

# **North Hertfordshire District Council Council Tax Discretionary Reduction in Liability S13A (1)(c) Policy**

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# 1 Introduction and Legislation

1.1 Section 13A (1)(c) 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 This policy is basically divided into the following areas namely:

- (a) **The Council Tax Hardship Fund** – this part of the policy covers the recent initiatives by Central Government to assist taxpayers who are suffering financial hardship due to the onset of the Corona virus (COVID-19);
- (b) **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;
- (c) **Granting of reductions in Council Tax liability where there is exceptional hardship** - this part of the policy applies to circumstances where the applicant experiences exceptional hardship;
- (d) **Crisis** – this part of the policy deals with all cases where a reduction in liability is claimed where there the taxpayer experiences a crisis (other than mentioned in (a) to (c); and
- (e) **Other circumstances** – this part applies where the application is made other than for (a) to (d) above.

1.4 The relevant legislation (S13 (1) (c) of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012), states the following:

## **Reductions by billing authority**

(1) 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 applicable)

(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.**

- 1.5 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.
- 1.6 When deciding on whether to grant a reduction in liability, 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.
- 1.7 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 any reduction in Council Tax income. However, where Central Government provides funding directly to the Council to compensate for specific events such as the COVID-19 crisis and in the case of severe flooding, the Council will look to use **all** funding provided.
- 1.8 The period of any reduced liability will be considered in conjunction with the circumstances of the Council Taxpayer except where specified by Central Government.

## **2 The COVID-19 Council Tax Hardship Fund**

- 2.1 Central Government have announced a number of recent initiatives to assist taxpayers who are suffering financial hardship due to the onset of the Corona virus (COVID-19) and have provided funds to the Council under S31 of the Local Government Act 2003 with the proviso that all monies are paid strictly in accordance with S13A(1)(c) of the Local Government Finance Act 1992 and in line their guidance issued on 25<sup>th</sup> March 2020.
- 2.2 The funds named by Central Government as the 'Council Tax Hardship Fund' relate to the 2020/21 financial year only and are designed to meet the immediate needs of all taxpayers who are currently claiming Council Tax Reduction (CTR) under S13 A (1) (a) of the Local Government Finance Act 1992. The funds are primarily designed to assist working age applicants with payment of their Council Tax.
- 2.3 It is essentially down to individual authorities to determine how to use the funds however, Central Government through the Ministry of Housing, Communities and Local Government (MHCLG) state that, in order to retain the funding, Councils must look to use monies as directed by them.
- 2.4 The scheme guidance issued by MHCLG states the following:
  - (a) The Government's strong expectation is that billing authorities will provide all recipients of working age local Council Tax Reduction during the financial year 2020/21 with a further reduction in their annual council tax bill of £150, using their discretionary powers to reduce the liability of council taxpayers outside of their formal scheme design;
  - (b) Where a taxpayer's liability for 2020/21 is, following the application of Council Tax Reduction, less than £150, then their liability would be reduced to nil;
  - (c) Where a taxpayer's liability for 2020/21 is nil, no reduction to the Council Tax bill will be available;

- (d) There should be no need for any recipient of Council Tax Reduction to make a separate claim for a reduction under this scheme. The billing authority should assess who is eligible for support from the hardship fund and automatically rebill those council taxpayers;
- (e) Whether or not a taxpayer has been affected by COVID-19, directly or indirectly, should not be taken into account in assessing eligibility for this reduction;
- (f) The Government recognises that existing support mechanisms vary locally, including CTR schemes, discretionary Council Tax discount/hardship schemes and local welfare schemes;
- (g) Having allocated grant to reduce the Council Tax bill of working age Council Tax Reduction recipients by a further £150, billing authorities should establish their own local approach to using any remaining grant to assist those in need. Billing authorities will want to revisit their broader approach at intervals during the financial year, in order to ensure expenditure for 2020/21 remains within their allocation;
- (h) In determining any broader approach to delivering support, authorities are best placed to reflect on the financial needs of their most vulnerable residents. In doing so, they may wish to consider using their remaining grant allocation as part of wider local support mechanisms. These may include, but are not restricted to:
  - (i) Council Tax relief using existing discretionary discount/hardship policies (adapted where necessary in order to capture those most likely to be affected by COVID-19);
  - (ii) Additional support outside the Council Tax system through Local Welfare or similar schemes; and
  - (iii) A higher level of Council Tax Reduction for those working age Council Tax Reduction recipients whose annual liability exceeds £150.
- (i) The Government is keen to ensure that support is provided as quickly as possible to individuals who are eligible. It therefore considers that there is a strong case for councils to provide the support 'up front' to enable the maximum benefit to be delivered promptly. However, the Government recognises that in some cases, authorities may consider that the most effective assistance could be profiled across the year.

