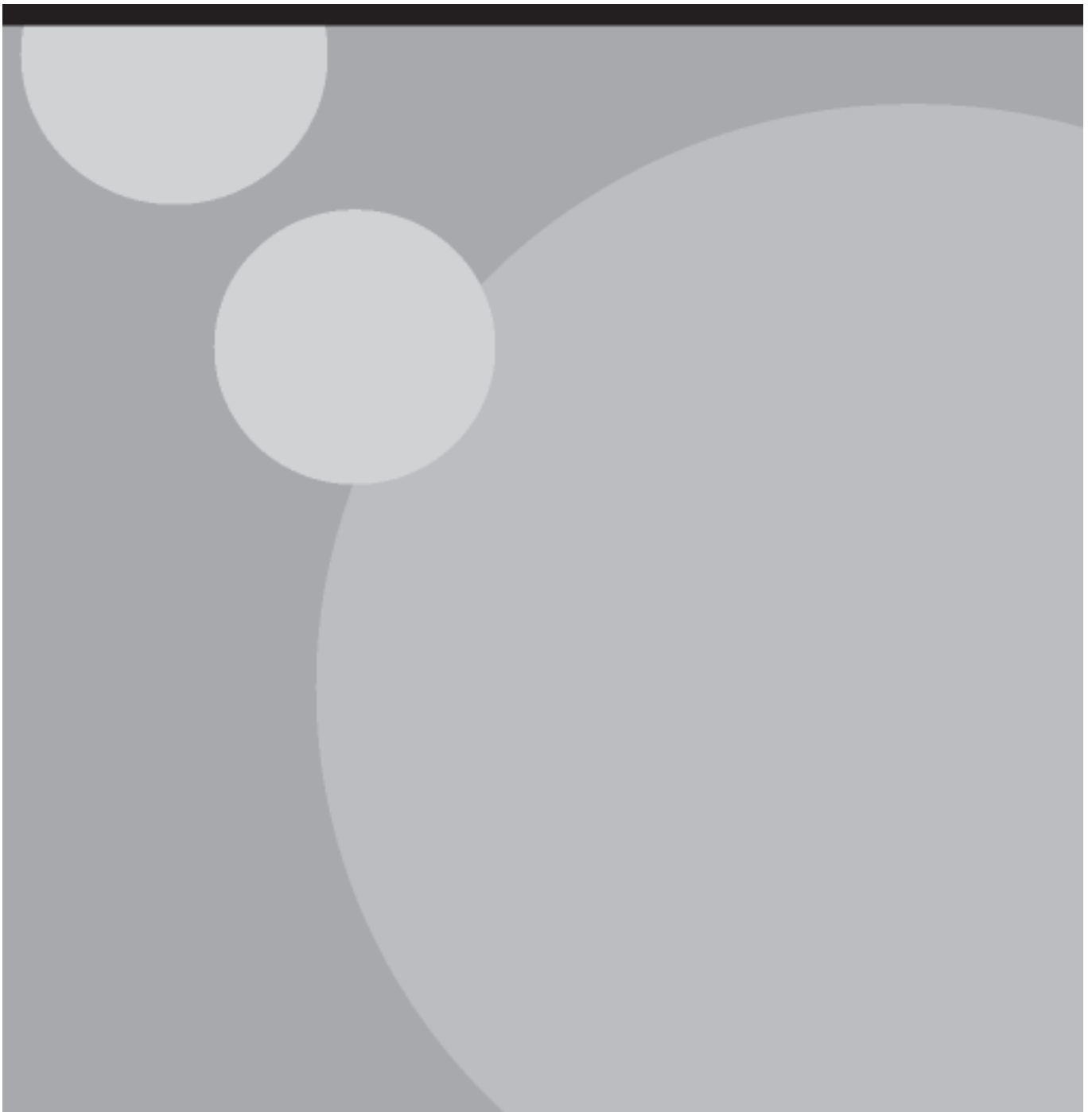




Localising Support for Council Tax

Vulnerable people – key local authority duties





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Chapter 1

Introduction

- 1.1 The Spending Review 2010 announced that support for council tax would be localised from 2013-14 and expenditure reduced by 10 per cent from the same date. The Government subsequently consulted on proposals for the localisation of council tax support in England, and the response to the output of that consultation was published in December 2012, alongside the introduction of the Local Government Finance Bill, which contains provisions to require local authorities to put in place their own localised council tax reduction systems from 1 April 2013.
- 1.2 Localisation of council tax support is part of a wider set of reforms to the welfare system: improving the incentives to work and ensuring resources are used more effectively, so reducing worklessness and ending a culture of benefit dependency.
- 1.3 The Government has been clear that, in developing local council tax reduction schemes, vulnerable groups should be protected. The Government Response sets out the Government's intention to put protection for applicants of state pension credit age on a statutory footing. It confirmed that the Government did not intend to prescribe the protection that local authorities should provide for other vulnerable groups, but would consider what guidance was needed to ensure local authorities were able to take into account existing duties in relation to vulnerable groups in designing their schemes.
- 1.4 This guidance note is intended to address this requirement, helping practitioners to understand the statutory framework and develop approaches tailored to the needs of their particular communities. It covers the following duties cited in the Consultation Response:
 - the public sector Equality Duty (*The Equality Act 2010*);
 - the duty to mitigate effects of child poverty (*The Child Poverty Act 2010*); and
 - the duty to prevent homelessness (*The Housing Act 1996*).
- 1.5 It does not tell local authorities what they must do in their schemes to be compliant with these duties, as this needs to be tailored to their own specific circumstances.

Chapter 2

The public sector Equality Duty

- 2.1 Local authorities already have clearly defined responsibilities in relation to, and awareness of, those in the most vulnerable situations. The public sector Equality Duty is set out in Section 149 of the *Equality Act 2010*.¹
- 2.2 *The Equality Act 2010* brought together all previous legislation in England Scotland and Wales, replacing separate duties relating to race, disability and gender equality.² The Equality Duty came into force on 5 April 2011. It applies to local authorities and precepting authorities as set out in Schedule 19 of the *Equality Act*. Schedule 18 of the *Equality Act* sets out limited exceptions to the application of the general Equality Duty. For example, there are exceptions in relation to immigration and judicial functions. The Equality and Human Rights Commission's website provides further duties on these exceptions: <http://www.equalityhumanrights.com/>.

The Equality Duty

- 2.3 The Equality Duty is intended to integrate consideration of equality and good relations into the day-to-day business of local authorities. In relation to making a localised council tax reduction scheme, this means that a local authority will need to consider how a scheme might affect people who share a relevant protected characteristic (defined in paragraph 2.6 below) and people who do not share it. The Equality Duty has three aims. It requires public bodies to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and
