulations under paragraph 2(8) and (9) of new Schedule 1A of the Local Government Finance Act 1992 (inserted by Schedule 4 to the Bill) prescribing requirements which each billing authority's council tax reduction scheme must comply with.
- 2.15. These will include provisions requiring authorities to provide support for vulnerable pensioners. These provisions will replicate as far as possible the existing provisions under which pensioner eligibility for council tax benefit is assessed. In addition, paragraph 4 of new Schedule 1A to the Local Government Finance Act 1992 provides that the Secretary of State will prescribe a default scheme that is to take effect if an authority fails to make a scheme on or before 31st January 2013. In relation to how an award is calculated, it is intended that the default scheme will operate in as close a way as possible to the current council tax benefit system.
- 2.16. In order to ensure that local authorities do not have to seek the necessary information from the claimant themselves, or can verify what a claimant has told them; we are working with DWP to ensure that information that would previously have been used to calculate council tax benefit can continue to be supplied to authorities for the purposes of administering council tax reduction schemes.

Administration of council tax by billing authorities

- 2.17. Information that is supplied by HMRC and DWP may be used for other purposes relating to the administration of council tax by billing

authorities, for example, to determine whether a person is entitled to an existing council tax discount. The information that is supplied will not include information about properties and therefore could not be used in relation to the valuation of properties.

Preventing fraud and error

- 2.18. The information that is supplied by HMRC and DWP may be used for investigating fraud. For instance, if a billing authority suspects a false claim and that inaccurate information has been supplied affecting a person's eligibility for a reduction in their council tax bill, they could request the relevant information from HMRC, DWP or another qualifying person to verify the information.
- 2.19. Where a local authority believes that a claimant is fraudulently claiming council tax support, they will want to raise this with DWP; as a result DWP may supply information to local authorities in relation to benefits investigation
- 2.20. It will be important that all parties have sufficient assurances that the information being used by the authority to assess entitlement to a reduction in council tax is consistent and correct. The information that the local authority receives for council tax purposes may be compared with information it holds for other purposes and information it requires from other bodies under the new powers to investigate fraud and checked for consistency. The local authority could then follow up any inconsistencies with the customer.

Data accuracy

- 2.21. Government takes data protection extremely seriously and that the necessary safeguards are in place. An individual has a right, under section 7 of the Data Protection Act 1998, to make a Subject Access Request, and to be informed of the personal data that a data controller such as HMRC or DWP holds about them.

Practical steps to share data

- 2.22. Government is working to ensure that systems are modified as necessary to enable the existing data flows to continue for as long as they are needed, and to ensure that the appropriate information is relayed to local authorities.
- 2.23. Government is also working to ensure that information collected as part of a Universal Credit claim can be shared with local authorities, and that there are appropriate mechanisms for doing this.

Chapter 3

Regulations to provide necessary investigatory powers, allow the imposition of penalties and creation of offences to enable local authorities to tackle fraud in relation to council tax support

- 3.1. This Statement of Intent has been prepared by the Department for Communities and Local Government to set out our intentions for regulations to be made under new sections 14A to 14D of the Local Government Finance Act 1992 (LGFA 1992), inserted by clause 13 of the Local Government Finance Bill.
- 3.2. To provide clarity for the proposed policy for the introduction of powers for local authorities to require information for prescribed council tax purposes, and for the creation of offences and powers to impose penalties in prescribed circumstances.

Legislative context and territorial application

- 3.3. Under the Council Tax (Administration and Enforcement) Regulations 1992, local authorities currently have a duty to take reasonable steps to ascertain whether a person is entitled to a discount. There are also duties on council taxpayers to inform an authority where, after being informed of an assumption as to the discount granted in their case, they have reason to believe they are in fact not entitled to a discount, or are entitled to a discount of a smaller amount. The intention is that the same duties will apply in relation to the reductions that may be given under the new council tax reduction schemes. In addition, where there is evidence of fraud authorities may be able to prosecute for existing offences committed under the Fraud Act 2006.
- 3.4. However, we believe authorities need powers similar to those that currently exist in relation to council tax benefit which will cease to exist when this benefit is taken away from April 2013. It is important to emphasise that we are not intending to provide local authorities with powers beyond than those which they currently have in relation to council tax benefit, but are instead seeking to ensure that local

authorities continue to have the ability to investigate potential fraudulent claims for a reduction in council tax. We will also only give them the equivalent powers that are necessary. In particular, we do not intend to give them powers of entry equivalent to those that currently exist in relation to council tax benefit.

