

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

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## 1 Introduction

- 1.1 Section 13A 1c of the Local Government Finance Act 1992, provides the Council with additional discretionary powers to enable it to reduce the council tax liability where statutory discounts, exemptions and reductions do not apply.
- 1.2 These discretionary awards can be given to:
- Individual Council Taxpayers;
  - Groups of Council Taxpayers defined by a common set of circumstances;
  - Council Taxpayers within a defined area: or
  - To all Council Taxpayers within the Council's area.
- 1.3 The legislation for S13A 1c states the following:  
*.....in any case, may be reduced to such extent or, if the amount has been reduced under S13a 1 a (Council Tax Reduction Scheme) such further extent as the billing authority for the area in which the dwelling is situated thinks fit.....*
- 1.4 The provision allows the Council the discretion to provide assistance to taxpayers where, either the existing legislation does not provide a discount, exemption or reduction or in such circumstances where the Council feels that the level of discount; exemption or reduction is insufficient given the circumstances.
- 1.5 When deciding on whether to grant a discretionary award, the Council will consider each application on its merits. Principles of reasonableness will apply in all cases with the authority deciding each case on relevant merits.
- 1.6 Any decision made will be without reference to any budgetary considerations, notwithstanding the fact that any awards must be balanced against the needs of local taxpayers who will ultimately pay for a reduction in Council Tax income.
- 1.7 Likewise the period of any reduced liability will be considered in conjunction with the circumstances of the Council Taxpayer.
- 1.8 For the purposes of administration, the decision to grant any reduction in liability shall be considered within the following categories:

## 2 Exceptional Financial Hardship - Council Tax Reduction

- 2.1 In accordance with **Section 13A 1a** of the Local Government Finance Act 1992, the Council has a Council Tax Reduction Scheme which provides support, through a discount, to those deemed to be within financial need. The Scheme has been designed to take into account the financial and specific circumstances of individuals through the use of applicable amounts, premiums and income disregards.
- 2.2 Applications will be accepted under this part of the policy for people who have qualified for support under the Council Tax Reduction Scheme but who are still experiencing severe financial hardship. Other taxpayers may also apply (under Section 13A 1c); however, the Council would normally expect the taxpayer to apply for Council Tax Reduction first in any case and will also consider additional support within the scheme itself (S13A 1a).

2.3 The objectives of the fund are:

- Assist customers who are experiencing a personal crisis and difficult events affecting their finances;
- Assist customers through unforeseen short-term circumstances which is causing hardship;
- Aim to prevent exceptional hardship and assist those who are financially vulnerable
- To support vulnerable young people in the transition to adult life
- To support customers with children to keep the families together
- To assist customers in obtaining and sustaining employment
- Aim to alleviate poverty

The main features of the fund are that:-

- The payments are discretionary;
- Payments are time limited and to help with exceptional hardship;
- There is no statutory right to be awarded a payment;
- Hardship payments are not a payment of Council Tax Reduction;
- The fund is a cash limited fund;
- Applicants should normally be in receipt of Council Tax Reduction when the application is made;
- All applications will be considered on its own merit.

**Considerations for making an award:**

2.4 The considerations to be taken into account in making an award are:

- The exceptional nature of the customer and/or their family circumstances that impact on finances;
  - The steps taken by the customer to reduce the shortfall;
  - The amount of Council Tax to be paid;
  - Changing the payment methods, council tax instalments or set alternative arrangements in order to make payments affordable for the customer;
  - Eligibility for any Council Tax discount, exemptions or reductions;
  - Steps taken by the customer to identify and reduce non-essential expenditure;
  - Personal circumstances including age, medical circumstances including ill health and disabilities of the customer, partner and any other household members;
  - The financial difficulties of the customers which prevent them from being able to meet their council tax liability and the length of time the situation is likely to exist;
  - All income of the customer, their partner and other household members including income that is disregarded when awarding Council Tax Reduction;
  - Savings or capital that is held by the customer and their partner; and
  - All debts outstanding for the customer and partner.

## **The amount available in the fund at the time of the request**

- 2.5 As part of the process of applying for additional support, all applicants must be willing to undertake **all** of the following:
- a. Make a separate application for assistance;
  - b. Provide full details of their income and expenditure;
  - c. The taxpayer is able to satisfy the Council that they are not able to meet their full Council Tax liability or part of their liability;
  - d. Accept assistance from either the Council or third parties such as the CAB or similar organisations to enable them to manage their finances more effectively including the termination of non-essential expenditure;
  - e. Identify potential changes in payment methods and arrangements to assist the applicant;
  - f. Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted;
  - g. The taxpayer is able to demonstrate that all reasonable steps have been taken to meet their full Council Tax liability including applications for employment or additional employment, alternative lines of credit;
  - h. The taxpayer has no access to assets that could be realised and used to pay the Council Tax;
  - i. and benefits, Council Tax Support, discounts and exemptions; and
  - j. Maximise their income through the application for other welfare benefits, cancellation of non-essential contracts and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.
- 2.6 The Council will be responsible for assessing applications against this policy and an officer will consider the following factors when applying this policy:
- a. Current household composition and specific circumstances including disability or caring responsibilities;
  - b. Current financial circumstances;
  - c. Determine what action(s) the applicant has taken to alleviate the situation;
  - d. Consider alternative means of support that may be available to the applicant by:
    - i. re-profiling council tax debts or other debts;
    - ii. applying for a Discretionary Housing Payment for Housing Benefit (where applicable);
    - iii. maximising other benefits; and
    - iv. determining whether in the opinion of the decision maker the spending priorities of the applicant should be re-arranged.

## **3 The Flood Recovery Framework**

- 3.1 In a severe weather event with significant wide area impacts, local authorities may need Central Government 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.