 - foster good relations between those who share a relevant protected characteristic and those who do not.³

¹ <http://www.legislation.gov.uk/ukpga/2010/15/contents>.

² See: 'The essential guide to the public sector equality duty England (and non-devolved public authorities in Scotland and Wales) Revised (second) edition, January 2012.

³ See The Equality Act 2010, S149.

- 2.4 Local authorities will want to ensure that they have due regard to the Equality Duty in making local schemes. For example, when having due regard to the need to advance equality of opportunity between people who share a relevant protected characteristic and those who do not authorities are required have due regard to the need to:
- remove or minimise disadvantages suffered by people due to their protected characteristics; and
 - take steps to meet the differing needs of people with certain protected characteristics.
- 2.5 The Act states that to have due regard to the need to take steps to meet different needs includes (among other things) taking steps to take account of protected characteristics, such as disabled people's impairments. The Equality Act explains that compliance with the Equality Duty may involve treating some people more favourably than others.

Relevant protected characteristics

- 2.6 Relevant protected characteristics covered by the Equality Duty are:
- age (including children and young people),
 - disability,
 - gender reassignment,
 - pregnancy and maternity,
 - race,
 - religion or belief,
 - sex and sexual orientation.

In addition, public authorities in particular need to have due regard to the need to eliminate unlawful discrimination in relation to an individual's marriage or civil partnership status.

- 2.7 It may assist public authorities (including local authorities) to determine the relevance of the Equality Duty to their various functions in order to have due regard to the duty in the exercise of their functions. This is something that billing authorities may wish to consider in planning and developing their schemes.

Requirements of the Equality Duty

- 2.8 The Equality Duty is not prescriptive about the approach a public authority should take in order to comply with their legal obligations. However, authorities do have to consciously think about the need to do the things set out in the three aims of Equality Duty as an integral part of their decision-making process, including in relation to the non-prescribed areas of localised council tax support schemes over which

they have discretion.⁴ A local authority will want to assure itself that it has sufficient information about the effects of the policy on the aims of the Equality Duty.

2.9 Whilst the Equality Duty requires public authorities to consider the three aims it does not require them to achieve a particular outcome. Therefore, if a public authority is aware that a proposed policy may have an adverse impact on some people who share a relevant protected characteristic it should consider that impact and assess it against the wider case for pursuing the policy. If the public authority decides that the benefits of the policy are sufficient to outweigh the impact on those who share the protected characteristic, the ability to explain the justification for continuing with the policy will assist it to demonstrate that 'due regard' has been paid to the Equality Duty. For more information, please see page 6 (outcome 3) of the Equality and Human Rights Commission's 'Making Fair Financial Decisions' guidance. It is good practice for decision-makers in public authorities to keep an adequate record showing that they have actually considered the Equality Duty and asked relevant questions.

