

CABINET

12 MARCH 2013

COUNCIL TAX DISCRETIONARY RELIEF POLICY

Portfolio Holder: Councillor Alan Jarrett, Deputy Leader and Portfolio Holder for Finance

Report from: Mick Hayward, Chief Finance Officer

Author: Jon Poulson, Revenues & Benefits Manager

Summary

This report seeks Cabinet approval of a discretionary council tax relief policy.

1. Budget and Policy Framework

1.1 It is the Cabinet's responsibility to propose a budget to be agreed by Council. The introduction of a discretionary Council Tax Relief policy will have an impact on the revenue budget. The consequences of dealing with these issues has already been taken into account in the Council's budget for 2013/14.

2. Background

2.1 The Welfare Reform Act 2012, which received royal assent on 8 March 2012, abolishes Council Tax Benefit (CTB).

2.2 The replacement of CTB with a localised council tax reduction scheme (CTRS) was reported to Cabinet on 4 September 2012 (147/2012) and Cabinet noted the intention to amend the level of discounts for mortgagees in possession to zero and to use the additional income to establish a hardship fund. (148/2012).

2.3 On 24 January 2013 Council adopted a CTSS (774/2012).

2.4 The Government has failed to issue the necessary regulations enabling the discount for mortgagees in possession to be reduced to zero but officers recognise that there may on occasion be particular cases of hardship which are not adequately covered by the proposed new localised council tax reduction scheme, or discounts and exemptions, especially given the number of welfare reform changes being implemented from 1 April 2013.

2.5 Officers are therefore proposing to still put in place a discretionary relief fund, utilising powers under section 13A of the Local Government Finance Act 1992, although it is anticipated that this would only apply in limited exceptional circumstances. These would apply where, for example, additional help with current Council Tax will have a significant effect in alleviating hardship in the transition from long term benefit dependence into work, examples being:

- Circumstances unusual/exceptional to the taxpayer;
- Costs that are beyond their control and do not arise through the actions or failures of others;
- Extreme and temporary situations which make it difficult to meet the Council Tax liability that is due:
- Imminent recovery action that will have a major detrimental effect on the resident's capacity to support or maintain their family.

2.6 The details of the discretionary hardship relief scheme which is to be approved are contained in Appendix 1.

3. Advice and Analysis

3.1 When considering making policy, the decision maker needs to comply with obligations as to equalities under the Equality Act 2010. In essence this requires decision makers to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

Protected characteristics, as defined in the 2010 Act, are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Having due regard to the above needs involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics
- taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

In order to comply with its equality duties, the Council is required to engage with service users, representative groups, staff and unions and to use the

information and views gathered as a result of such engagement (together with other equality information the local authority has) in assessing the equality impact of the proposals.

- 3.2 In order to meet these obligations an initial screening has been completed and can be found at Appendix 2. Given that the fund is equally accessible to all council taxpayers there are no concerns that any particular groups would be adversely affected by this policy, but monitoring will be needed to ensure that relief is actually awarded in an equal manner.

4. Risk Management

Risk	Description	Action to avoid or mitigate risk
Failure to produce a scheme	Likelihood D (Low) Impact 2 (Critical) If a scheme is not in place the Council will be obliged to pursue the debtors to court before being able to write off .	Project/Implementation plan drawn up with milestones
Forecast cost of scheme falls short	Likelihood D (Low) Impact 3 (Marginal) Claimants may have reduced benefits 'unnecessarily'	Use of data modelling tools and data analysis
Forecast cost of scheme excessive	Likelihood D (Low) Impact 2 (Critical)	Use of data modelling tools and data analysis

5. Financial and legal implications

- 5.1 In the Cabinet report on 4 September 2012 it was estimated that reducing the discount for mortgagees in possession to zero would have resulted in an additional £70,000 of income from Council Tax. This is a volatile area and currently these discounts have an annual value of £52,000. Given that the required regulations have not been laid this source of funding is not available.
- 5.2 The need for a safety net provision in the case of extreme hardship remains and is not covered by other Government provision such as the grant for Discretionary Housing Payments. In building the budget for 2013/14 a number of income streams have been used to ensure that the anticipated discounts awarded under the Council Tax Reduction Scheme are affordable. There is currently an element of surplus in the application of these funds to allow for growth and unexpected costs and it is therefore proposed that £70,000 of this be set aside for the discretionary scheme.
- 5.3 Section 13A of the LGFA1992 permits billing authorities to resolve to reduce the amount a person is liable to pay by way of council tax to such an extent as they think fit. This includes power to reduce an amount to nil, and 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 for within the determination.

