

Council Tax and international students

28 September 2011

What is the Council Tax?

The Council Tax is set by local authorities in England, Scotland and Wales to pay for local services that they provide, such as rubbish collection, the police and the fire brigade. It is based on the value of the house, flat or other accommodation (in this information sheet these are all called 'dwellings') in which you live. There is no Council Tax in Northern Ireland but there is a different local tax which students may have to pay - ask at your institution for advice.

The Council Tax bill for a dwelling depends on its value and the number of people aged 18 years or over living there.

Some dwellings are 'exempt', which means no Council Tax is payable at all and there will be no bill for the dwelling.

In other cases, certain people (including students) are ignored when counting the number of adults living in a dwelling and there may be a reduction in the bill.

Do I have to pay the Council Tax?

If you live in an 'exempt dwelling' you will not need to pay the Council Tax. There will be no bill for the dwelling.

Exempt dwellings include:

- Accommodation provided by the university or college that is occupied only or mainly by students (for example, a hall of residence or student house)
- Other dwellings (eg a privately rented flat) occupied only by students (see the note below about the dependants of students)

See **Box 1** on page 3 for the definition of 'student' for Council Tax purposes. If you live with people who do not meet the definition, you might have to pay the tax.

I live with non-students: do I have to pay the tax?

Students living only with their spouse, civil partner or family

If the only non-student adult in your dwelling is your spouse (husband or wife), civil partner or an adult dependant, the dwelling may still be exempt.

The dwelling should still be exempt if your spouse, civil partner or dependant is not a British citizen, and has been given permission to be in the UK (given 'leave to enter' or 'leave to remain') with a 'no recourse to public funds' condition or a prohibition on employment endorsed in their passport, or on their UK identity card ('Biometric Residence Permit' or 'Identity Card for Foreign Nationals'). This covers almost all spouses, civil partners and dependants from outside the European Economic Area (EEA) or Switzerland who come to join an international student in the UK. The UK government's Department of Communities and Local Government publication, "**Council Tax: A guide to your bill**", sets out the entitlement to exemption in the section on page 9 which refers to full-time students.

Some local authorities refuse to recognise that a dependant who has permission to work in the UK but has a 'no recourse to public funds' condition is exempt from Council Tax. This generally happens because

while the law says that the concession is for a dependant who is prevented from taking paid employment or from claiming public funds, the local authority may interpret the word "or" to mean "and" rather than "either .. or...". If you wish to appeal against such a decision by your local authority, you should seek advice and / or support from an adviser at your institution, your Students' Union, your local Citizen's Advice Bureau or a local solicitor. Tell them that the judgment of Lord Denning in the case of *Crosfield Electronics v Baginsky and Others* [1975] 1 W.L.R. 1135 might be helpful in making your argument. This judgment is not specifically related to council tax or to students, but to the interpretation of the word "or".

The dwelling will not be exempt if your non-student spouse, civil partner or adult dependant living with you in the dwelling are:

- An EEA or Swiss national, or the family member of an EEA or Swiss national, who is exercising a right of free movement in the UK
- A British citizen
- Settled in the UK (with indefinite leave to enter or remain)

Students living with non-students

If you live with adults who are not students (apart from your spouse, civil partner or family as above), there will be a bill for the dwelling..

There is a bill for my dwelling: how is it calculated?

The Council Tax bill is based on two main elements:

- the value of the dwelling, and
- the number of adult residents: the full bill is payable if there are two or more (but see below).

The local authority puts each dwelling into one of eight 'bands', A-H, according to value, with A being the lowest value band, H the highest. You can check your dwelling's band online at www.direct.gov.uk.

Each local authority sets the amount of tax payable for each band for its own area, so Council Tax rates vary across the country.

The local Council Tax billing office, the advice service at your college or university, or your local Citizens' Advice Bureau will be able to give you more information on the Council Tax rates in your area.

How the local authority counts the number of people living in the property

The local authority will count the number of adults who are living in the dwelling. However, when they are counting, they will 'disregard' (not count) certain resident adults, including: spouses, civil partners, and dependants of students with either a 'no recourse to public funds' condition or employment prohibition in their passport, students and student nurses – see **Box 1** on page 3.

If the local authority counts two or more resident adults who are not 'disregarded' it will issue a bill for the full amount according to the dwelling's 'band'.