- 3.2 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.
- 3.3 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?**

- 3.4 Where the scheme is activated by Central Government 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.
- 3.5 Second homes (which are no one's sole or main residence but furnished and empty homes (unoccupied and unfurnished dwellings) will **not** be eligible.
- 3.6 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.
- 3.7 Whilst this is a Central Government scheme, It will be for the Council to determine eligibility for individual dwellings under the scheme.

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

- 3.8 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.
- 3.9 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**

- 3.10 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**

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

- 3.12 In addition to the Government's Flood Recovery Framework, the council will consider requests for assistance from Council Taxpayers who have experienced damage to their main residence as a result of a severe weather event that has made their property unliveable, where they remain liable to pay council tax and for which they have no recourse for compensation nor have any recourse to any statutory exemptions or discounts.
- 3.13 All such request must be made in writing outlining the circumstances of why reduction in liability is required, with supporting evidence, and specifying when the situation is expected to be resolved.
- 3.14 The amount and the duration of the award will be determined at the discretion of the council and will be done so on the basis of evidence provided and the circumstances of the claim.
- 3.15 Instances where households might be considered unliveable are those:
- where access to the property is severely restricted (e.g. upper floor flats with no access);
  - key services such as sewerage, water and power supplies are severely affected;
  - the adverse weather has results in other significant damage to the property such that it would be, or would have been advisable for residents to vacate the premises for a period of time, regardless of whether they do vacate or not; and
  - 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.

## **4 Crisis**

- 4.1 The Council will consider requests for assistance from Council Taxpayers who, through no fault of their own, have experienced a crisis or event that has made their property uninhabitable, where they remain liable to pay council tax and for which they have no recourse for compensation nor have recourse to any statutory exemptions or discounts.
- 4.2 All such requests must be made in writing detailing the **exact** circumstances of why reduction in the liability is required and specifying when the situation is expected to be resolved.
- 4.3 The Council will consider applications on a case-by-case basis in consultation with other organisations as appropriate. Any reduction will be applied where they remain liable to pay council tax and for which they have no recourse for compensation nor to any statutory exemptions or discounts or where the crisis or event is not covered by any insurance policy. The Council will not consider requests from taxpayers where government guidance or policy provides for a reduction in liability in specific circumstances, for example, flood relief schemes.

## **5 Other Circumstances**

- 5.1 The Council will consider requests from Council Taxpayers for a reduction in their liability based on other circumstances, not specifically mentioned within this document. However, the Council must be of the opinion that the circumstances relating to the application warrant further reduction in their liability for Council Tax having regard to the effect on

other Council Taxpayers.

5.2 No reduction in liability will be granted where any statutory exemption or discount could be granted.

5.3 No reduction in liability will be granted where it would conflict with any resolution, core priority or objective of the Council.

## **6 Changes in circumstances**

6.1 The Council may revise any discretionary reduction in liability where the applicant's circumstances or situation has changed.

6.2 The taxpayer should agree that he/she must inform the Council immediately either by phone or in writing about any changes in their circumstances which might affect the application under this policy. Failure to do so may result in the withdrawal of the reduction granted for the year and the requirement to repay any outstanding amount to the Council.

6.3 All changes in circumstances should be notified within 21 days.

## **7 Duties of the applicant and the applicant's household**

7.1 A person claiming any discretionary reduction in liability must:

- Provide the Council with such information as it may require to make a decision;
- Tell the Council of any changes in circumstances that may be relevant to their ongoing claim;
- Allow the Council to inspect the premises (if required); and
- Provide the Council with such other information as it may require in connection with their claim.

## **8 The award and duration of a reduction in liability**

8.1 Both the amount and the duration of the award are determined at the discretion of the Council and will be done so on the basis of the evidence supplied and the circumstances of the claim.

8.2 The start date of such a payment and the duration of any payment will be determined by the Council. In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

8.3 The application and any supporting documentation will be submitted to the Revenues and Benefits Operational Manager for a decision.

## **9 Payment**

9.1 In line with legislation, any award shall be granted as a reduction in the liability of the Council Tax Payer thereby reducing the amount of Council Tax payable



## **10 Reductions in Council Tax liability granted in error or incorrectly**

- 10.1 Where a reduction in liability has been granted incorrectly or in error ,either due to a failure by the applicant to provide the correct or accurate information to the Council or some other circumstances, the Council will withdraw the reduction and look to recover the amount from the taxpayers account in the normal way.

## **11 Notification of a reduction in liability**

- 11.1 The Council will notify the outcome of each application in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

## **12 Appeals**

- 12.1 Appeals against the Council's decision may be made in accordance with Section 16 of the Local Government Finance Act 1992.
- 12.2 The Council Taxpayer must ,in the first instance, write to the Council outlining the reason for their appeal. Once received the Council will reconsider its decision and notify the Council Taxpayer accordingly.
- 12.3 Where the Council Taxpayer remains aggrieved, a further appeal can then be made to the Valuation Tribunal. This further appeal should be made within 2 months of the decision of the Council not to grant any reductions. Full details can be obtained from the Councils website or from the Valuation Tribunal <http://www.valuationtribunal.gov.uk/Home.aspx>

## **13 Fraud**

- 13.1 The Council is committed to protecting public funds and ensuring funds are awarded to the people who are rightfully eligible to them.
- 13.2 An applicant who tries to fraudulently claim a reduction in liability 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 a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

## **14 Complaints**

- 14.1 The Council's 'Comments, Compliments and Complaints Procedure' (available on the Councils website) will be applied in the event of any complaint received about this policy.

## **15 Policy Review**

- 15.1 This policy will be reviewed annually 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.