5.4 There are no legal implications other than those set out in the report.

6. Recommendation

6.1 That Cabinet adopt the discretionary council tax relief policy at Appendix 1 funded as indicated in paragraph 5.2 of the report.

7. Suggested reasons for decisions

7.1 The Government's welfare reform policy will see the biggest changes to the welfare system for over 60 years. Some recipients of benefit may be affected by one change, whilst others may be affected by multiple changes. Given this, and the launch of a new localised council tax reduction scheme, it is possible that some council taxpayers could face financial hardship and as such a contingency fund could prove a lifeline in those particular cases.

Lead officer contact

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Background papers

Localised council tax support scheme
<http://democracy.medway.gov.uk/ielssueDetails.aspx?Ild=9616&Opt=3>
Local Government Finance Act 1992 (as amended)
<http://www.legislation.gov.uk/ukpga/1992/14/contents>

Council Tax Discretionary Relief Policy

1. Purpose of policy document

- 1.1 This policy has been designed to ensure that all council taxpayers making an application for relief are treated in a consistent and equitable manner
- 1.2 This policy has been written to:
- set guidelines for the factors to be considered in determining an application
 - set out the delegated authority to award relief in appropriate circumstances
 - establish an appeals procedure for applicants dissatisfied with a decision
 - safeguard the interests of the local taxpayers by ensuring funds allocated for the award of relief are used effectively and economically

2. Background

- 2.1 Under Section 13A of the Local Government Finance Act 1992 (as inserted by Section 76 of the Local Government Act 2003), the Council has the power to reduce liability for council tax in relation to individual cases or class(es) of cases that it may determine and where national discounts and exemptions cannot be applied. It says:

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 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 the 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.*

- 2.2 There are financial implications to awarding any discounts other than those currently available under the statutory legislation and the financial burden of Section 13A discounts has to be met through an increase in the general level of council tax for other payers. As a consequence of this the Council will only consider using its powers to reduce council tax liability for any council taxpayer or class of payer in exceptional circumstances.

3. Eligibility Guidelines

- 3.1 The Council will treat all applications on their individual merits, however some or all of the following criteria should be met for each case:
- There must be evidence of financial hardship or personal circumstances that justifies a reduction in council tax liability;

- The taxpayer must satisfy the Council that all reasonable steps have been taken to resolve their situation prior to application;
- The customer has applied for localised tax support. The localised council tax support system exists to ensure that those on low incomes receive financial assistance with their council tax;
- All other eligible discounts/reliefs have been awarded;
- The liable person for an unoccupied domestic property has made their best efforts to sell or let the property and to levy a council tax charge would cause them exceptional financial hardship
- The taxpayer does not have access to other assets that could be used to pay council tax;
- Can the situation be resolved by some other legitimate means? If it can it is unlikely that an award will be made;
- The Council's finances allow for a reduction to be made;
- The situation and reason for the application must be outside of the taxpayer's control;
- The amount outstanding must not be the result of wilful refusal to pay or culpable neglect;
- It is reasonable for the Council to award a reduction having regard to the interests of other local Council Tax payers who have to meet the cost of any relief granted.

3.2 As a consequence of this the power to reduce under this section should only be applied in exceptional circumstances.

3.3 In all cases relief will end in the following circumstances:

- At the end of the financial year
- There is a change of liable person
- The council tax payer enters any form of formal insolvency
- The council tax payer's financial circumstances significantly change

4. Claiming discretionary relief

4.1 Requests for reductions in council tax liability will be required in writing from the taxpayer, their advocate/appointee or a recognised third party acting on their behalf. Applications must be made on an approved application form (see attached). The application form and any supporting information should be completed and returned to:

Medway Council
 Medway Revenues & Benefits Service
 Gun Wharf
 Dock Road
 Chatham
 Kent ME4 4TR

Alternatively an on-line application form can be completed on the Council's website with any supporting information sent to the address above.

- 4.2 The application should relate to the current council tax year, unless the liable person has just received an account following late valuation for a previous year(s);
- 4.3 The Council may request any reasonable evidence in support of an application which will include a full financial statement detailed on the standard application form provided by the Revenues & Benefits Service confirming the applicant's household's total income and expenditure.

5. *Decision making process*

- 5.1 The Council will decide every application for relief where the customer has satisfied the required criteria as laid out in this policy.
- 5.2 The responsibility for making discretionary decisions will rest with the Revenues & Benefits Manager.
- 5.3 The decision making process will involve:
 - Stage 1. Initial applications will be considered by a senior customer contact officer within 14 days of receipt of a signed application and all supporting information. This will include a review sheet, with findings and financial implications and initial recommendations.
 - Stage 2. The initial recommendations and accompanying paperwork will then be forwarded to the Revenues Manager who will make a final recommendation for the Revenues & Benefits Manager consideration.
 - Stage 3. The Revenues and Benefits Manager will then approve/refuse the application within a further 7 days.

