

## Appendix One

### Draft Council Tax: Discretionary Reduction Policy – Section 13A(1)(c) Local Government Finance Act 1992



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### **1. Background**

Section 13A) (1)(c) of the Local Government Finance Act 1992<sup>1</sup> (13A)(1)(c) as amended provides powers to the Council to reduce the amount of council tax payable for an individual or class of persons.

13A(1)(c) may be used for individual cases or the council may determine classes of case for which liability may be reduced.

The authority to make these awards is delegated to the Corporate Director of Housing and Resident Services and, or Corporate Director, Finance and Resources.

This policy notes there is a difference between writing off an uncollectable debt and reducing the amount payable under this provision. A write-off may be processed where a Council Tax amount is uncollectable, e.g. deceased, bankrupt, vacated and forwarding address unknown, etc. However, a reduction under section 13A(1)(c) will normally be applicable where the taxpayer has a continuing liability for the property.

Unless other non-council funding available, the cost of awards under this policy is borne in its entirety by the Council and therefore its council taxpayers. The granting of 13A(1)(c) reductions must be balanced against their financial impact on residents and will therefore only be granted in the circumstances described in this policy.

The Council makes a sum of money available each year for the provision of 13A(1)(c) reductions.

### **2. How to claim a discretionary reduction**

The application should usually relate to the current council tax year.

It must be made in writing by the taxpayer or by someone authorised to act on their behalf to the principal council tax office and titled "Section 13A Application".

Information is provided on the Council's website for this purpose: [Contact Us - Section 1 - Self](#) [new link required to dedicated page online](#)

The Council may request any reasonable evidence in support of an application. Separate claims must be made in respect of different dwellings and/or council tax accounts.

### **3. Discretionary Relief Policy**

#### **3.1. Individual cases**

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<sup>1</sup> 13A Billing authority's power to reduce amount of tax payable

(1)Where a person is liable to pay council tax in respect of any chargeable dwelling and any day, the billing authority for the area in which the dwelling is situated may reduce the amount which he is liable to pay as respects the dwelling and the day to such extent as it thinks fit.

(2)The power under subsection (1) above includes power to reduce an amount to nil.

(3)The power under subsection (1) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination]

The Council considers all claims for relief and considers them on the circumstances of the council taxpayer. However, some or all the following criteria shall be met for each case:

- i. There must be evidence of financial hardship or personal circumstances that justifies a reduction in council tax liability. Where an application is made in respect of financial hardship, evidence of all income and expenditure will be required to enable a full assessment to be undertaken, examples would include:
  - a. Fire and flood,
  - b. Domestic violence,
  - c. Losses due to theft,
  - d. Safeguarding,
  - e. Receipt of CTS and struggling to meet the CT shortfall due to personal circumstances. The above list is not exhaustive, and officers will use their discretion in reviewing applications.
- ii. The taxpayer must satisfy the Council that all reasonable steps have been taken to resolve their situation prior to application.
- iii. All other eligible discounts, reliefs, benefits and disregards have been awarded including Council Tax Support (CTS).
- iv. Where the situation may be resolved by some other legitimate means, such as the complaints procedure, if it can it is unlikely that an award will be made.
- v. The situation and reason for the application must be outside of the taxpayer's control.
- vi. The amount outstanding must not be the result of wilful refusal to pay or culpable neglect.
  - i. The power to reduce under this section will be considered taking account of all circumstances and any reduction will take into consideration all the borough's council taxpayers.
  - ii. The reduction is to be only applicable to the council taxpayer's primary home,
  - iii. The shortfall between Council Tax Support and Council Tax liability,
  - iv. Whether the applicant has engaged with the Council in the application process, with applicants being able to use open banking to avoid the need to provide evidence from their bank and therefore speed up the process.
  - v. If a Discretionary Housing Payment for Housing Benefit or Universal Credit (Housing Element) has already been awarded to meet a shortfall in rent,
  - vi. The income and expenditure of the applicant, their partner and any dependants or other occupants of the applicant's home, where non-dependents are resident and working their income shall be declared,
  - vii. Whether or not reasonable expenditure exceeds income,
  - viii. Any savings or capital that might be held by the applicant, their partner, and any member of their household, including non-dependents, irrespective of

whether the capital may fall to be disregarded under the Council Tax Support scheme, the applicant and non-dependents shall be required to provide evidence including through Open Banking