If the local authority counts only one resident adult, there will be a 25% discount on the bill. For example, an international student and spouse with a 'no recourse to public funds' immigration condition share a flat with one other adult who is not a student and who works full time. The local authority disregards the student and spouse leaving only one resident adult. Therefore, there will be a 25% discount on the bill.

If the local authority counts no resident adults, there will be a 50% discount. For example, an international student shares a flat with another adult who is not a student but is in another category disregarded by the local authority. The flat is not 'exempt' because it is not occupied only by students. However, both residents are 'disregarded', so there is a 50% discount.

Remember, dwellings occupied only by students as defined in **Box 1 on page 3 are exempt from the tax and there should not be a bill to pay. See the section on page 1, 'Students living only with their spouse, civil partner or family', for information about how the spouses, civil partners and dependants of international students are dealt with for Council Tax purposes.**

Who has to pay the Council Tax bill?

If your dwelling is not exempt, after the bill has been calculated, it will be issued to the person or people liable to pay the bill. They are legally responsible for paying the bill. If you share the accommodation, in certain circumstances, someone else will be liable for the bill:

- If you share the dwelling with the person who owns it, the owner will be liable. Part of the cost may be passed on to you through your rent, but the local authority cannot make you pay the bill.
- If you live in a 'house in multiple occupation' (HMO): there will be one Council Tax bill for the whole house and the owner or landlord/landlady will be liable. An HMO is where different households occupy the same building but share certain facilities such as a bathroom or kitchen. A house converted into bedsits would normally be an HMO, but a self-contained flat, where the only shared area is an entrance or hall and stairs, will usually be treated as a separate dwelling for Council Tax purposes.

Students in England, Wales and Scotland cannot be held jointly liable to pay a Council Tax bill, for example where a student shares the house with other non-students as joint tenants, the local authority cannot make the student pay the bill. However a student may still be liable for a Council Tax bill if they are the only liable person or all the jointly liable people are students.

I have received a bill but I think my 'dwelling' should be exempt – what should I do?

You should contact the local authority immediately: telephone the number on your Council Tax bill. The local authority will tell you what evidence they need and whether you need to fill out any forms.

Box 1

Definition of a student for Council Tax purposes

Note that the Council Tax definition of a student is not the same as that used in the immigration rules.

You will count as a student if you are:

- studying at an institution in the UK, or in another country of the European Union, on a course which:

(a) lasts at least one academic year, and

(b) requires you to undertake the course for at least 24 weeks a year, and

(c) involves at least 21 hours study, classes or work experience a week during term

or

- you are under 20 years old, and studying for a qualification up to or equivalent to A level or Higher Scottish Certificate of Education on a course lasting 3 months or more involving a minimum of 12 hours a week daytime study

or

- you are a foreign language assistant working in a school or educational institution and registered with the Central Bureau for Educational Visits and Exchanges

or

you are a student nurse on a Project 2000 course, or a student midwife or a student nurse on a pre-registration undergraduate course, or a nurse on post-registration health visitor training.

If you are on another nursing course but you do not come within the student definition, you may, as a 'student nurse' be disregarded when the number of adults in your dwelling is counted, leading to a discount. See on page 2, the section '**There is a bill for my dwelling: how is it calculated?**', though the dwelling will not be exempt.

What documents will I need to prove to the local authority that I am a full-time student?

Each local authority will decide what evidence of student status it needs. If you ask, your institution has to provide a Council Tax certificate (usually a printed statement), showing that you are a full time student. The local authority will usually accept this. You may be refused a certificate if you ask more than one year after you have finished your course, however.

What if I don't pay the bill?

If you are liable but refuse to pay the bill, the local authority will usually start legal proceedings to recover the money. If you disagree with the bill, have difficulty paying, or have allowed arrears to build up and owe a lot of money, you should seek independent advice. See the section on '**further advice and assistance**' at the end of this information sheet.

If the bill is wrong, the local authority may agree that you can delay payment until the bill is corrected. However, if you are in dispute about the bill, the local authority may expect you to make some payments while the dispute is in the process of being resolved. You should keep in contact with the local authority about this, and it is usually best to seek independent advice.

Can I appeal if I think my Council Tax is wrong?

Yes, if you think that:

- you should not be the liable person in your home, or
- your home should be exempt, or
- the amount of your bill is incorrect.

You may find it helpful to get independent advice before appealing against a decision.

