

# **EG Council Tax Handbook**

## **Update September 2007**

**(September 2008)**

### **NOTES ON THE USE OF THE UPDATE ENTRIES**

1. The update entries are given for each chapter of the Handbook in page order.
2. Users of **EG Council Tax Handbook** will be able to read an update entry in context by referring to the page cited.
3. Most of the headings given below are those in a section or sub-section in the book. However, new topics are given a page for relevant context
4. References are listed under the last update for each chapter. All references are also given at the end of the Update
5. Where a reference has been given against a topic the reader may follow the lead to obtain more information on the topic.

***EG Property Handbook*** was written by Geoff Parsons and Tim Rowecliffe Smith.

It was published by **Estates Gazette Books**, 1 Proctor Street, London, WC1V 6EU.

***Update 1*** has been prepared by Geoff Parsons

## UPDATE 1 to EG COUNCIL TAX HANDBOOK (September 2007)

### Part 1 COUNCIL TAX AND ITS HISTORY

#### Chapter 1 Council Tax – An Overview

##### Government functions

##### **Local government functions** (page 4)

Whilst the functions are delivered by local authorities (LAs), many other models are being explored in terms of:

- Outsourcing to the private sector
- Partnerships
- Shared services
- Third sector delivery.

In Wales for instance the Assembly for Wales set up the Beechem Review with a remit report on local authority organisation and operations. Its report was *Beyond Boundaries*. (See below for examples elsewhere: page 225.)

##### **Financial context for local taxation** (page 5)

In its report *Pacing Lyons: a route map to localism* of July 2006 the National Local Government Network proposed a radical sharing national taxes (see below p 216). The report also advocated that local authorities be afforded powers to raise a number of local taxes – subject to obtaining a 55 % majority by referenda.

##### **Banding** (page 7)

At present in England the bands for council tax are band A to band H. The government had proposed changes to the council tax regime, including changes to the bands to make dwelling houses with higher capital values bear a higher proportion of the charge relative to dwelling houses with lower capital values.

##### **Administration of local taxation**

##### **Billing and precepting authorities** (page 11)

If a proposed local government reorganisation (2007) transpires in some areas there will be:

- A reduction in the number of billing authorities and demands for precepts
- The redistribution of services between billing authorities areas
- Possibly, the level of local taxes for an area.

##### **Enforcement and counter-fraud work** (page 12)

Enforcement principles and practices are changed as a result of the Tribunals, Courts and Enforcement Act 2007. Box 8.1R indicates the likely new arrangements.

Box 8.1R New arrangements for enforcement law	
Enforcement agents (formerly bailiffs)	<ul style="list-style-type: none"><li>• Regulated by the SIA</li><li>• Must be fit and proper persons – need</li></ul>

<ul style="list-style-type: none"> <li>• About 5000 in private sector</li> <li>• About 200 with billing authorities</li> </ul>	<ul style="list-style-type: none"> <li>• to fit criteria</li> <li>• Training and knowledge of the law required</li> <li>• Require a certificate to practice</li> <li>• Will practice <i>control of goods</i> (formerly distress)</li> </ul>
Security Industry Authority (SIA)	<ul style="list-style-type: none"> <li>• proposal that it regulates enforcement agents</li> </ul>
Complaints	<ul style="list-style-type: none"> <li>• The Act provides for a new improved complaints procedure</li> </ul>
Regulations	<ul style="list-style-type: none"> <li>• Forthcoming</li> </ul>

### **Administration of local taxation**

#### ***Billing and precepting authorities*** (page 11)

The statistics given in Box 1.7 are likely to be revised as a result of a proposed local government reorganisation

#### ***Unitary Authority Status*** (page 11)

Following a request from the DCLG some 26 proposals for unitary authority status were submitted by local authorities. About a dozen were from county councils and the others were from single or paired LAs.