- ix. Other debts outstanding for the applicant and their partner,
- x. The length of time they have lived in the property.
- xi. Where a 13A application is made for a previous period, exceptional hardship must have been proven to have existed throughout the whole of the period requested.
- xii. 13A awards are for short-term help to the applicant only.
- xiii. That any payments for council tax as part of an award are made by direct debit
- xiv. For most awards an amount of 12.5% council tax will remain payable by the applicant/s

### 3.2 Classes of Reduction

#### Care Leavers

- 3.2.1 A discretionary relief is awarded to Brent care leavers aged between 18 and 24 years old who are liable for council tax in the borough. To be eligible the care leaver must be liable for council tax and have previously been in the care of Brent Council. Brent care leavers resident outside the borough, or care leavers resident in Brent who have left another authority's care, are not eligible. The amount of relief is applied after all other discounts have been awarded and there is an amount to pay. If a care leaver is already in receipt of an exemption no relief is awarded. However, should that exemption end the care leaver would then be entitled to care leaver relief if they remain liable for council tax. The relief is awarded up until the end of the current financial year or on the care leaver's 25<sup>th</sup> birthday, whichever is earliest. Eligible care leavers are identified by the Council and relief is awarded automatically with no application needed. However, any care leaver who believes they qualify but have not received any relief should contact the council tax team. Section 13A(1)(c) of the Local Government Finance Act 1992 allows the Council to reduce the amount payable, but not to amend who is named on the bill. The relief is applied to the council tax account and as a result, relief would still be applied where a care leaver and a non-care leaver are jointly liable for the council tax bill. It is applied after other discounts and exemptions.

### 4. Amount of relief

- 4.1 The eligibility criteria is set out in paragraph 3. Any relief to be awarded is entirely at the Council's discretion, up to and including reducing liability to nil. Most awards will leave 12.5% for the applicant to pay. The decision will be made, wherever possible, by front line staff dealing directly with taxpayers.
- 4.2 All taxpayers are entitled to make an application for a discretionary Council Tax relief reduction. Although the discretionary reduction will only be granted to taxpayers in exceptional circumstances and will only normally be for a short period.

## 5.0 Application Process

5.1 As part of the process of applying for additional support from the Council for a reduction in council tax liability all applicants must be willing to undertake the following:

- i. Make an online application for assistance,
- ii. All applications are to be made online,
- iii. Agree to the criteria set out in 3.1 above,
- iv. Accept assistance from either the Council or third parties such as the Citizens Advice or similar organisations to enable them to manage their finances more effectively including the termination of non-essential expenditure;
- v. Maximise their income through; the application for other welfare benefits and grants; cancellation of non-essential contracts and outgoings; and identifying the most economical tariffs (or rates) for the supply of utilities and services generally and the application of available council tax discounts and exemptions
- vi. An applicant must make a claim for a Council Tax Support Hardship fund award by submitting an application to the Council. The application form can be obtained online or in person at a hub. Telephone applications are not accepted.
- vii. Applicants can request assistance with the completion of the form from the Council.
- viii. The application form must be fully completed and supporting information or evidence provided, as reasonably requested by the Council. Open banking will be utilised to provide relevant information.
- ix. In most cases the person who claims the award under this policy will be the person entitled to Council Tax Support. However, a claim may be accepted from someone acting on another's behalf, such as an appointee, if it is considered reasonable by the Council.
- x. The Council may revise an award where the applicant's circumstances have changed which either increases or reduces their Council Tax Support entitlement.

