

Carl Sargeant AC / AM
Y Gweinidog Llywodraeth Leol a Chymunedau
Minister for Local Government and Communities



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

David Melding AM,
Chair of the Constitutional and
Legislative Affairs Committee
29 High Street
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5h November 2012

I am writing to you in relation to two sets of Regulations; the Council Tax Reduction Schemes (Default Scheme) (Wales Regulations) and the Council Tax Reduction Schemes (Prescribed Requirements) (Wales Regulations); in order to apprise you of the timing issues that we are facing in respect of laying these Regulations.

As a result of these constraints, which I set out in detail below, and the significant impact for local authorities if the Regulations are not able to come into force by 1st December, I am writing to ask whether you would be prepared to agree a date upon which the Constitutional and Legislative Affairs Committee will receive these Regulations for consideration and to agree a further date by which the Committee will prepare its report in respect of the same.

The Local Government Finance Act 2012

As you are aware I sought amendments to the Local Government Finance Act (the Act) to equip Welsh Ministers with executive powers to introduce council tax reduction schemes in Wales via secondary legislation, in order to replace the existing council tax benefit system that is being abolished by the UK Government. A Legislative Consent Motion on the provisions of the Bill that were within the legislative competence of the National Assembly for Wales (NAW) was approved by the Assembly on 26th June.

Whilst the Bill was supposed to achieve Royal Assent before the summer recess, it was ultimately deferred due to a number of outstanding issues within the Bill, most of which did not concern the provisions relating to the introduction of council tax reduction schemes. It received Royal Assent on 1st November.

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Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

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In line with the provisions in the Act and, subject to the will of Parliament, I intend to bring forward two main sets of Regulations which will govern the operation of council tax reduction schemes in Wales. These Regulations are designed to ensure that councils introduce some form of council tax support.

- The first set of Regulations (the “prescribed requirements Regulations”) will place a duty upon local authorities in Wales to introduce a council tax reduction scheme in their area by the 31st January 2012. These Regulations will prescribe elements which local authorities must include within the schemes they introduce, but will also permit a limited amount of local discretion.
- The second set of Regulations (the “default scheme Regulations”) will set out in full the council tax reduction scheme that will take effect in any local authority area in the event that a local authority does not adopt its own scheme by 31st January 2013. This date has been set so that any reductions enabled by the schemes can be reflected within the calculation of council tax liability prior to the council tax bills for 2013-2014 being issued.

Timing Concerns

In order for local authorities to make their preparations to adopt their local schemes by 31st January 2013, which, in accordance with the prescribed requirements Regulations, they are required to consult on, it is considered necessary that both sets of Regulations will have to come into force by 1st December. As both sets of Regulations are subject to the affirmative procedure this requires there to be a plenary debate on them by the 27th November at the latest.

However for a plenary debate to be held on the 27th November, in order to comply with Standing Orders the latest date that the Regulations could be laid on is 6th November and due to circumstances outside of my control it is becoming increasingly likely that the Regulations will not be finalised by the 6th November. There are three main reasons for this:

- **The financial transfer.** The approach in Wales relies on a single national framework scheme, which rebates a maximum percentage of an applicant’s council tax liability, and the maximum percentage rebate will be calculated to take into account the shortfall in funding provided by the UK Government. This maximum percentage figure must be specified within the Regulations. However, whilst DWP and HMT have provided provisional funding figures, the transfer may not be finalised until the Autumn Statement scheduled for 5th December. Therefore the actual shortfall – and the final percentage to be set in the Regulations – might not be known until this date.
- **Finalising the Regulations.** Preparing the Regulations has been a highly complex and demanding task requiring detailed knowledge of the UK benefit system. It has therefore been necessary to rely on many of the previous elements of the old Council Tax Benefit Regulations, and to replicate them, with amendments, in new Regulations. The Regulations also need to take account of the introduction of Universal Credit, which is being developed by central government. To assist in developing the technical aspects of the scheme, such as the method to be adopted in calculating income, my officials have had to have regard to the draft Regulations which England are preparing, as they have the benefit of the input of colleagues in DWP. In order to finalise the Wales Regulations my officials had hoped to see finalised versions of the England Regulations by the end of October however, these have been delayed.

Implications if the Regulations cannot come into force by 1st December

If it is not possible for the Regulations to come into force by the 1st December there will be significant adverse implications for local authorities, and potentially for claimants. It will reduce the time in which local authorities will be required to introduce their schemes, including the time available to undertake local consultation, and depending on when the Regulations come into force, it may prove impossible for them to meet the 31st January 2013 deadline.

In that instance it may be necessary to revisit the Regulations with a view to delaying this implementation date. This however, will impact on the authorities' ability to issue council tax bills which has severe financial implications for local authorities. Furthermore it is likely to mean that current CTB claimants who will experience a change in the level of assistance they receive with their council tax bills will have less notification of the financial impact. As a result I am extremely keen to avoid a situation whereby these Regulations have to be delayed.

Mitigating the timing issues

I have sought advice on how the timing issues could be mitigated and have been advised that if the Constitutional and Legislative Affairs Committee was prepared to agree in advance a date upon which the Committee will receive and consider the Regulations, after the 6th November, and the date by which the Committee will prepare its report, then a later laying date could be achieved as in that instance it would not be necessary to observe the 20 day period before the holding of the plenary debate. In order to assist the Committee in considering these Regulations my officials would be happy to provide a technical briefing.

While I recognise that this is an unusual request, given the significant challenges we are facing in ensuring a viable replacement scheme is in place prior to the abolition of council tax benefit, I hope that it is one that you are prepared to consider.

Welsh Language Regulations

Finally I would like to give you prior notice that Welsh language versions of the Regulations will not be produced and that this may extend to all of the Regulations drafted to bring the new schemes into effect.

While this is extremely regrettable, given the very short timescales within which it has been necessary to produce the draft Regulations together with their length and complexity and the fact that the current CTB Regulations are only available in English so there is no existing translation to assist the translators, Legislative Translation Services have advised my officials that it is not possible to translate the Regulations into Welsh within the timescales required. In fact I am advised that in order for the Legislative Translation Services to have been in a position to have provided translated version of the Regulations, due to their length and complexity they would have had to have received finalised versions of both sets of Regulations by the May 2012. At that time we had not secured powers within the Bill to introduce Regulations in Wales.

The use of an external translator has also been considered, however there are only a limited number of translators who undertake legislative translation and they too are unable to translate the Regulations into Welsh within the timescales required. My officials will discuss the possibility of one of the local authorities in Wales providing a Welsh translation of the Regulations for everyday use, but even if they are willing to do this it is unlikely that such a translated version of the Regulations would be finalised before next year.

I will also be writing in similar terms to the Chair of the Communities, Equality and Local Government Committee.

A handwritten signature in black ink, appearing to read 'Carl Sargeant'.

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