

Reference document for the London Borough of Hammersmith & Fulham's Council Tax Support scheme

Introduction

Before 1st April 2013, means-tested help with Council Tax for low-income households took the form of Council Tax benefit. Local authorities administered this in accordance with Great Britain-wide rules prescribed by the Department for Work & Pensions (DWP), and the DWP reimbursed local authorities' expenditure on Council Tax benefit.

From 1st April 2013 onwards, Council Tax benefit was abolished and responsibility was given to each local authority to design and administer its own localised Council Tax support (CTS) scheme. While authorities had the option to implement a scheme which mirrored the former Council Tax benefit rules, they had freedom to change some of the rules so that some households might have to pay more Council Tax than they would have done formerly.

LB Hammersmith & Fulham has taken the decision that residents who apply for CTS should be no worse off than they would have been if Council Tax benefit had continued in existence alongside housing benefit (HB), and to this end Hammersmith & Fulham's CTS scheme uses the HB Regulations as a template for each of the three core components of assessing how much support with Council Tax support a claimant qualifies for:

- Assessment of income and capital;
- Applicable amount (the amount of money that a claimant is allowed every week before there is any means-tested reduction in their Council Tax support; and
- Non-dependant deductions (contributions towards Council Tax expected from adults (other than their partner) who are living as part of the claimant's household.

Local authorities do not have complete freedom in how their CTS scheme is designed. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 set out provisions which every English local authority must include in its Council Tax support scheme.

http://www.legislation.gov.uk/uksi/2012/2885/pdfs/uksi_20122885_en.pdf

These requirements include matters such as: technical terms which also apply to DWP-administered benefits; exclusion from eligibility of certain non-UK nationals; ensuring that claimants who have reached the qualifying age for Pension Credit (this is pegged to female State Pension age) do not receive less in Council Tax support than they would have done had Council Tax benefit continued. Whereas the prescribed rules only adopt this approach in respect of pension age claimants, Hammersmith & Fulham's local scheme extends it to working age cases.

A link to the HB Regulations 2006 is provided below:

<http://www.legislation.gov.uk/uksi/2006/213>

Claim process

We will use the same process for claiming CTS as was in place for claiming Council Tax benefit. Residents claim online using a version of the form which is used for housing benefit claims since, except for details about housing costs, a CTS claim requires identical information. Paper claim forms will be provided in exceptional circumstances where it is not reasonable to expect an online claim to be made.

In general, we will award CTS from the Monday following the date the claim form is received.

Exceptions to this are:

- Where a claim is received within one calendar month of a DWP-administered income-related benefit being awarded, Council Tax support will begin from the Monday following the date that DWP awarded their benefit.
- Where the claimant or their partner is pension age, Council Tax support will begin from the Monday following the date three months before the date that the claim is received, if the other conditions of qualifying for Council Tax support are met during this period.
- Where neither the claimant or their partner is pension age, the claim date will be backdated by up to one month where the claimant can demonstrate that they had 'good cause' for not making their claim on time.
- If a claimant notifies the council in writing, via e-mail or by telephone that they intend to claim Council Tax support then, if the form is received within a month of "first contact", the date of first contact will be treated as the date the claim was made.

We will require evidence of identity, income, and capital to the same degree as we did for Council Tax benefit.

Claims must be made to the London Borough of Hammersmith and Fulham. We cannot accept claims made directly to the DWP. This is because DWP is no longer connected to the provision of means-tested assistance with Council Tax and would no more accept a CTS claim than it would a claim for other Council Tax discounts and exemptions.

Hammersmith & Fulham is obligated to follow the Prescribed Requirements Regulations 2012 in its approach to claims made by persons from abroad (PFA). These exclusions for PFA also apply in HB and would have applied to Council Tax benefit had it continued beyond 31st March 2013.

The means test

Hammersmith & Fulham's CTS scheme will use the same means tested withdrawal rate of support as applied under Council Tax benefit. The CTS award will be reduced by 20% the amount by which the claimant's weekly income exceeds their applicable amount (the minimum subsistence amount set by the Government for HB purposes and which is mirrored in our Council Tax scheme.) CTS claimants who receive the guaranteed element of Pension Credit, income-related Employment and Support Allowance, Income Support or income-based Jobseeker's Allowance will be treated for CTS purposes as if they had zero income and will not have any means tested reduction taken from their CTS. Hammersmith & Fulham's scheme continues the Council Tax benefit approach and there is no requirement for a household to pay a minimum amount of Council Tax.