6. Notification of Decision

- 6.1 The Council will notify the customer of its decision within 28 days of receiving sufficient information to make a decision.

7. Review of decision

- 7.1 Under the Local Government Finance Act 1992, there is no right of appeal against the Council's use of discretionary powers. However, the Council will accept a customer's written request for a re-determination of its decision.
- 7.2 Re-determination will be undertaken by the Chief Finance Officer
- 7.3 The Chief Finance Officer will consider whether the council tax payer has provided any additional information that will justify a change to its original decision.
- 7.4 The Council will notify a customer of its decision within 14 days of receiving a request for a review.

**APPLICATION FOR COUNCIL TAX REDUCTION UNDER SECTION 13A OF THE
LOCAL GOVERNMENT FINANCE ACT 1992**

* Please note that if a joint bill has been issued then the application must also be made in joint names

Name of applicant/s:

Contact Address:

Telephone:

Email Address:

Address of property for which relief is being claimed:

Owner Name/s:

Is the property currently vacant? YES/NO

What is the value of equity in the property? £

Is the property currently marketed for sale? YES*/NO

*Please provide details of market agent / estate agent for the property

Is the property currently marketed for rent? YES*/NO

*Please provide details of marketing agent/estate agent for the property?

Please provide details of any other properties owned by yourself and value of any rental income you are in receipt of

If you have left a property empty to move to more suitable accommodation or to receive or provide care due to old age, disablement, illness, alcohol or drug abuse or mental disorder, then please provide details below

Please provide the detailed reasons why you are applying for a reduction in Council Tax. This should fully explain the circumstances that are creating financial difficulty and how long you expect these circumstances to continue.

Has an application for Council Tax Reduction been made? YES/NO

Are you receiving financial assistance from any other source? YES*/NO

*please provide details:

Have you approached any organisation to assist with your current financial situation such as Citizen Advice Bureau / Welfare Rights etc YES*/NO

*please provide details:

Please provide details of any stocks/shares/savings/money you may have or money you are owed:

Please provide any additional information you wish to provide in support of your application

**DISCRETIONARY COUNCIL TAX SUPPORT PAYMENTS CLAIM FORM
YOUR HOUSEHOLD EXPENDITURE**

Source	Amount £	How often is this paid?	How much do you owe?	Source	Amount £	How often is this paid?	How much do you owe?
Rent you pay (the amount not covered by benefit)				Travel expenses (bus, train, taxi etc)			
Mortgage you pay				Clothing / School uniform			
Council Tax you pay				School dinners			
Household shopping (Food, toiletries etc)				Other school expenses(after school)			
Payments to catalogues				Childminding fees			
Phone (land line)				Children's clubs / pocket money			
Phone (mobile)				Sky / Cable / digital TV			
Personal Insurance				Internet access			
Home insurance				Loan repayments (including car & bank)			
Health / Medical (insurance/ optical/ dental / prescription)				Credit card payments			
Water rates				HP payments			
Gas				Pension contributions			
Electricity				Regular savings			
Other household fuel (Oil etc)				Subscriptions			
TV Licence				Cigarettes / tobacco			
Fines (including court orders attachment of earnings order)				Alcohol			
Maintenance / Child Support Payments				Entertainment/ Eating out/ Takeaways/DVD rental/Lottery			
Shopping club				Social fund repayments			
TV / Video hire				Other			
Newspapers / magazines				Company / Person I owe money to		Balance owing	Repayment offer (if any)
Car - Petrol				1.			
Car - Insurance				2.			
Car - Tax				3.			

**DISCRETIONARY COUNCIL TAX SUPPORT PAYMENTS CLAIM FORM
YOUR HOUSEHOLD INCOME**

Source	Claimant Amount £		How often is this paid?	Partner Amount £		How often is this paid?
	Gross	Net		Gross	Net	
Wages / Salary						
Income Support or Jobseekers Allowance						
Statutory Sick / Maternity Pay / Company Sick pay						
Working Tax Credits						
Child Tax Credits						
Retirement pension						
Private or occupational pension						
Pension credit						
Incapacity Benefit						
Employment Support Allowance						
Disability Living Allowance – Care						
Disability Living Allowance – Mobility						
Attendance Allowance						
Maintenance						
Housekeeping / money from non dependants / boarders / lodgers / sub tenants						
Other income / benefits						
Child Benefit						

**DISCRETIONARY COUNCIL TAX SUPPORT CLAIM FORM
YOUR HOUSEHOLD CAPITAL**

Capital	Claimant £	Account – name & number	Partner £	Account – name & number
Bank / Building Society Accounts				
Assets & Investments - shares / bonds etc				
Property or land	Property / Land – address:			Value £

Please use the box below to enter any further information regarding income, capital or expenditure.

