



*Amendments to Council Tax and
Non-Domestic Rates Secondary Legislation*

Summary of Consultation Responses



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On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

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December 2006

Product Code: 06LRGG04284

Amendments to Council Tax and Non-Domestic Rates Secondary Legislation - Summary of Consultation Responses

1. On 8 August 2006, the Department for Communities and Local Government published a consultation paper which sought views on a number of proposed minor amendments to council tax and non-domestic rates secondary legislation. Broadly the amendments fell into the following categories:
 - uprating financial limits and updating definitions;
 - changing the effective date of the increased council tax liability where the valuation list has been amended; and
 - minor changes to the information that must be provided by local authorities with council tax and non-domestic rates demand notices.
2. A letter publicising the consultation paper was sent to all English local authorities and other stakeholders and made available on the Department's website. The consultation closed on 31 October.
3. The Department received 59 representations in response to the consultation paper. The only proposal which was not supported by a majority of respondents was the one on parish council budget information and demand notices (Question 14). In the light of responses, Ministers have decided to amend legislation as proposed, and to address the concerns of respondents by making a further amendment to uprate the £100,000 threshold for providing a breakdown of parish expenditure with council tax bills.
4. A full summary of responses received can be found below.
5. Details of the amending Statutory Instruments can be found in Council Tax Information Letter 5/2006 at the following link:

<http://www.local.communities.gov.uk/finance/ctax/Ctil.htm>
6. The Department would like to take this opportunity to thank all of those who contributed to this consultation.

Annex A

Summary of Responses to Consultation

CARER DISREGARD

Question 1. Should the carer earnings limit be updated in line with inflation to £44?

Yes 44	No 2	No strong view / No comment 13
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The vast majority of respondents agreed with this proposal. A number of respondents commented that this part of the carer disregard (Part 1) was rarely used. That issue is outside the scope of this consultation but we will keep it in mind should resources allow us to review the definition in more detail. In the light of responses we therefore intend to uprate the carer earnings limit to £44.

ATTACHMENT OF EARNINGS ORDERS

Question 2. Should the Attachment of Earnings Orders earnings limit be updated in line with the Average Earnings Index as set out in Annex A for new AEOs made on or after 1 April 2007?

Yes 40	No 12	No strong view / No comment 7
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The large majority of respondents agreed with the proposal. A number of respondents commented that, as we recognised in the consultation paper, the changes would have a small adverse effect on in-year collection rates as they would result in a debt taking longer to clear. This in turn might mean that authorities look to alternative enforcement methods. One respondent also suggested that tax credit income should be taken into account when assessing attachable earnings. Another that the proposed increases in limits took these out of line with the rates used in relation to some court fines. We recognise all these points, but any change to the treatment of tax credit income falls outside the scope of this consultation and agree with the majority of respondents that the consequences outlined above are outweighed by the need to ensure, as a matter of fairness, that earnings limits for deductions purposes are maintained in real terms. In the light of responses we therefore intend to uprate the earnings limits as proposed in the consultation document.

BAILIFFS' CHARGES

Question 3. Should the amounts that can be recovered by billing authorities for bailiffs' charges be uprated in line with inflation as detailed in Annex B?

Yes	No	No strong view/ No comment
47	1	11

Nearly all the respondents that commented agreed with the proposal. Some respondents commented that other fees connected with distress should also be reviewed. Such issues will be covered in regulations made under powers in the Tribunals, Courts and Enforcement Bill. In the light of responses we therefore intend to uprate the amounts that can be charged in connection with levying distress as proposed in the consultation document.

LOCAL AUTHORITY FEES

Question 4. Should the maximum fees that local authorities can charge in connection with obtaining a warrant of commitment and an arrest warrant be uprated as detailed in Annex C?

Yes	No	No strong view / No comment
47	3	9

The vast majority of respondents agreed with and welcomed this proposal. Some commented that more senior staff deal with these processes and therefore the maximum fees do not reflect the cost incurred by the authority. We do not think though that there is a compelling case for moving beyond the starting point for this consultation, which is that rates should simply be increased in line with changes in the value of money. In the light of responses we therefore intend to uprate the maximum fees that local authorities can charge as proposed in the consultation document.