2.10 For further information on what the law requires in relation to the Equality Duty, please see 'The essential guide to the public sector equality duty' and Making Fair Financial Decisions, (Equality and Human Rights Commission):

http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/making_fair_financial_decisions.pdf

<http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/equality-act-guidance-downloads/>

See: Summary Guidance/ *Guidance for Public Sector Bodies*.

Welfare needs of disabled people

2.11 The Equality Duty explicitly recognises that disabled people's needs may be different from those of non-disabled people.

2.12 Public bodies should, therefore, take account of disabled people's disabilities when making decisions about policies or services. This might mean making reasonable adjustments, or in some cases treating disabled people more favourably than non-disabled people in order to meet their needs.

2.13 In particular, local authorities will want to make sure that additional challenges faced by disabled people which may affect their income

⁴ See: The essential guide to the public sector equality duty England (and non-devolved public authorities in Scotland and Wales) Revised (second) edition, January 2012, page 11.

(and therefore capacity to pay council tax) are taken into account. For example, this might be by recognising, in designing their schemes, limited ability to work or likely higher-level disability-related living expenses. Authorities will also need to consider the *impact* of their schemes on disabled people.

Equality information and engagement

- 2.14 Local authorities already hold a great deal of information about those with protected characteristics who are in receipt of council tax benefit. Local and national data may also be used to inform choices and decision-making.
- 2.15 It is recommended that, in designing local schemes, authorities engage with representative groups/ people with different protected characteristics at an early stage. Such engagement need not be onerous – authorities might engage with groups with whom they have existing contact, though less visible or new groups should also be considered. Engagement should be proportionate to the size and resources of the authority and impact of change being consulted on, particularly where this has a bearing on equality issues.
- 2.16 Authorities should also make sure engagement methods take into account the needs of people with different protected characteristics. The Equality Act 2010 requires public authorities to make reasonable adjustments for disabled people, including during engagement.

Further information

- 2.17 Further information on the general equality duty is available at <http://www.equalityhumanrights.com/>, including *The essential guide to the public sector equality duty* (January 2012) pages 16 to 18, to which this guidance refers.

Chapter 3

Duty to mitigate the effects of child poverty

- 3.1 *The Child Poverty Act*⁵ received Royal Assent on 25 March 2010. Part Two sets out the local duties of the Act, requiring local authorities to co-operate with named partners⁶ to reduce and mitigate the effects of child poverty in their local area.

Duties

- 3.2 Specifically, the *Child Poverty Act 2010* requires responsible local authorities and their named partner authorities to:
- *Co-operate*: the Act places a duty on responsible local authorities (those with top-tier functions) to put in place arrangements to work with partner authorities named in the Act to reduce, and mitigate the effects of, child poverty in their local area. The Act requires named partner authorities to co-operate with the local authority in these arrangements;
 - *Understand needs*: the Act places a duty on responsible local authorities to prepare and publish a local child poverty needs assessment. This will enable them to understand the characteristics of low income and disadvantaged families in their area, and the key drivers of poverty that must be addressed; and
 - *Develop and deliver a strategy*: the Act requires responsible local authorities and partner authorities to prepare a joint child poverty strategy for their local area, which should set out the contribution that each partner authority will make, and address the issues raised in a needs assessment.

⁵ <http://www.legislation.gov.uk/ukpga/2010/9/contents>.

⁶ The partner authorities in relation to a responsible local authority named in the Act are: (a) any district council which is not a responsible local authority; (b) a police authority; (c) a chief officer of police; (d) an Integrated Transport Authority for an integrated transport area in England; (e) Transport for London; (f) a Strategic Health Authority; (g) a Primary Care Trust; (h) a youth offending team established under section 39 of the Crime and Disorder Act 1998; (i) the Secretary of State in relation to his functions under: (a) section 2 of the Employment and Training Act 1973 (arrangements with respect to obtaining etc. employment or employees) and (b) his functions under Sections 2 and 3 of the Offender Management Act 2007 (responsibility for ensuring provision of probation services throughout England and Wales).