Calculation on a weekly basis

As with Council Tax benefit and HB, the CTS assessment is based on a consideration of weekly income and a weekly applicable amount and the annual Council Tax liability is broken down into weeks for purposes of carrying out the means test. Whilst calculation of CTS is on a weekly basis, any CTS to which the claimant is entitled will be credited against their Council Tax bill as a single adjustment (which may be subject to review if there is a change in the claimant's circumstances – addressed in more detail below).

Income and capital

Hammersmith & Fulham's CTS scheme adopts HB rules in respect of the calculation of income and capital so that CTS claimants are assessed as they would have been if Council Tax benefit had continued.

As with Council Tax benefit, no person qualifies for CTS if they have more than £16,000 in capital, except for claimants in receipt of a guaranteed Pension Credit. Working age claimants are deemed to have £1 per week of income for every £250 of capital (or part thereof) between £6,000 and £16,000. Pension age claimants are deemed to have £1 per week of income for every £500 of capital (or part thereof) between £10,000 and £16,000.

Partial and full disregards apply to income and capital in Hammersmith & Fulham's CTS scheme as they do in HB. This includes the 'local scheme' full disregard of war pensions (the standard statutory disregard in HB is £10 per week whereas H&F has adopted a full disregard in its assessment of HB and the same applies to CTS).

The only difference between Hammersmith & Fulham's CTS scheme and HB in the treatment of income and capital is that the entire income of Universal Credit CTS claimants is not ignored when they are in work (there is a separate section below on how CTS claimants on Universal Credit are assessed).

Applicable amounts

Hammersmith & Fulham's CTS scheme mirrors the provisions in HB in respect of applicable amounts – the level of income above which means-tested withdrawal of CTS begins.

The applicable amount depends on the composition of the CTS claimant's family, and only family members can count in the assessment of the applicable amount. To count as part of the family, that person must be occupying the same home as the claimant. The definition of family within CTS and HB is narrower than its meaning in general parlance. In HB and CTS, 'family' is limited to:

- The claimant;
- Their partner;
- Any children under 16 or young people aged between 16 and 19, in respect of whom Child Benefit is paid; and for whom the claimant or their partner are responsible.

As well as the baseline applicable amount, calculated by reference to the number of people in the claimant's family, additional amounts are added if the claimant is in receipt of an Employment and Support Allowance component; or if the claimant or a member of their family has a disability. The qualifying criteria for applicable amount premium in Hammersmith & Fulham's CTS mirrors the provisions in HB.

Non dependant deductions

Hammersmith & Fulham's CTS scheme mirrors HB in its definition of a non-dependant. A non-dependant is anyone who lives with the claimant and is not:

- a member of the claimant's family;
- a foster child;
- someone who lives with the claimant on a commercial basis such as a joint tenant or lodger; or
- a resident carer.

Most frequently non-dependants are adult children who are still living with their parents, although other adult relatives would also qualify along with any person who does not fit into one of the above categories e.g. a friend staying with the claimant on a non-commercial basis.

Non-dependant deduction rates under Hammersmith & Fulham's CTS scheme use the 2012-13 Council Tax benefit deduction amounts and non-dependant income bands as a baseline, uprated in each year since then by the same ratio as the HB non-dependant rates published by the DWP. Non-dependant deduction amounts for working age CTS claimants will be the same as the prescribed rates for pension age cases.

As with HB and Council Tax benefit until 31st March 2013, whether a deduction is taken and, if so, how much, depends on the circumstances of both the non-dependant and the CTS claimant (and their partner, if any).

If the CTS claimant or their partner is registered blind, is in receipt of Attendance Allowance, the daily living component of Personal Independence Payment, the care component of Disability Living Allowance or an Armed Forces Independence Payment then their CTS will not be subject to any non-dependant deductions.

There are also categories of non-dependants in respect of whom no deduction is taken. The main groups are:

- someone who is less than 18 years;
- someone who is in receipt of Pension Credit;
- someone who is a full-time student;
- someone who is aged less than 25 years and in receipt of income-based Jobseeker's Allowance, Income Support, income-related Employment and Support Allowance at the assessment rate or Universal Credit on a nil earned income basis.

