**Draft London Borough of Merton Council Tax Support Scheme**

**Introduction**

Council Tax Benefit will be abolished from 31 March 2013, under the Welfare Reform Act 2012. Section 13A of the Local Government Finance Act 1992, requires each local authority to produce its own scheme to reduce the council tax liability of persons it considers to be in financial need.

This document contains the draft Council Tax Support (CTS) Scheme which, the full authority of Merton Council is required to approve and publish under the provisions of Schedule 4 of the Bill.

This CTS Scheme affects both working age and state Pension Credit age claimants. The Government has decided that a national scheme will exist to provide support to those of pension credit age. Although pensioners will move on to the new Council Tax Support they will receive the same amount of support they would have received if Council Tax Benefit had continued from 1 April 2013. In December 2012, amounts for uprating of non dependant deductions and gross income bands for second adult CTS were made law for the default scheme.

We have still decided that Merton will adopt a local CTS Scheme that is based on the Department for Communities and Local Government (DCLG) default Council Tax Reduction Scheme 2012.

**The basis for the draft CTS Scheme**

The requirement for council tax billing authorities to make a local council tax reduction scheme is specified in the amended Local Government Finance Act 1992 as amended by the Local Government Finance Bill 2012 Schedule 4. This can be found at http://www.legislation.gov.uk/ukpga/2012/17/schedule/4/enacted

The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 prescribe a number of matters, which must be included and this Scheme is to be interpreted and applied in accordance with those regulations. For example the regulations that concern those who claim who are of State Pension Credit age are specified in these. They can be found at http://www.legislation.gov.uk/uksi/2012/2885/contents/made

Merton Council is required to design its own Council Tax Support Scheme to reduce the council tax liability of working age persons it considers to be in financial need. In the event that it fails to do so a Default Scheme will take effect. This Default Scheme is set out in the Council Tax Reduction Schemes (Default Scheme) Regulations 2012, which can be found at the http://www.legislation.gov.uk/uksi/2012/2886/contents/made

**Draft Scheme for Council Tax Support**

The Default Scheme is based upon the current Council Tax Benefit scheme for working age people and incorporates the prescribed requirements. On this basis the Council proposes to base its local Council Tax Support Scheme on the Default Scheme referred to on the above link. The Council will not pass on the reduction in DCLG funding to working age recipients. Instead it will amend exemptions to second homes and empty homes classes within Council Tax to increase the Council Tax base and offset the reduction in Government funding via the DCLG.
Key Principles

Scheme takes into consideration the following key principles:
- It will protect those claiming who are of State Pension Credit age, in so far as they will be no worse off or notionally worse off than they would have been had the national Council Tax Benefit Scheme continued
- Work incentives will be promoted by continuing the same earned income disregards, child care disregards and four week extended payments as existed under the old scheme
- The scheme will not undermine the principles of Universal Credit, to be introduced nationally in April 2014

Prescribed Requirements

The Government has decided there are a number of prescribed requirements, which affect both the working age and pension credit age schemes. These are set out in the Council Tax Reduction Schemes (Prescribed Requirements) Regulations 2012, which can be found at the following link: http://www.legislation.gov.uk/uksi/2012/2886/contents/made

The prescribed requirements, which Merton Council must incorporate in to its local scheme are outlined below.

i. Pensioners

Pensioners are a class of person who, by law, must be included within our Scheme. Schedules 1 to 6 of the Prescribed Requirements Regulations shall apply which contain those matters, which must be included in this CTS scheme with regards to pensioners. The classes of pensioners described in paragraphs 2 to 4 of the Prescribed Requirements Regulations are entitled to a reduction under this Scheme.

ii. Extended Payments for people who have just reached the qualifying age for state pension credit

The Prescribed Requirements Regulations 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 jobseekers 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 Council Tax Reduction for a prescribed period of four weeks, whilst they or their partner apply for the state pension credit eligible age scheme.