#### ***Two-tier Relationships*** (page 11)

It seems likely that in areas where unitary status was not sought authorities will be required to develop working relationships in partnership. Several areas put themselves forward as 'pathfinders' are developing two-tier relationships. Local government funding will probably need to reflect these proposals.

### **Domestic rating in Northern Ireland**

#### ***Revaluation*** (page 14)

The new rating system for the 700,000 dwelling in Northern Ireland commenced in April 2007 (following notifications which had been sent in August 2006). The revaluation is based on the capital value of each dwelling as at 1 January 2005.

## **Chapter 2 Local Taxation – Principles from History**

### **Review and change**

#### ***IRRV Committee of Inquiry*** (insert page 22)

The IRRV published a report on the local government finance and local taxation in January 2007.

#### ***Lyons Inquiry*** (page 22)

Following postponements the final report of the Lyon's inquiry was published in the spring of 2007 by which time it had considered the contents of other reports, namely:

- Barker
- Stern.

## Part 2 ORGANISATIONS AND STRUCTURES

### Chapter 3 Governmental and Other Official Bodies

#### ***Northern Ireland Assembly*** (page 29)

The Northern Ireland Assembly was reconvened on 8 May 2007. As a result a review of the following was put in hand:

- the new rating system
- the new system of rate relief.

#### ***Northern Ireland agencies*** (page 34)

In Northern Ireland an agency called Land and Property Services was been created in April 2007 and will be expanded in 2008. The constituent agencies are:

- Land Registers (2008)
- Ordnance Survey for Northern Ireland (2008).
- Rate Collection Agency (2007)
- Valuation and Lands Agency (2007)

### Chapter 4 Professional Bodies and Other Organisations

#### **Professional bodies** (page 43)

#### ***Institute of Revenues, Rating and Valuation***

The IRRV website address is [www.irrv.org.uk](http://www.irrv.org.uk)

### Chapter 5 Information – Sources and Uses

#### **Information Commissioner** (page 35)

#### ***Review of Guidance***

The Information Commissioner's Office guidance on the secondary use of personal data by billing authorities was reviewed in 2006. New guidance was published on 30 January 2007 as *The use of personal information held for collecting and administering council tax.*

## Part 3 PROPERTY

### Chapter 7 Property Management, Building and Works

#### **Works etc to property** (page 82)

Eventually new buildings, alterations to a dwelling and other changes to circumstances are likely to be *picked up* by the VOA and put on to the database. (See below page 168.)

#### **Planning for tax** (page 84)

An individual or company as an owner of property or as a developer may need to review the local taxes which are applied in an area. Generally they might be expected to plan to mitigate tax where possible. Therefore consideration of the following is required:

- The status of the individual or body used to own or develop the property
- The type of property which may affect the level of tax, if any
- The location of the property – some locations may result in lower or no tax
- The availability of any exemptions, mandatory or discretionary reliefs and concessions from taxes
- The timing of works (or transaction).

***Professional advice*** (page 84)

Local taxation is often complex. An owner or developer will prudently and not unusually involve professional accounting, legal and valuation advisors.

## Part 4 ADMINISTRATION AND RECOVERY OF COUNCIL TAX

### Chapter 8 Administration of Council tax

#### **Enforcing payment** (Page 91)

A billing authority successfully recovered outstanding council tax by finally resorting to the sale of the dwelling. The owner had not responded to an earlier court order to pay the council tax. The authority obtained a order for possession and arranged for the house to be auctioned. The proceeds of the sale easily covered the outstanding tax and the authority's costs – the balance was then paid to the owner.

#### **Attachment of earnings**

##### **Amount to be deducted** (page 93)

Box 8.1 was in force until 31 March 2007. From the 1 April 2007 Table 2 in Annexe E on page 47 of the Guide operates - with monthly salaries ranging in bands from *not exceeding* £300 to one *exceeding* £2020.