PENALTIES FOR FAILURE TO PROVIDE INFORMATION

Question 5. Should the penalties that billing and levying authorities can impose for failure to provide information be uprated as proposed?

Yes	No	No strong view / No comment
47	1	11

Nearly all respondents agreed with this proposal. Some commented that higher penalties than proposed would be more effective in deterring taxpayers from claiming discounts to which they were not entitled. Again, the intention of the consultation was simply to uprate the limits in line with current prices. In the light of responses we therefore intend to uprate the penalties that billing and levying authorities can impose as proposed in the consultation document. As we pointed out in the consultation paper, these changes may need to be brought into force later than 1 April 2007 due to the need to amend primary legislation by way of an Order made by the Treasury.

DEFINITION OF PRESCRIBED EDUCATIONAL ESTABLISHMENTS

Question 6. Should Paragraph 1 of Part 1 of Schedule 2 to the Council Tax (Discounts Disregards) Order 1992 be amended as proposed?

Yes	No	No strong view / No comment
48	0	11

No respondents disagreed with this proposal. Many respondents raised wider issues about the difficulty in defining students for council tax purposes and establishing student status. We are very much aware of those concerns and as time and resources allow we will review these issues. In the light of responses we intend to update the definition as proposed in the consultation document.

DEFINITION OF FURTHER EDUCATION

Question 7. Should Paragraph 2 of Part 1 Schedule 2 to the Council Tax (Discounts Disregards) Order 1992 be amended as proposed?

Yes	No	No strong view / No comment
48	0	11

No respondents disagreed with this proposal. We therefore intend to update the definition as proposed in the consultation document.

DEFINITION OF FOREIGN LANGUAGE ASSISTANT

Question 8. Should Paragraph 2 of part 2 of schedule 1 to the Council Tax (Discounts Disregards) Order 1992 be amended as proposed?

Yes	No	No strong view / No comment
48	0	11

No respondents disagreed with this proposal. We therefore intend to update the definition as proposed in the consultation document.

APPRENTICE DISREGARD

Question 9. Should Part 1 of Schedule 1 to the Council Tax (Discount Disregards) Order 1992 be amended as proposed?

Yes	No	No strong view / No comment
48	0	11

No respondents disagreed with this proposal. One respondent suggested that a person undertaking an apprenticeship should qualify for a discount irrespective of their earnings. However, that would represent a policy change, for which we do not believe there is a compelling case and falls outside the scope of this consultation. In the light of responses we therefore intend to amend the definition as proposed in the consultation document.

YOUTH TRAINEE DISREGARD

Question 10. Should Part IV of Schedule 1 to the Council Tax (Discount Disregards) Order 1992 be amended as proposed?

Yes	No	No strong view / No comment
47	0	12

No respondents disagreed with this proposal. One authority felt that evidence to support a claim for the discount should be provided. We feel that this would represent an unnecessary level of prescription. Authorities can determine for themselves what are reasonable steps to ascertain discount entitlement. In the light of responses we therefore intend to update the definition as proposed in the consultation document.

PUBLICATION OF RETAIL PRICES INDEX

Question 11. Should Regulation 2(4) of The Billing Authorities (Anticipation of Precepts) Regulations 1992 be amended as proposed?

Yes	No	No strong view / No comment
46	0	13

No respondents disagreed with this proposal. We therefore propose to update the definition as proposed in the consultation document.

BACKDATING OF COUNCIL TAX - IMPROVEMENTS TO DWELLINGS

Question 12. Should Regulation 14(2) of the Council Tax (Alteration of Lists and Appeals) Regulations 1993 be amended as proposed?

Yes	No	No strong view / No comment
36	11	12

The majority of respondents agreed with the proposal that where a property has been improved and sold, the effective date of any band change should be the date the valuation list was amended, rather than the date of sale. However, a number of different views were expressed. Concerns were raised about the loss of revenue an authority could incur as a result of the proposed change. There was concern that this proposal could unfairly disadvantage certain tax payers if the timing of alterations varied across England (e.g. people would pay more tax in areas where alterations are made more quickly). It was also suggested that improvements to properties should, where applicable, result in a band increase immediately after the property has been improved and not at the date of sale.