iii. People from abroad

The Government intends to apply the same restrictions as exist under the current Council Tax Benefit system. Foreign nationals with limited immigration status and non-economically active EEA individuals who are not exercising EU treaty rights will not be entitled to a Council Tax Reduction and are excluded from this Scheme.

iv. Refugees

As is currently the case, individuals with recognised refugee status, humanitarian protection, discretionary leave or exceptional leave to remain granted outside the immigration rules and who are exempt from the Habitual Residence Test are entitled to apply for Council Tax Reduction as long as their status has not been revoked. For these purposes paragraphs 12 to 13 of the Prescribed Requirements Regulations shall be incorporated into our Scheme as reproduced in the Default Scheme Regulations.

v. Permitting a person to act for another person

The Prescribed Requirements Regulations allow current arrangements for a person to act on behalf of another to continue. For example, where a person has been granted power of attorney over a liable council-tax payer or in cases where a couple wishes to make an application.
**Class of Persons**

It is proposed that eligibility under the new CTS scheme is defined by the terms of the DCLG Default Scheme Council Tax Reductions, which in the main, mirrors the existing Council Tax Benefit rules. The principals and methods set out in the DCLG Default Scheme Regulations will be used to determine council tax support, except that:

- Working age and pension age claimants will have the following types of income disregarded in full and not a £10 per week disregard:
  - a war disablement pension
  - a war widows or widowers pension
  - an Armed Forces and Reserves Forces Compensations Scheme payment

**Draft Scheme for Council Tax Support**

**Class of Reduction**

It is proposed that council tax support be calculated as a means tested discount, defined by the terms of the Default Scheme Regulations and which virtually replicates the existing Council Tax Benefit Regulations Statutory Instrument 2006 No. 215) except as identified below:

Applications for a reduction under the Council Tax Reduction Scheme Council Tax Benefit claims made on or before 31 March 2013 will be treated as a claim for Council Tax Reduction. This ensures that all existing Council Tax Benefit recipients who were entitled at 31 March 2013, do not have to make a fresh claim for Council Tax Support.

An application will be required for all new claims from the 1st April 2013. The procedure for an application for a reduction under this Scheme will be as set out in Part 1 of Schedule 7 of the Prescribed Requirements Regulations which is incorporated in Schedule 1 of the Default Scheme Regulations. Entitlement to Council Tax Reduction is dependent on an application being made in the following way. An application must be made in writing on the authorities Council Tax Support paper claim form or by using the Councils online Council Tax Support claim.

A review process may be implemented by the Council for new and existing awards. Awards may be reviewed in a time period to be determined by the Council and failure of the claimant to fulfill any request during a review of their award may result in the termination of that award.

**General Administration of the CTS Scheme**

Apart from where statutorily required, advice of any award granted, removed or revised will be by an adjustment to the council tax bill and the bill itself will be the formal notification.

Consideration will be given as to how further notifications of an award or non-award of council tax support will be made under the new Scheme. A change resulting in less Council Tax Support is not called an overpayment or excess benefit. It is a change in Council Tax reduction due to a lower or nil award of Council Tax Support will be rectified by the amount being clawed back by an adjustment to the council tax bill.
Procedures for claiming

A person who is liable for council tax, but due to their financial need wishes to make a claim for CTS, may do so directly to the Council Tax Support designated office at the London Borough or Merton in the following manner:

- by completing an electronic online claim made via the London Borough of Merton website
- by completing a paper claim form
- in writing in a form that is acceptable to us.

Claims for CTS cannot be made or accepted as made through the following Government departments in connection with a claim for either Income Support, Universal Credit, income based Jobseekers Allowance or income related Employment and Support Allowance, via the Department for Work and Pensions or the Jobcentre Plus. These can only be claims for national Housing Benefit, not local CTS. However, we will use information from the HB claim and then ask those claimants to complete a shortened one page CTS claim. As now a claimant can request in writing, backdating of up to six months if they are working age and three months if they are of State Pension Credit age.