Outside the exempt non-dependant groups, the amount of deduction depends on whether the non-dependant is working for 16 or more hours per week. If they are not working or working less than 16 hours, a flat-rate deduction is taken; if they are working more than 16 hours, then one of three rates will apply depending on how much the non-dependant's weekly gross income is.

Further technical details in respect of non-dependants may be found in both the HB Regulations 2006 and the CTS Prescribed Requirements Regulations 2012.

Treatment of excess payments

There may be times where CTS is awarded which, per the scheme, the claimant was not properly entitled. As under Council Tax benefit, the CTS credit will be removed from the Council Tax account and a new bill will be issued.

So that CTS claimants are no worse off than they would have been under Council Tax benefit, Hammersmith & Fulham will not ask a claimant to repay CTS which has been granted because of an error by the authority to which the claimant did not contribute and where the claimant could not reasonably be expected to have realised had been awarded in error. In such circumstances, a claimant will only be re-billed from the earlier of the date that their CTS was suspended (see below) or the error in their CTS was identified.

Changes of circumstance

Matters relating to the duty for a claimant to notify the authority of a change of circumstance shall replicate those that applied under Council Tax benefit and are set out in the Statutory Instrument 2006/215, Regulation 67; the same duty to notify changes of circumstances also applies to the HB Regulations which serve as a template for Hammersmith & Fulham's CTS scheme.

A claimant shall have one month to provide additional information and evidence when requested by the council. The authority may under local discretion allow up to a further twelve months if it sees fit. Where a change of circumstances which results in an increase to CTS entitlement is notified outside the one-month period and discretion to allow late notification is not applied, the change shall only take effect from the Monday following the date that the change was notified.

Suspension and termination of CTS

The council may suspend CTS if any of the following situations apply:

- there is doubt concerning whether the qualifying conditions for CTS are met;
- there may be a recoverable excess payment of CTS;
- the claimant or another person acting on their behalf has failed to provide information or evidence required for changing a decision concerning CTS;
- an appeal has been made or leave to appeal has been sought against a decision of the Valuation Tribunal or another organisation designated by English law to consider such appeals to a higher court such as the Upper Tribunal, the High Court, the Court of Appeal and the Supreme Court. This provision will also apply to a case where similar cases are subject to appeal that may affect the case concerned.

CTS may be reinstated when the authority is satisfied that there are no outstanding matters to be resolved, the authority decides not to make an appeal or further appeal, or the appeal or request for leave has been decided, or the claimant has provided the information or evidence required.

Where CTS has been suspended for failure to provide information or evidence and the claimant does not respond within one month or such longer period as may be considered reasonable in the circumstances, entitlement may be terminated.

These provisions are intended to replicate as far as reasonably practicable those which applied under the former Council Tax benefit scheme.

Notification of entitlement

Claimants will be notified of CTS decisions by letter using the same procedures and information about the calculation as applied under Council Tax benefit.

In future, subject to technical feasibility and with the the permission of the claimant, the authority aims to provide notification of CTS decisions via e-mail.

Appeals Process

CTS is not a benefit: CTS is a reduction made to a Council Tax account via a discount and because of this the appeals process differs slightly to that which was in place for Council Tax benefit.

If a claimant or a person acting on their behalf disagrees with a decision that the authority has made regarding CTS, they will need to write to us and explain why they think the decision is wrong. This should be done as quickly as possible after we have made our decision. We will look at our decision again and we may amend it in their favour. Once we have considered an appeal the claimant will be notified of the decision in writing together with the reasons for the decision. If we do not change our decision and the claimant wishes to appeal the matter further, then they should send their appeal in writing to:

Valuation Tribunal, Second Floor, Black Lion House, 45 Whitechapel Road, London E1 1DU; email vtwhitechapel@vts.gsi.gov.uk; tel 0300 123 2035.

The following specific matters cannot be the subject of an appeal under these provisions:

- the local CTS scheme provisions as set by the authority;
- any discretion applied to recover an excess payment of CTS;
- whom to recover an excess payment of CTS from;
- suspending or restoring CTS;
- any decision to refuse to grant a reduction under section 13A(1)(b) Local Government Finance Act 1992.

A claimant may also at any time in writing request the authority to review their entitlement to CTS or the amount of any reduction to CTS outside of the provisions for appeals detailed above.

