



# **Council Tax Discretionary Reduction in Liability Policy**

## **(Section 13A (1) (c) Local Government Finance Act 1992)**

Revenues, Benefits and Customer Services

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## **1. Introduction**

- 1.1 The following policy outlines the Council's approach to granting discretionary reductions in liability for Council Tax under S13A (1) (c) of the Local Government Finance Act 1992 (as amended). This legislation allows a billing authority to reduce liability for Council Tax in relation to individual cases or class(es) of cases that it may determine where national discounts and exemptions cannot be applied.
- 1.2 This policy is divided into two main areas, namely:
- (a) **The Flood Recovery Framework** – this part of the policy covers situations outlined by Central Government where any parts of the Council's area were to be designated as a designated flood area; and
  - (b) **Reductions in Council Tax liability in all other circumstances** - this part of the policy applies to all other circumstances where an application is made to the Council for a reduction in Council Tax liability under S13A (1) (c) of the Local Government Finance Act 1992.

## **2. Legislation**

- 2.1 The relevant legislation (S13 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012), states the following:

### **Reductions by billing authority**

- 2.2 The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13):
- (a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority's council tax reduction scheme.
  - (b) (not relevant to English Billing Authorities)
  - (c) in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.
- 2.3 The provisions stated in (c) above, allows the Council to reduce the Council Tax liability for any taxpayer in addition to any application for

Council Tax Reduction under the Council's scheme. This is a general power that has always been available to the Council.

### **3 Roles and responsibilities**

- 3.1 All staff within the Revenues and Benefits Service, have a responsibility to promote the S13A policy as part of an overall holistic approach to support to vulnerable households. The Revenues Manager is responsible for maintaining procedures and administering awards, with the Service Manager responsible for authorising awards above a threshold, appeals and policy reviews.

### **4 Finance**

- 4.1 Any amounts granted under S13A (1) (c) are normally financed through the Council's general fund and do not form part of the collection fund. In certain circumstances, Central Government provides funding directly to the Council to compensate for specific events such as severe flooding. Where this is available, the Council will look to use all funding provided.
- 4.2 Any additional assistance, outside of the funding, would fall to be paid by the Council itself.
- 4.3 The Council, in dealing with collection of council tax liability, may make decisions to 'write off' debt. Such decisions will be made through an assessment of collectability of the debt and does not constitute a reduction in liability as defined within S13A (1) (c) of the Local Government Finance Act 1992.

### **5. The Flood Recovery Framework**

- 5.1 In a severe weather event with significant wide area impacts, local authorities may need central support to help their communities and businesses return to normal. Building on these principles, a core package of business and community recovery support has been developed by Central Government to serve as a framework for flood recovery funding when needed.
- 5.2 It will be for Government Ministers to determine when this support will be made available. Weather incidents with localised impacts will not usually trigger a recovery support package.
- 5.3 In relation to Council Tax, Central Government have developed a Council Tax discount package that is available under S13A (1) (c).

### **Who is eligible for a council tax discount?**

5.4 Where the Council Tax Discount Scheme is activated following severe weather, MHCLG will refund eligible local authorities for granting discounts in the following circumstances:

(a) 100% discount for a minimum of 3 months, or while anyone is unable to return home if longer, for primary residences whereas a result of the relevant weather event:

- Flood water entered into the habitable areas; or,
- Flood water did not enter into the habitable areas, but the local authority regards that the residence was otherwise considered unliveable for any period of time. AND

(b) 100% council tax discount on temporary accommodation for anyone unable to return to their home, in parallel with the discount on their primary residence where applicable.

5.5 Second homes and empty homes will not be eligible.

5.6 Instances where households might be considered unliveable could include:

- where access to the property is severely restricted (e.g. upper floor flats with no access).
- key services such as sewerage, draining, and electricity are severely affected.
- the adverse weather has resulted in other significant damage to the property such that it would be, or would have been, advisable for residents to vacate the premises for any period of time, regardless of whether they do vacate or not.
- flooded gardens or garages will not usually render a household eligible but there may be exceptions where it could be demonstrated that such instances mean effectively that the property is unliveable.

5.7 It will be for the Council to determine eligibility under the scheme.

### **Properties affected by multiple instances of flooding**

5.8 Residences impacted in multiple flood events will not be precluded from repeat support where this is made available by Government in respect of separate weather events.

5.9 Where the scheme is activated for two separate instances of flooding within 3 months of each other, the two discount periods will run concurrently. For example, if the second flood event occurred after 2

months, flooded properties already receiving support could be eligible for another 3 months' discount, making the total period of reimbursement 5 months.

### **Funding**

- 5.10 In such cases, Central Government will make payment to the Council via a Section 31 grant.

### **The Council's Policy in respect of the Flood Recovery Framework**

- 5.11 The Council shall operate the scheme strictly in accordance with Central Government guidelines.