You should write to the local authority stating why you think they are wrong. The authority has two months to make a decision about your appeal. If it fails to do so within that time or if you disagree with its decision, then you can appeal to a Valuation Tribunal or Valuation Appeal Committee.

Do I have to inform the Local Authority if circumstances change?

The liable person(s) is responsible for informing the local authority of any changes in residence that may affect liability or the amount of the bill, and could be charged a penalty if he or she fails to do so.

Will I be entitled to any benefits to help me pay Council Tax?

'Council Tax benefit' is available for people on low incomes who are liable for the tax, but most full-time students are not eligible for it. If your UK identity card ('Biometric Residence Permit' or 'Identity Card for Foreign Nationals') or passport has a 'no recourse to public funds' condition, claiming or trying to claim Council Tax benefit could mean that you are breaching immigration rules.

Some people who are liable for Council Tax and entitled to benefit can receive a benefit known as 'second adult rebate'. This is paid if the liable person is living with another adult who is:

- not liable for the Council Tax, and
- not paying rent, and
- not a full-time student or otherwise disregarded.

To qualify, the income of the 'second adult' must generally be very low.

As for the main Council Tax benefit, claiming second adult rebate could damage your immigration position.

However, there may be circumstances in which you or your dependants are entitled to Council Tax benefit, or a second adult rebate. You should check with a student adviser in your institution before claiming.

I am in the UK on a short course or visiting a relative or friend - will this affect the Council Tax bill for where I stay?

The Council Tax bill only takes into account people who are 18 or over and 'solely or mainly' resident in a dwelling. If you are in the UK for a short period (for example, you are on a short course, and the total amount of time you spend in the UK will only be for a few months), the local authority may accept that you are not 'solely or mainly resident'. If this is the case, the Council Tax bill for where you stay will not be affected. Local authorities decide sole or main residence on a case by case basis.

I am in the UK as an academic visitor - do I need to pay?

Academic visitors do not qualify as 'students' for Council Tax purposes, so you will usually be counted as a resident adult for the bill. However, you may be able to argue that your accommodation in the UK is not your 'sole or main residence', especially if you are in the UK for only a few months.

I am writing up my thesis - do I need to pay?

If you are enrolled full-time while writing up, you are covered by the general definition of student that has been in place since 13 May 2011.

Before 13 May 2011, the definition of student included the requirement to be "attending" your course, which some local authorities did not believe that a writing up student could meet. If you have been found liable for a bill for a period before 13 May 2011, and you wish to appeal against such a decision, you should seek advice and / or support from an adviser at your institution, your Students' Union, your local Citizen's Advice Bureau or a local solicitor. Tell them that the judgment of the High Court in the case of *R (Feller) v Cambridge City Council*, March 2011, might be helpful in making your argument.

If you are enrolled part-time, your institution may not be able to issue an exemption certificate. If they do, your local authority may accept that you should still be regarded as a student. Check with the advice service at your institution for information on how the institution and the local authority treat writing-up students.

If your university does not enrol students during their writing-up period, they will probably not be able to issue you an exemption certificate, and therefore you cannot apply for the Council Tax exemption.

The National Union of Students and the National Postgraduate Committee have collaborated on a campaign to encourage institutions to allow students who are writing up to be treated as full-time students for Council Tax purposes. See www.npc.org.uk/campaigns.

I need to take time off my course - will this affect my bill?

Many students need to take time off from their course. If you miss a few classes because of illness, this will not affect the Council Tax. When a student suspends their studies for a longer period (eg because of a longer illness, or to re-sit examinations), but is expected to return to the course later, this is known as

'intercalating'. If your institution regards you as an 'intercalating' student, you will still be regarded as a student for Council Tax purposes.

You will stop being regarded as a student if you give up your course, your institution terminates your studies, or your course ends. Some local authorities may charge Council Tax for a period when you have finished one course and are waiting to start another, or for the period from your arrival in the UK until your course starts. If this happens, contact your adviser to check whether you have to pay.

Further advice and assistance

You may wish to get independent advice if you are in dispute with the local authority over a Council Tax issue, or you need help in figuring out if, or how much, you have to pay. The advice service at your institution or student union, your local **Citizens Advice Bureau**, and other free independent advice centres can usually help with Council Tax problems. You can get details of your local Citizens Advice Bureau at <www.adviceguide.org.uk>.

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