Scheme changes in 2017/18

The council consulted on two potential changes to its Council Tax scheme for 2017/18, both of which would have mirrored changes to housing benefit made during 2016/17. The first proposed change was to abolish the Family Premium, which is an addition to the amount of income a claimant is allowed each week before there is any means-tested withdrawal of Council Tax support. After further consideration, Hammersmith & Fulham has decided to retain the Family Premium.

The second proposed change, which will apply to Council Tax support from 1 April 2017 onwards, is to limit temporary absence outside Great Britain to four weeks. This means that, for absences starting on or after 1 April 2017, a claimant who leaves Great Britain for more than four weeks can no longer obtain Council Tax Support during the period they are away from home.

The same easements that apply to temporary absence outside Great Britain for housing benefit claimants will also apply in Council Tax support. Notably, where the absence relates to the death of a close relative the absence can be for up to eight weeks, and if someone is in hospital they can be absent for up to 26 weeks. A link is provided to the DWP's guidance circular on the new temporary absence rules in housing benefit, which Hammersmith & Fulham's 2017/18 Council Tax support scheme duplicates:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/540417/a7-2016.pdf.

CTS claimants in receipt of Universal Credit

CTS claimants who receive Universal Credit and have no earned income qualify for the maximum amount of CTS in the same way as they would under the pre-existing DWP income-related benefits e.g. income-based Jobseeker's Allowance.

Assessment of CTS for in-work Universal Credit claimants does not mirror the HB position. Instead of ignoring the entire income of a Universal Credit claimant – which potentially would result in maximum CTS being awarded even if the claimant was working full-time – Hammersmith & Fulham's CTS scheme means-tests in-work Universal Credit claimants using Universal Credit work allowances (the UC counterpart to applicable amounts in earlier income-related benefits) whenever these are more favourable to the claimant than the HB-derived applicable amounts ordinarily used. The object of this approach is to prevent Universal Credit work incentives from being eroded by the withdrawal of CTS.

Examples are provided below to illustrate how Hammersmith & Fulham's CTS scheme approaches in-work Universal Credit cases. The method illustrated by the first example is the one adopted by the CTS scheme. The examples compare the circumstances of a claimant with a low earned income (net amount of £115.38 per week). The claimant has a rent liability of £200 per week.

In the first example, the claimant has been awarded £427.95 per week Universal Credit but is expected to pay £200 of this towards their rent, leaving a net amount of £227.95 in respect of living costs. Ignoring Universal Credit income whilst applying a zero applicable amount through CTS in effect makes the Universal Credit award the applicable amount. Non-Universal Credit income is then dealt with as excess income per the general rules of the CTS scheme.

Description	Income	CTS disregard	Eligible amount
Net earnings	£115.38	£27.10	£88.28
Child Benefit (disregarded)	£34.40	£34.40	£0.00
Universal Credit (UC)	£427.95	£0.00	£427.95
Total income (earnings plus UC)	£516.23		

Income used in calculation	£516.23
Less the UC applicable amount	£427.95
Excess Income	£88.28

Eligible Council Tax	£23.91
Less 20% of excess income	£17.66
Weekly Council Tax Support entitlement	£6.25

In the second example the Universal Credit is fully included as income, except the £200 per week awarded in respect of housing costs. The claimant is then given a CTS applicable amount using the same method as if they were not on Universal Credit.

The increased work allowances in Universal Credit mean that a claimant with the same earned income would have received less in legacy tax credits. Based on the current example, the authority estimates that a claimant would receive about £120 per week in tax credits rather than the £227.95 per week received in Universal Credit (net of rent costs). This means that those receiving Working Tax Credit and/or Child Tax Credit qualify for a higher CTS award than a Universal Credit claimant with the same earned income, but this is because the Universal Credit income is higher. The claimant's net income overall is higher under Universal Credit.

Description	Gross income	Disregards	Eligible amount
Net earnings	£115.38	£27.10	£88.28
Child Benefit (disregarded)	£34.40	£34.40	£0.00
Universal Credit (UC)	£427.95 (including £200 per week housing costs)	£200.00	£227.95
Total Income (earnings plus UC)	£316.23		

Income used in calculation	£316.23
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Less the CTS applicable amount	£224.25
Excess income	£91.98

Eligible Council Tax	£23.91
Less 20% of Excess income	£18.36
Weekly Council Tax Support award	£5.55