Appeals Process

An aggrieved person may make an appeal to the Council concerning:

(i) their entitlement to a Council Tax Support under the Scheme, or
(ii) the amount of the support to which they are entitled.

The appeals procedure shall be as set out in Part 2, Schedule 7 of the Prescribed Requirements Regulations which is incorporated in Schedule 1 of the Default Scheme Regulations. The appeal should include the reason and grounds for appeal and the period the appeal relates to. Any additional evidence to support the appeal and grounds should also be provided. Appeals must be made within one calendar month of the date of notification of the decision. Following receipt of an appeal the Council will consider the appeal and provide a written outcome of the appeal to the applicant within two months.

Where an applicant remains dissatisfied they may, within two months, appeal to the Valuation Tribunal at the Valuation Tribunal, 2nd Floor, Black Lion House, 45 Whitechapel Road, Whitechapel, London, E1 1DU. The phone number is 0300 123 2035.

Applications for a discretionary reduction under section 13A (1)(c)

Under Section 13A (1)(c) of the Local Government Finance Act 1992 the Council has a general discretionary power to reduce liability for council tax in relation to individual cases or class(es) of cases that it may determine and where national discounts and exemptions cannot be applied. The procedure by which a person may make an application to the authority for a reduction under section 13A(1)(c ) of the 1992 Act shall be in writing or by means of an electronic communication as set out in Part 3, Schedule 7 of the Prescribed Requirements Regulations which is incorporated in Schedule 1 of the Default Scheme Regulations. An application must be made in writing on the authorities Council Tax Support paper claim form or by using the Councils online Council Tax Support claim.
Up-rating
This draft Scheme proposes that any figures set out in the Scheme be uprated, to take effect on 1st April each year following the commencement of the Scheme, by the consumer price index set out in the preceding September, or by another rate determined with reference to provisions made for housing benefit by the Department for Work and Pensions (DWP) and Universal Credit or as decided by the authority.

Therefore, for the first year commencing 1 April 2013, the uprated amounts provided following the Government Autumn statement, for the default scheme were incorporated into the local scheme. https://www.gov.uk/government/publications/localising-support-for-council-tax-draft-council-tax-reduction-schemes-prescribed-requirements-and-default-scheme-england-amendment-regulations-2012

Revision of the Council Tax Support Scheme
This draft Scheme will have parameters set out for two years, starting 1st April 2013 until 31st March 2015. Different parameters may be set out for the second year of the Scheme, starting 1st April 2014, than the first year but this will not constitute a separate scheme. If the local authority does not revise the Scheme at the end of year two, the parameters for year two will continue to apply for subsequent years. If for any reason Merton Council decides by full authority to change the local scheme in year two it must carry out consultation. There were at the time of writing, still matters that DCLG will be publishing between January 2013 and March 2013.

Universal Credit
National Universal Credit will not yet replace CTS as this currently will remain local. Universal Credit is scheduled to be rolled out nationally from April 2014, starting with new claims in phase one. Any CTS claim made with an associated Universal Credit claim will need to take account of it in the following manner. The maximum award of UC comprised of all the elements will be the claimant’s applicable amount. This will be compared with the DWP assessment of income. These amounts will be converted from DWP monthly amounts to local authority weekly amounts. Where the income exceeds the applicable amount, the reduction of the maximum CTS award of 20 pence for every pound in excess of the applicable amount will apply. Clarification of the DCLG interpretation can be found at https://www.gov.uk/government/publications/localising-support-for-council-tax-council-tax-reduction-scheme-taking-account-of-universal-credit-income

It is proposed that this Scheme may be amended to take into account any circumstances subsequently identified, whether through Government statute, public consultation or any other means. This includes a review of the local Council Tax Support scheme after three years, to look at the options for assimilating it into Universal Credit or not.