We believe that homeowners should not be discouraged from making home improvements by any short term council tax consequences, and therefore home improvements should not be taken into account for council tax banding purposes unless either the property is sold or it is revalued as part of a general revaluation. We recognised in our consultation paper that there would be some marginal loss of windfall revenue to authorities if errors were identified. We however believe that this change improves fairness for council tax payers and puts the position into line with other cases where valuation list errors are corrected.

We recognise the strong concerns raised about the administrative and financial costs of backdating cases where bands have been amended downwards (an issue on which we did not consult), but we believe that it is right that tax payers should be able to reclaim any council tax that has been overpaid as a result of their property being placed in too high a band. In the light of responses we intend to update the regulations as proposed in the consultation document.

BACKDATING OF COUNCIL TAX - DISAGGREGATION

Question 13. Should Regulation 14 (7A) of the Council Tax (Alteration of Lists and Appeals) Regulations 1993 be amended as proposed?

Yes	No	No strong view / No comment
33	14	12

The majority of respondents agreed to the amendments as proposed. Concerns were raised that the proposal may encourage the deliberate non-reporting of changes to properties. We do not believe that there is a significant amount of deliberate council tax avoidance in this area, and believe on balance that unsuspecting tax payers should not be faced with a backdated bill in these circumstances. We therefore intend to update the regulations as proposed in the consultation document. For the sake of clarity, it should be pointed out that we are *not* changing the current rules where a new hereditament arises, for example, where a single house is converted into flats. In that situation the effective date of the list change will remain the date that the change occurred.

DEMAND NOTICES - PARISH COUNCIL EXPENDITURE

Question 14. Should Schedule 3 to the Council Tax and Non Domestic Rating (Demand Notices) (England) Regulations 2003 be amended as proposed?

Yes	No	No strong view / No comment
19	24	16

A small majority of respondents disagreed with this proposal. We believe that in some cases this was due to a misunderstanding as to what was being proposed. This is simply to give billing authorities the *option*, for ease of administration, of just including with the bill details of the expenditure of the parish in which the tax payer lives. Authorities will still be able to include information on all parishes over the threshold if they so choose.

There was a strong feeling from respondents that the £100,000 threshold for providing a breakdown of parish expenditure should be uprated, given the administrative cost of producing this information to which taxpayers pay little attention.

In the light of responses we therefore intend to both amend the legislation as proposed but also to uprate the threshold in line with inflation to £140,000.

DEMAND NOTICES - RURAL RATE RELIEF

Question 15. Should the Council Tax and Non-Domestic Rating (Demand Notices) Regulations 2003 be amended as proposed?

Yes	No	No strong view / No comment
42	0	17

No respondents disagreed with this proposal. In the light of responses we therefore intend to update the definition as proposed in the consultation document.

DEMAND NOTICES - FORMER AGRICULTURAL PREMISES RELIEF

Question 16. Should the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 be amended as proposed? (Former agricultural premises relief)

Yes	No	No strong view / No comment
43	0	16

No respondents disagreed with this proposal. In the light of responses we therefore intend to update the definition as proposed in the consultation document.

DEMAND NOTICES – SMALL BUSINESS RATE RELIEF

Question 17. Should the Council Tax and Non-Domestic Rating (Demand Notices) (England) Regulations 2003 be amended as proposed?

Yes	No	No strong view / No comment
44	0	15

No respondents disagreed with this proposal. In the light of responses we therefore intend to update the definition as proposed in the consultation document.

TIMING OF CHANGES

Question 18. Do you have any comments on the timing of the proposed changes?

The vast majority of respondents were content with the proposed timing of the changes. A few respondents were concerned that as the regulations would not come into force until the end of January there would be insufficient time to make the necessary changes to software. We believe that by laying these regulations now, authorities should have adequate time to prepare for changes needed to demand notices and other information. Note that although, for the sake of simplicity, all the regulations will, subject to Parliament, come into force on 31 January, they will take effect from 1 April.

OTHER COMMENTS

Question 19. Do you have any other comments on the issues raised in this consultation paper?

A wide range of other comments were made by respondents. These included:

- the environmental impact of providing information accompanying the bill,
- exemptions for respite homes,
- attachment orders for other benefits,
- issues around employment details and national insurance numbers, and
- the clarification of exemption Classes E, I and J.

These issues are outside of the scope of this consultation but we will keep them in mind and return to them as resources allow.