##### **Attachment orders** (page 93)

In July 2007 HM Court Service (HMCS) published *Attachment orders: A guide for employers*. It explains the procedures for such orders

- for council tax in England and Wales
- for attachment of earnings in Northern Ireland
- for arrestment of earnings in Scotland.

##### **Distress or bailiff action** (page 94)

The Tribunals, Courts and Enforcement Act 2007 sets out to change 'bailiffing' by introducing:

- New terminology
- New principles
- New procedures.

##### **Management of debt** (page 98)

Part 5 of the Tribunals, Courts and Enforcement Act 2007 provides a number of approaches for handling those in debt – including overdue council tax. Box 8.1R identifies the approaches.

Box8.1R Approaches to handling debt
Administration order
Enforcement restriction order
Debt relief order
Debt management scheme <ul style="list-style-type: none"><li>• Debt repayment plan (DRP)</li></ul>
Debt hierarchy <ul style="list-style-type: none"><li>• HMRC</li><li>• Court Service</li><li>• Council tax or non-domestic rates</li><li>• Road traffic</li></ul>

## **Chapter 9 Council Tax Benefit**

The opportunity has been taken to add a short note on the introduction of local housing allowance (LHA) as an appendix to Chapter 9.

### **Appendix 2 to Chapter 9**

#### **Local Housing Allowance**

##### **Introduction**

In 18 local authority areas *local housing allowance* (LHA) is being tested. It is paid by the local council to eligible private tenants to help with their rent.

Although housing benefit has been in existence for many years, the Welfare Reform Act 2007 now provides for the local housing allowance (LHA). The piloted roll-out for LHA has been going since about 2003 and includes:

- Nine pathfinder authorities
- Nine second wave group authorities
- An implementation board
- Consultation on regulations.

From April 2008 a national scheme of LHA will operate by being phased in slowly. In due course it is conceivable that LHA will replace housing benefit for private tenants.

##### **Legislation and setting up**

Section 30 of the Welfare Reform Act 2007 introduces the local housing allowance (LHA) by providing section 130A of the Social Security Contributions and Benefits Act 1992. LHA will operate from April 2008. The Department for Work and Pensions has budgeted £59 m to fund the setting-up of LHA.

##### **Phased introduction**

Nine pathfinder authorities have been operating LHA as pilot bodies since 2006. Also nine other authorities, known as *second wave group* (S2G), are trialling LHA for the Department for Work and Pensions (DWP). However, from April 2008 a phased introduction of the legislative LHA scheme will have

- all new customers
- existing customers who move house thereafter
- existing customers who break their claim thereafter.

##### **Payments**

Recipients of the LHA will be private tenants who will then pass it on as rent to their landlords. In some circumstances LHA will be paid directly to others.

##### **Landlord recipients**

The circumstances where a landlord will receive LHA will be given in the regulations.

## **Chapter 10 Counter- fraud Practice**

### **Introduction** (page 111)

It may be noted that distinction need to be made between fraud, official error and customer error.

### **Roles and activities** (page 112)

In June 2007 four piloted benefits inspections have been conducted by the Audit Commission (AC). They are a prelude to the merger of the AC and the Benefit Fraud Inspectorate (BFI). Further pilot inspections and a consultation are expected with the view of developing an improved approach for future work in

- combating benefit fraud
- evaluating the counter-fraud work of billing authorities.

### **Offences**

#### ***National and local benefits fraud*** (insert page 117)

Subject to conditions the Welfare Reform Act 2007 allows a billing authority to progress national benefits fraud investigation and prosecution work in addition to similar concurrent local benefits fraud work.

#### ***Sharing information*** (insert page 117)

The Welfare Reform Act 2007 allows billing authorities and the Secretary of State for Work and Pensions to share information in combating fraud.

### **Billing authority rewards**

#### **Offences**

#### ***“Two strikes” sanction*** (page 119)

Section 49(1) of the Welfare Reform Act 2007 provides that the three year period of the ‘two strikes’ sanction is increased to five years from three years.