## **6. Reductions in council tax liability under S13A (1) (c) in other cases**

- 6.1 Reductions are at the discretion of the council and an applicant does not have a statutory right to a reduction. Where the Council receives an application for a reduction in liability in any other case (other than listed within the Central Government sponsored scheme specified above), all applications will be treated on their individual merits.

- 6.2 In such cases, the Council will require the applicant (where appropriate) to:

- Make a formal application for Council Tax Reduction in an appropriate format, clearly setting out the circumstances on which their application is based, and provide any relevant evidence or information to support their application.
- Consider potential changes in payment methods and payment arrangements.
- Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted.
- Maximise their income through the application for other welfare benefits.
- Have taken all reasonable steps to resolve their situation prior to application.
- Provide evidence of exceptional financial hardship or exceptional personal circumstance that would merit a reduction in the Council Tax liability; and
- Not have access to assets, capital or other financial remedy that could be used to meet the Council Tax liability.

- 6.3 The Council will only make an award in exceptional circumstances, giving regard to the wider taxpayer, and circumstances affecting the ability to meet Council Tax liability must not be intentional by the applicant and must be deemed to be out of the applicant's individual control.

## **7. Delegated Powers**

- 7.1 This S13A (1) (c) policy has been approved by the Council. However, the Service Manager – Revenues, Benefits and Customer Services is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and, for certain defined schemes, Central Government guidance.
- 7.2 The decision whether to make an award will be undertaken by either the Benefits Manager or the Revenues Manager

## **8. Amount of relief**

- 8.1 The amount of any relief awarded will be at the council's discretion, taking into account the amount of the debt, the applicant's circumstances, and the extent to which the criteria are met. Any awards over £2,500 will be approved by the Service Manager – Revenue, Benefits and Customer Services.

## **9. Notification**

- 9.1 The Council will issue a written decision by letter or email to the applicant within one month of the request or as soon as practicable thereafter. This will include:
- the level and period of the award, if relevant
  - full reasons of the decision
  - how it will be paid; and
  - information about how to ask for a review of the decision

## **10. Review of decisions**

- 10.1 Notwithstanding any reductions applied automatically to the Council Tax account, where any application is refused, the applicant will be notified that they can ask for the decision to be reviewed. Any request for a review must be made, in writing or by email, within one month of the decision letter.
- 10.2 The Service Manager – Revenues, Benefits and Customer Services shall undertake the review and shall respond within two months and will have regard to any further evidence supplied.
- 10.3 If the applicant is dissatisfied with the outcome of the review, they can, within two months of the Council's reply, appeal to the independent Valuation Tribunal Service to consider their case.

## **11. Duration of Reduction**

- 11.1 The duration of any award will depend on the circumstances of each case. However, in all cases the following principles will apply:
- (a) Where the reduction is applied under a Central Government Scheme, the reduction shall be applied to the Council Tax account for the period specified in Government guidance.
  - (b) In all other cases,
    - (i) the application for the reduction can only relate to the current Council Tax financial year in which the application is made unless the delay was due to an exceptional circumstance; and
    - (ii) If an application is successful, the award period will be specific to the applicant's circumstances, but it cannot exceed a period greater than the financial year it has been awarded in or exceed the total Council Tax charge for that period.

## **12. Changes in circumstances and misrepresentation**

- 12.1 Any taxpayer claiming a discretionary reduction in liability must notify the council of any changes in circumstances that may be relevant to their claim. A reduction in liability under S13A (1) (c) can be recovered if it has been made as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise. It can also be recovered as a result of the subsequent application of a national discount or adjustment in banding by the Valuation Office Agency.
- 12.2 Changes of circumstances that subsequently negate the need for a reduction in liability under this policy will be recovered by the Council. Where this occurs, the Council shall notify the taxpayer accordingly.
- 12.3 Reductions in liability are not transferable following a change in address.
- 12.4 The Council reserves the right to recover any reductions in liability as a result of a change in legislation or regulation.
- 12.5 The Council is mindful that it is important to protect public funds and, as such, will take action to prosecute any case where the applicant acts fraudulently in applying for a reduction in Council Tax liability.

## **13. Fraud**

- 13.1 The Council is committed to protect public funds and ensure funds are awarded to the people who are rightfully eligible to them.
- 13.2 An applicant who tries to fraudulently claim a Discretionary Housing Payment by falsely declaring their circumstances, providing a false

statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.

- 13.3 Where the Council suspects that such an offence may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

## **15. Policy Review**

- 14.1 This policy will be reviewed on a regular basis and updated as appropriate to ensure it remains fit for purpose. However, a review may take place sooner should there be any significant changes in legislation. In consultation with the Portfolio Holder, Finance and Corporate, the Service Manager, Revenue, Benefits and Customer Services, is delegated to make minor changes to the policy.