- 3.5. Clause 13 of the Local Government Finance Bill inserts new sections 14A to 14D into the LGFA 1992. New section 14A enables the Secretary of State to make regulations providing for powers to require the provision of information for prescribed council tax purposes. Regulations made under this new section may also include provision for powers to require a person to enter into arrangements under which access is permitted to the person's electronic records.
- 3.6. New section 14B provides that regulations may be made providing for the creation of criminal offences that may be committed by a person in prescribed circumstances. New section 14C enables provision to be made in regulations allowing billing authorities to impose penalties in prescribed circumstances. These new sections apply to England and Wales and Welsh Ministers are given equivalent regulation making powers to those given to the Secretary of State.

Policy

- 3.7. The abolition of council tax benefit will take with it the specific investigatory and enforcement powers authorities are currently able to exercise in relation to council tax benefit under the Social Security Administration Act 1992 (the SSAA 1992). This includes powers to require information from relevant bodies to check detail provided in council tax benefit claims.
- 3.8. It also includes the ability to prosecute for specific offences relating to false and dishonest representation for obtaining council tax benefit as well as the ability to impose civil penalties as an alternative to prosecution.
- 3.9. In response to the consultation on localisation of council tax support last year, a majority of local authorities that responded said that they would need the same or similar powers for local schemes as they currently have to investigate and tackle fraud in council tax benefit claims.
- 3.10. Clause 13 of the Local Government Finance Bill provides enabling powers to allow regulations to provide for the necessary investigatory powers and offences that will otherwise no longer exist once council tax benefit is abolished. This statement of intent sets out what these regulations will include. It is not, however Government's intention to reinstate all those powers currently provided for in part 6 of the SSAA 1992.

- 3.11. Enforcement powers under part 6 of the SSAA 1992 relate to other benefits, not just council tax benefit. Sometimes they apply only to housing benefit and council tax benefit and in other cases to a whole range of benefits including jobseeker's allowance. Regulations will only provide for those powers an authority will need to exercise in relation to council tax reduction schemes alone.
- 3.12. Government intends to further narrow down the powers to those considered as still being required specifically for council tax reduction schemes. This reflects discussions with local authority practitioners.
- 3.13. The powers set out below will apply only to the investigation and prosecution of fraud in relation to council tax reduction schemes provided for under new section 13A of the LGFA 1992.
- 3.14. Regulations will be made under new section 14A(3) of the LGFA 1992 giving local authorities powers to authorise individuals to exercise certain investigatory powers. These authorisation powers will be equivalent to those authorities currently have under section 110A of the SSAA 1992.
- 3.15. These powers of authorisation will allow local authorities to name individual officers who can require specific information from certain bodies for certain purposes prescribed in regulations relating to a person's liability to pay council tax.
- 3.16. The purposes we intend to prescribe will be similar to those listed in section 110A (2) of the SSAA 1992.
- 3.17. These will include the purpose of ascertaining in relation to any case whether a person was entitled to a reduction in council tax and preventing, detecting and securing evidence of the commission of offences relating to council tax reduction schemes.
- 3.18. The regulations will specify the individuals who may be authorised to require information for such purposes. It is intended that the regulations will include equivalent provision to that currently set out in section 110A(3) of the SSAA 1992 which sets out the individuals who may be authorised to exercise investigatory powers in relation to council tax benefit.
- 3.19. These include individuals employed by the authority, individuals employed by other authorities acting on their behalf in relation to council tax support or those employed by a person authorised by any such authority or joint committee to carry out functions relating to council tax support on their behalf.

Powers to require information

- 3.20. The persons from which authorised authorities can obtain information will be named in regulations and will include some or all of those listed under section 109B (2) and 109B (2A) of the SSAA 1992.
- 3.21. These include employers, banks, utilities companies, credit reference agencies and other bodies from which local authorities may need information to confirm details supplied to them in applications for council tax support.
- 3.22. Regulations will also give authorised individuals the power to require electronic access to information equivalent to those under section 110AA of the SSAA 1992.
- 3.23. These allow authorised officers to access information from banks, utilities companies and other bodies currently specified under section 109B(2A) of the SSAA 1992. This includes bank statements in order to enable access to information such as an individual's income at a specific time. Local authorities may need such information to confirm details supplied to them in applications for council tax support.