### **Performance** (page 119 - insert)

The performance of billing authorities in benefits administration are expected improve as a result of:

- better direct access to information
- improvements in information and communication technology
- the encouragement of customers to be proactive in report changed circumstances
- empowerment

## **Chapter 11 Best Value and Performance**

### **Gershon efficiencies** (page 129)

For the term 2008 to 2011 savings of between 2.5 % and 3.5 % are being sought in a period when zero-inflation allowance will operate. Generally zero-inflation seems to be treated as a standard in determining the benefits administration grant.

**Future** (Page 129)

In 2008 the Audit Commission and the Benefit Fraud Inspectorate are due to merge. A new approach to benefit inspections is being developed by the Audit Commission (see under Page 112).

## Part 5 COUNCIL TAX PAYERS

### Chapter 13 Exemptions, Reliefs, Discounts and Reductions

#### Exempt dwellings

##### ***Class M Student halls of residence*** (page 147)

Where a student occupies campus accommodation he or she is not liable to council tax and will not normally need to consider council tax exemption, eg a ***student status certificate***.

##### ***Class N Occupied by students*** (page 148)

On application a student may obtain a *student status certificate*. It should if necessary be sufficient evidence of status for Class N dwellings for council tax purposes although in some areas the academic institution will have supplied the billing authority with information sufficient for council tax relief where appropriate. However, students living in any accommodation outside of the billing authority's area will need a certificate.

Students are usually advised to keep a photocopy of their certificate which may be used in place of the original in the event of its loss.

##### **Individuals with disabilities** (page 150)

Box 13.3 refers under *deafness* to a *hearing loop in a room* as not qualifying. This was illustrated and confirmed in *South Gloucestershire Council v M Tilney and J Clothier* [2006] EWHE 3117.

##### **Other powers for relief** (page 151)

###### ***Energy efficiency***

British Gas Plc offers a scheme whereby the billing authority will rebate council tax of up to £100 (a once only payment) when the taxpayer installs cavity wall insulation. About 20 Bas are involved and 40 others have been approached by BG.

Apart from some billing authorities giving council tax relief for energy efficient homes, there is no indication that a national scheme for giving such relief will be forthcoming.

###### ***Flood protection*** (page 151)

A council tax rebate of 25 % was awarded to householders affected in the summer of 2007 by the flooding in Hull.

However, to the extent that other funds do not meet the cost of flood defences etc, it is likely that council tax payers will contribute.

## Part 6 VALUATION LISTS AND ASSESSMENTS

### Chapter 15 Valuation or Assessment for Council Tax Roles and activities

#### **Referencer** (page 164)

The referencer's role is to gather information about a dwelling so as to enable an assessment to be carried out for council tax purposes. The information gathered is placed on the property database.

The VOA guidance to best practice on referencing appeared on the Conservative Party website. As might be expected it is a document which portrays a thoroughly professional approach to the work.

#### **Value and valuation assumptions**

##### **Changes to property** (page 172)

It seems likely that for non-domestic rating the Valuation Officer will be allowed to ignore changes in the state of the hereditament which were deliberate - so as to make the property derelict and hence non-rateable. As yet it is uncertain as to whether the same assumption will apply for council tax.

## Part 7 DISPUTE RESOLUTION

### Chapter 18 Settlement of Particular Disputes

#### ***Valuation tribunal appeals*** (page 204)

Following consultation the Valuation Office Agency is developing a new approach to council tax appeals which is expected to come into force in 2007

#### ***Valuation Tribunal for England*** (page 205)

DCLG is introducing changes to the valuation tribunals system. The intention is to have:

- a single Valuation Tribunal for England (VTE)
- a VTE president and VTE Vice-presidents
- the VTE president to sit on the Valuation Tribunal Board
- the appointments to be made by the Judicial Appointments Commission

Sections 151 and 152 of and schedule 22 to the Local Government and Public Involvement in Health Act 2007 is the enabling legislation. Schedule 22 replicates the amended schedule 11 in the 1988 Act. As a result the existing VTs will cease to exist and the members transfer to VTE. Current appeal work will also be transferred.