Equality information and engagement

- 3.3 Taken together, these duties mean that local authorities are likely to have assessed the extent and drivers of child poverty locally. In many areas the local child poverty needs assessments and strategies have now been finalised.
- 3.4 Under the duty to co-operate to reduce and mitigate the effects of child poverty, authorities will be required to take into account their local child poverty needs assessment in designing and developing localised schemes. Local authorities should be able to design localised council tax reduction schemes in a way that best suits local circumstances, tailored to what child poverty looks like in the local area.
- 3.5 Authorities may wish to engage with partner organisations with whom they are already working in relation to their child poverty strategy in developing their local council tax reduction schemes.
- 3.6 Authorities will also wish to have regard to the National Strategy for tackling child poverty under the Coalition Government: '*A New Approach to Child Poverty: Tackling the Causes of Disadvantage and Transforming Families' Lives*'. The strategy focuses on a range of measures, including strengthening families, encouraging responsibility, promoting work, guaranteeing fairness and providing support to the most vulnerable:

<http://www.dwp.gov.uk/policy/child-poverty/>.

Further information

- 3.7 Further information on the *Child Poverty Act* and duties of local authorities under this is available from the Child Poverty Unit. The Child Poverty Unit brings together officials from the Department for Work and Pensions, Her Majesty's Treasury and the Department for Education:

<http://www.dwp.gov.uk/policy/child-poverty/>

<http://www.education.gov.uk/childrenandyoungpeople/families/childpoverty/a0066610/support-to-meet-the-local-duties-of-the-child-poverty-act>.

Chapter 4

The Armed Forces covenant

- 4.1 The Armed Forces covenant, published in May 2011, exists to redress the disadvantages that the Armed Forces community faces in comparison to other citizens, and to recognise sacrifices made. In some cases this will require special consideration, especially for those who have given the most such as those who are injured, disabled and bereaved as a result of service.
- 4.2 The covenant sets out an obligation the whole nation and State has towards those who have served their country in this way:
- http://www.mod.uk/NR/rdonlyres/4E9E2014-5CE6-43F2-AE28-B6C5FA90B68F/0/Armed_Forces_Covenant.pdf.
- 4.3 This is particularly relevant when considering how to treat compensation paid through the War Pensions Scheme and the Armed Forces Compensation Scheme (which pay compensation to those injured as a result of their service, as well as compensation to dependants of those who die as a result of service) in relation to design of schemes for council tax reductions.
- 4.4 Under the existing Council Tax Benefit Regulations 2006, local authorities have been required to disregard the first £10 per week of War Pension Scheme and Armed Forces Compensation Scheme payments when assessing entitlement to council tax support. In addition, local authorities have discretion to top-up the disregard to the full amount, and have been encouraged to do so in line with Armed Forces Covenant Principles – an option which is still open to them under the new system.

Further information and engagement

- 4.5 Further information on the Ministry of Defence compensation schemes is available at: <http://www.mod.uk/AFCS>.

- 4.6 Billing authorities will want to engage at an early stage with representative individuals and groups in relation to service and ex-service personnel in their area in designing their schemes (see under the Equality Act).

Chapter 5

Duty to prevent homelessness

- 5.1 Homelessness legislation, under Part 7 of the Housing Act 1996, provides a strong safety net for families with children and vulnerable people who become homeless through no fault of their own. It provides a consistent, national statutory framework for the provision of homelessness assistance and prevention across England.
- 5.2 Those households who find themselves homeless through no fault of their own and who are eligible and in priority need are owed the main homelessness duty. This is when authorities must ensure that suitable accommodation is made available. Local authorities also have other duties to offer advice and assistance to those at risk of homelessness.
- 5.3 The Localism Act 2012 afforded authorities greater flexibility in how they fulfil the main homelessness duty, allowing them to make private rental sector offers without the applicant's consent.
- 5.4 Under the *Housing Act*, local authorities have a duty to formulate a Homelessness Strategy (S1(1)), having conducted a homelessness review of the district. Therefore, to enable them to prevent homelessness and secure sufficient accommodation and support for those who have become (or are at risk of becoming) homeless, local authorities must understand who is homeless and who is vulnerable and at risk of becoming homeless.
- 5.5 In considering how to promote their local reduction schemes, local authorities will want to consider how information about council tax reductions is made available to these households once they are secured accommodation.
- 5.6 Taking into account the Equality Duty, local authorities will want to have regard to vulnerable individuals for whom the local authority secures accommodation, or who are at risk of becoming homeless – for example, young people or individuals suffering from mental illness.

Further information and engagement

5.7 Further information is available at:

<http://www.communities.gov.uk/housing/homelessness/>

<http://www.communities.gov.uk/documents/housing/pdf/152056.pdf>

Billing authorities are encouraged to engage with representative organisations or individuals and housing authorities in designing their schemes (see under the *Equalities Act* (2.15 – 2.17