Offences

- 3.24. Regulations may also be made under new section 14B of the LGFA 1992 to introduce a number of offences equivalent to those that currently exist in relation to claims for council tax benefit and other benefits to ensure that they will apply in similar circumstances relating to claims for a council tax reduction.
- 3.25. We are considering the offences to recreate in regulations and are seeking to ensure we only recreate those offences that are necessary and proportionate and we will not unnecessarily replicate existing offences. The offences that currently apply in relation to council tax benefit that we are considering replicating are as follows.
- 3.26. The first is for offences relating to the intentional delay or obstruction of an authorised officer from gaining access to the information which they have a power to require or for refusing or neglecting to answer questions or furnish information where required to do so under the regulations. These are required to enable authorities to tackle deliberate obstruction to gaining access to information that may identify fraud and enable them to take the appropriate action.
- 3.27. These offences are set out in section 111 of the SSAA 1992. Equivalent offences may be provided for in regulations under new section 14B (1) (a), (9) and (10) (a). If such an offence is recreated we intend to keep the penalty which will apply where such an offence is committed in line with that provided for under section 111 and the

maximum penalty will therefore be a fine not exceeding level 3 on the standard scale.

- 3.28. The second is for offences relating to dishonest representations for obtaining council tax benefit. In particular, this allows an authority to prosecute someone where they can prove that they dishonestly made a false statement, with a view to obtaining council tax benefit..
- 3.29. This offence is currently set out in section 111A of the SSAA 1992 and an equivalent offence in relation to council tax reduction schemes may be provided for in regulations using powers under new section 14B (1), (9) and 10(b) of the Local Government Finance Act 1992.
- 3.30. If such an offence is re-created, the penalty for committing such an offence shall remain the same as it is at present for benefit fraud with a maximum punishment of no more than 6 months in prison in the case of summary conviction or 7 years or a fine or both in the case of conviction on indictment.
- 3.31. The third is offences relating to false representations for obtaining council tax benefit. In particular, these allow an authority to prosecute someone where they can prove that they made a statement they knew to be false, the purpose of which was to obtain council tax benefit. Equivalent offences may be needed to those that currently exist in relation to council tax benefit fraud in order to provide a proportionate punishment.
- 3.32. The existing offences are currently set out under section 112 of the SSAA 1992. Equivalent offences may be created in relation to council tax reduction schemes in regulations made under new section 14B (1) (d), (9) and (10) (c) of the LGFA 1992.
- 3.33. If equivalent offences are created, the penalty for this shall remain the same it is at present for benefit fraud with a maximum punishment of no more than 3 months in prison or a fine not exceeding level 5 on the summary scale.
- 3.34. We will look at introducing in regulations equivalent rules in relation to legal proceedings that local authorities need to take into account. These will ensure that any proceedings are dealt with in the same way as other benefit fraud. For instance, we plan to set time limits on proceedings.
- 3.35. These rules will be the similar to those for proceedings brought in relation to current benefit fraud as set out in section 116 of the SSAA 1992.

Penalties

- 3.36. Regulations can be made under new section 14C of the LGFA 1992 to introduce a number of penalties equivalent to those that currently may be imposed in relation to claims for council tax benefit.
- 3.37. Local authorities may currently impose penalties under Schedule 3 to the LGFA 1992. For instance, in certain circumstances, a local authority may fine individuals where they have received their council tax bill and fail to tell the council that they are not entitled to a discount which has been assumed in that bill. The intention is that the same will apply in relation to reductions granted under the new council tax reduction schemes.
- 3.38. The penalties we are looking to introduce will be similar to penalties currently available under the SSAA 1992 in relation to Council Tax Benefit and will work alongside and not replicate Local Government Finance Act penalties.
- 3.39. We are considering in certain circumstances, introducing penalties that may be imposed as an alternative to prosecution. These may currently be imposed in cases where, for instance, a person fraudulently omits to supply information that leads to them receiving benefit they are not entitled to or to cases where an employer facilitates the commission of a benefit offence by an employee. In such circumstances, a local authority may offer a fine as an alternative to bringing criminal proceedings.
- 3.40. If introduced, these penalties would be equivalent to those under sections 115A and 115B of the SSAA 1992.
- 3.41. We are also considering introducing powers for local authorities to impose civil penalties for incorrect statements and failures to disclose information resulting in a person being given a greater reduction in council tax than that to which they are entitled. These currently exist in relation to social security benefits and were introduced by section 116 of the Welfare Reform Act 2012. We intend to ensure that local authorities have the same ability in relation to council tax reduction schemes.
- 3.42. If introduced, these penalties would be equivalent to those that may be imposed under sections 115C and 115D of the SSAA 1992.