## Part 8 ADDITIONS OR ALTERNATIVES TO COUNCIL TAX

### Chapter 19 Search for Additions or Alternatives

#### Introduction

The opportunity has been taken to add an appendix to Chapter 19, namely *Planning-gain Supplement (PGS)*

#### **Local Government Association Proposals** (page 213)

Proposals by the Local Government Association (LGA) in 200x suggested a wider system of various local taxes to include:

- congestion charges
- income tax
- sales tax
- vehicle excise duty.

The listed taxes are extant so the implication is that the revenue will in some way be determined locally or allocated directly to local authorities. In fact as far as road user charges are concerned this is happening (see above).

Also the LGA suggest that council tax should be changed to include:

- an increased number of bands
- more frequent revaluations
- revisions to the discounts.

#### **Sharing income tax and other national taxes**

(insert page 216)

In July 2006 the National Local Government Network proposed in *Pacing Lyons: a route map to localism* that a new approach be adopted - by partly funding local government with national taxes which had been collected from local government localities. Examples included:

- national income tax – 10p in the £1 be allocated as a local tax
- stamp duty land tax – 1.0 % of the slice £60,000 to £150,000
- fuel duty – 10p (i.e. 20 %) of the 50p duty
- vehicle excise duty – all the duty imposed on local vehicles.

#### **Workplace Parking Levy** (page 217)

The Transport Act 2000 has provisions for a workplace parking levy (WPL). The Act defines the kind of parking places where the levy may be imposed by the local authority - using its discretionary powers to adopt the WPL.

It seems likely that plans may result in the adoption of WPLs in England, e.g. Nottingham has prepared a Strategic Environmental Assessment (SEA) where the transport policies include a consideration of the WPL and other measures.

The DPTAC seeks to secure exemption for disabled persons from WPL in all such schemes.

#### **Road tolls and congestion charges** (Page 219)

*Road user charges* (congestion charges) were brought in by the Transport Act 2000. The Act allows a local authority:

- To create schemes for road user charges (RUCs)
- To determine a congestion tax
- To provide for exemptions
- To impose it on motor vehicles entering the scheme area
- To use the funds raised to improve local public transport.

The Disabled Person Transport Advisory Committee (DPTAC) seeks to secure exemption for disabled persons from RUC in all such schemes.

Several schemes are in operation – brief details are given in Box 19.1R

Box 19.1 R Schemes for road user charges (RUCs)	
Durham	<ul style="list-style-type: none"> <li>• Protects city centre including World Heritage Site</li> <li>• access roads are blocked by bollards</li> <li>• Payment of £2.00 for a period each day allows entry to vehicles</li> <li>• Benefits include 10 % increase in pedestrians and 80 % reduction in traffic</li> </ul>
Edinburgh	
London	<ul style="list-style-type: none"> <li>• Reduces congestion and pays for transport system improvements</li> <li>• System uses cameras reading number plates</li> <li>• Charge of £8.00 allows entry during working day</li> <li>• Tickets purchased electronically</li> <li>• Fines imposed on entrants for non-payment</li> <li>• Exemptions include green energy vehicles</li> <li>• Traffic down up to 30 %</li> <li>• XXX millions raised for transportation improvements</li> </ul>
Scheme extension	<ul style="list-style-type: none"> <li>• Area to be increased (westwards)</li> <li>• 4x4 vehicles face higher charges</li> </ul>
Manchester Proposed scheme	<ul style="list-style-type: none"> <li>• Scheme a condition for a transport funding bid of £3 billion</li> <li>• Charge of up to £5.00 a day</li> <li>• Transport scheme includes:               <ol style="list-style-type: none"> <li>1. extending the metro-link tram</li> <li>2. longer trains</li> <li>3. more buses</li> <li>4. park and ride schemes</li> <li>5. school buses</li> </ol> </li> <li>• Road user scheme programmed to 2012</li> </ul>
Cardiff	<ul style="list-style-type: none"> <li>• Has proposed the introduction of road user tax</li> <li>• Not likely to be until after transport improvement projects are completed</li> </ul>

Note 1 SI 2001 No 2285 (as amended) regulates the scheme of road user charges under the Greater London Authority Act 1999 schedule 23.