### **The Council's Policy in respect of the Council Tax Hardship Scheme (COVID-19)**

- 2.5 The Council is keen to support all taxpayers within the area and, as such, will implement the scheme strictly in accordance with Central Government guidelines by taking the following actions:
- (a) An amount of up to £150 will be credited to the Council Tax account of all working age applicants who are in receipt of Council Tax Reduction on 1<sup>st</sup> April 2020 (it should be noted that where any residual liability of any taxpayer is less than £150, then an amount will be granted to ensure that the liability is reduced to zero). There will be no requirement for any taxpayer to apply for this initial award and it shall be automatically applied to their account; and
  - (b) Where the working age taxpayer is not entitled to Council Tax Reduction on 1<sup>st</sup> April 2020 but subsequently becomes entitled, in line with Central Government guidance, assistance shall be given as in (a) above.
- 2.6 Funding shall be used initially for (a) above and any residual monies shall be used for cases falling with section (b).

### 3. The Flood Recovery Framework

- 3.1 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.
- 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 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.
- 3.5 Second homes and empty homes 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 It will be for the Council to determine eligibility 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.

## **4 Exceptional Financial Hardship**

- 4.1 In accordance with **Section 13A (1) (a)** 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.
- 4.2 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; however, the Council would normally expect the taxpayer to apply for Council Tax Reduction in any case.
- 4.3 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

- (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.
- 4.4 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;
    - iv. determining whether in the opinion of the decision maker the spending priorities of the applicant should be re-arranged.

## 5 Crisis

- 5.1 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.
- 5.2 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.
- 5.3 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.

## 6 Other Circumstances

- 6.1 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.
- 6.2 No reduction in liability will be granted where any statutory exemption or discount could be granted.
- 6.3 No reduction in liability will be granted where it would conflict with any resolution, core priority or objective of the Council.



## **7 Changes in circumstances**

- 7.1 The Council may revise any discretionary reduction in liability where the applicant's circumstances or situation has changed.
- 7.2 The taxpayer agrees that he/she must inform the Council immediately either by phone or in writing about any changes in their circumstances which might affect the claim for 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.

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

- 8.1 A person claiming any 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; and
  - Provide the Council with such other information as it may require in connection with their claim.

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

- 9.1 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.
- 9.2 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.
- 9.3 The application and any supporting documentation will be submitted to the Service Director - Customers for a decision.

## **10 Payment**

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

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

- 11.1 Where a reduction in liability has been granted incorrectly or in error either due to a failure to provide the correct or accurate information to the Council or some other circumstances, the Council Taxpayers account will be adjusted and billed in the normal way.

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

- 12.1 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.
- 12.2 If a Council Taxpayer is aggrieved by the council's decision a written request for a review of its decision can be submitted if it is made within 2 months of the original decision. If the original decision is upheld and the council taxpayer remains aggrieved, there is a further right of appeal to the valuation tribunal.

## **13 Delegated Powers**

- 13.1 This S13A (1) (c) policy has been approved by the Council. However, the Service Director - Customers 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.

## **14 Appeals**

- 14.1 Appeals against the Council's decision may be made in accordance with Section 16 of the Local Government Finance Act 1992.

**14.2 The Council Taxpayer must in the first instance write to the Council outlining the reason for their appeal. Once received the council will then consider whether any additional information has been received which would justify a change to the original decision and notify the Council Taxpayer accordingly.**

- 14.3 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 [www.valuationtribunal.gov.uk](http://www.valuationtribunal.gov.uk)

## **15 Fraud**

- 15.1 The Council is committed to protecting public funds and ensuring funds are awarded to the people who are rightfully eligible to them.
- 15.2 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.
- 15.3 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.

## **16 Complaints**

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

## **17 Policy Review**

- 17.1 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.