5.2 Through the operation of this policy, the Council will look to:

- i. allow a short period of time for someone to adjust to unforeseen short-term circumstances and to enable them to "bridge the gap" during this time, whilst the applicant seeks alternative solutions;
- ii. enable households to be managing their finances in the longer term;
- iii. help applicants through personal crises and difficult events that affect their finances;
- iv. prevent exceptional hardship;
- v. help those applicants who are trying to help themselves financially; and

- vi. encourage and support people to obtain and sustain employment.

5.3 It cannot be awarded for the following circumstances:

- i) where full Council Tax liability is already being met by Council Tax Support;
- ii) for any other reason, other than to reduce Council Tax liability;
- iii) where the Council considers that there are unnecessary expenses/debts etc. and that the applicant has not taken reasonable steps to reduce these; or
- iv) to pay for any additional Council Tax caused through the failure of the applicant to notify changes in circumstances

## **6. Decision**

- 6.1 The local authority must notify the applicant of its decision in writing within 14 days or as soon as it is reasonably practicable to do so. The letter must make it clear to the applicant, that there is a requirement to report any relevant changes in circumstances, and the implications if s/he does not do so, and how an appeal against the decision may be made.
- 6.2 An award under this policy will in most cases be less than the difference between the Council Tax liability and the amount of Council Tax Support paid.
- 6.3 The level of payment may be nil if the authority feels that, in its opinion, the applicant is not suffering 'exceptional hardship' or where the applicant has failed to comply with the Council Tax Support Hardship fund process.

## **7. Appeal**

- 7.1 Under Section 16 of the Local Government Finance Act 1992, there is a right of appeal if a customer applying for a discretionary reduction under Section 13A) (1) (c) is aggrieved by the Council's decision. The appeal must be in writing to the council. The Council will then consider whether the customer has provided any additional information against the required criteria that will justify a change to its decision. If the original decision is upheld and the customer remains aggrieved, there is a further right of appeal to a valuation tribunal. This includes a decision on the exercise of an authority's discretion, that there is a liability for council tax, or the amount of council tax payable, as long as:
  - i. The Council will not allow an appeal
  - ii. The applicant is not satisfied with the steps your local authority is taking to resolve your grievance
  - iii. No decision to the appeal has been given and it has been more than two months
- 7.2 All appeals to the Valuation Tribunal are required to be in writing. Time limits to appeal to the valuation tribunal will vary depending on the reason you are making the appeal and the response of the Council.
- 7.3 An appeal against the decision of the Valuation Tribunal can be made to the Upper Tribunal and to the High Court if the appeal is in respect of a point of law only.
- 7.4 The Valuation Tribunal Service has published a booklet (see appendix 1) on preparing for an appeal against a council tax reduction scheme decision, this includes appeals against decisions relating to the Council's policy relating to 13A) (1)(c) and its local council tax support scheme.

- 7.5 Incorrectly paid Council Tax Support Hardship fund payments will generally be recovered directly from the applicant's Council Tax account, thus increasing the amount of council tax due and payable. Recovery will be undertaken in line with the remedies available for Council Tax.

## **8 Fraud**

- 8.1 The Council is committed to protect public funds and ensure funds are awarded to the people who are rightfully eligible to them.
- 8.2 An applicant who tries to fraudulently claim an award under this policy 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.
- 8.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

## **9 Complaints**

- 9.1 The Council's Corporate Complaints Policy (available on the Council's website) will be applied in the event of any complaint received about this policy.

## **10 Policy Review and Delegated Powers**

- 10.1 This policy will be reviewed every year and updated as appropriate to ensure it remains fit for purpose. However, the review may take place sooner should there be any significant changes in legislation.
- 10.2 The Council's Section 151 Officer has delegated to make adjustments to this policy to ensure it continues to meet the Council's requirements and objectives.