### ***Transport Innovation Fund (TIF)***

TIF is a government fund designed to consider projects which include congestion charging with the view to assisting them. Wafer describes how the scheme will help fund two more projects for Durham, namely:

- a trunk road user scheme – A690 to divert traffic to other roads
- a scheme to cordon the city centre together with park and ride.

### **Future of Local Taxation (Page 224)**

The Lyons Inquiry reported on 27 March 2007. Box 19.1R briefly reviews the recommendations for council tax and alternatives. However, local taxation is likely to change in England as a result of the following:

- the provisions in the Planning and Compulsory Purchase Act 2004 for a planning gain supplement (PGS) particularly as the Barker Review (2003) (2004))
- the Barker Review (2006b) recommending taxation to encourage land on to the market
- the report of the Lyons Inquiry into the role of local authorities and financing them
- the government's interest in the non-domestic rating surcharge (see the report of the C & LGC (August 2007).

### **Future**

#### ***Partnerships*** (page 225)

In Wales four regional groupings have been set up to explore and develop partnership arrangements. For example 10 LAs in South East Wales have been outlining arrangements for *shared services*. By mid-2007 seven back-up functions are listed where shared services are likely – they are:

- council tax and national non-domestic rating
- debt recovery
- information and communications technology (ICT)
- internal audit
- payroll and human resources
- procurement
- training.

DCLG published guidance on partnerships, namely: *Service transformation through partnerships*. It covers almost every conceivable form of partnership.

#### ***Charity objects*** (page 225)

The Charity Act 2006 provides 13 'descriptions' of the purposes of a charity.

#### ***Scotland's local taxation*** (insert page 226)

It remains a possibility that local taxation in Scotland will see the abolition of council tax and its replacement with some form of local income taxation.

## **Appendix to Chapter 19** (page 226: a new Appendix)

### **Planning-Gain Supplement (PGS)**

#### **Introduction**

The Barker Review of Housing (2005) recommended a tax on land values and the government responded with the view that the 'planning gain supplement' will help achieve two matters:

1. the financing of local infrastructure
2. local authorities benefiting from developmental growth.

Work on the PGS was extended in 2007 by the Planning-gain Supplement (Preparations) Act 2007 whereby HMRC and other government bodies are authorised to continue preparations.

More recently the legislative programme for 2007 -08 includes the Planning-gain Supplement Bill. However, the Housing Green Paper contains details of four alternatives to PGS which the government has mooted for discussion. It is intended that should the discussions result in a viable alternative to PGS before the Pre-Budget Statement the government will probably adopt the alternative.

#### **Valuations for Planning-gain Supplement**

The Valuation Office Agency has consulted on valuations for PGS. Observations were required by 28 February 2007.

#### **Readings**

##### **Statutes**

*Charity Act 2007*

*Greater London Authority Act 1999*

*sch 23*

*Local Government and Public Involvement in Health Act 2007*

*ss 151 and 152*

*sch 22*

*Planning-gain Supplement (Preparations) Act 2007*

*Social Security Contributions and Benefits Act 1992*

*s 130A*

*Transport Act 2000*

*Tribunals, Courts and Enforcement Act 2007*

*Pt 5*

*Welfare Reform Act 2007*

*s 30*

*s 31*

*s 49(1)*

##### **Subordinate Legislation**

*Road User Charging (Charges and Penalty Charges)*

(London) *Regulations 2001 S.I. 2001 No 2285*

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