For example:

- If you have taken steps relating to the management of your debts please explain your action – contacted CAB etc
- If you have more than 2 bank / building society accounts.

Declaration

Even if someone else has filled the form in for you, you and any partner must sign this declaration if you can.

Please read this declaration carefully before you sign and date it.

- **I declare** that the information I have given on this form is correct and complete.
- **I understand** that if I give information that is incorrect or incomplete, you may take action against me. This may include court action.
- **I agree** that you will use the information I have provided to process my Discretionary Housing Payment application. You may check some of the information with other sources as allowed by the law.
- **I understand** that you may use any information I have provided in connection with this and any other claim for social security benefits that I have made or may make. You may give some information to other organisations, such as government departments, local authorities and private-sector companies such as banks and organisations that may lend me money, if the law allows this.
- **I know** that I must let you know in writing about any change in my circumstances which might affect my claim.

Signature of person claiming

Partner's signature

Date

Date

If this form has been filled in by someone other than the person claiming, please tell us why you are filling in this form for the person claiming.

I declare that, as far as possible, I have confirmed with the person claiming that the answers I have written on this form are correct.

Name of person who filled in form

Signature

Relationship to the person claiming

Date

Diversity Impact Assessment: Screening Form

Directorate	Name of Function or Policy or Major Service Change		
BSD	Council Tax Discretionary Relief Policy		
Officer responsible for assessment	Date of assessment	New or existing?	
Jon Poulson	20 February 2013	New	
Defining what is being assessed			
1. Briefly describe the purpose and objectives	<p>Section 13A of the LGFA1992 permits billing authorities to resolve to reduce the amount a person is liable to pay by way of council tax to such an extent as they think fit. This includes power to reduce an amount to nil, and 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 for within the determination.</p> <p>The aim of this policy is to use these powers to help council tax payers in those exceptional cases where they may still suffer financial hardship despite being in receipt of the maximum amount of discounts and exemptions due to them.</p>		
2. Who is intended to benefit, and in what way?	All Council Tax Payers could potentially benefit by this proposal, as all Council Tax payers will be eligible to apply for Hardship Relief, including all those that have one or more of the protected characteristics listed below.		
3. What outcomes are wanted?	The prevention of financial hardship arising from liability for council tax.		
4. What factors/forces could contribute/detract from the outcomes?	Contribute Communicating discount & exemption options effectively Ensuring accurate assessment of liability	Detract People not being aware of options available to them Insufficient funding	
5. Who are the main stakeholders?	Council Tax payers (approx 112,000)		
6. Who implements this and who is responsible?	Medway Revenues & Benefits Service – Jon Poulson, Revenues & Benefits Contract Manager		
Assessing impact			
7. Are there concerns that there <u>could</u> be a differential	YES	The Council Tax payers fall into all the groups mentioned and all will have equal	

impact due to <i>racial/ethnic groups</i> ?	NO	access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt to the council
What evidence exists for this?		
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i> ?	YES	The Council Tax payers fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt to the council
	NO	
What evidence exists for this?		
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i> ?	YES	The Council Tax payers fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt to the council
	NO	
What evidence exists for this?		
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i> ?	YES	The Council Tax payers fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt to the council
	NO	
What evidence exists for this?		
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i> ?	YES	The Council Tax payers fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt to the council
	NO	
What evidence exists for this?		
12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i> ?	YES	The Council Tax payers fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt to the council
	NO	
What evidence exists for this?		
13. Are there concerns that there <u>could</u> be a differential	YES	The Council Tax payers fall into all the groups mentioned and all will have equal

impact due to <i>being transgendered or transsexual</i>?	NO	access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt to the council
What evidence exists for this?		
14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. speakers of other languages; people with caring responsibilities or dependants; those with an offending past; or people living in rural areas)?	YES	The Council Tax payers fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt to the council
	NO	
What evidence exists for this?		
15. Are there concerns there <u>could</u> be a have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?	YES	The Council Tax payers fall into all the groups mentioned and all will have equal access to apply for Hardship Relief, some of which may fall into this group and benefit from the ability to negate a debt to the council
	NO	
What evidence exists for this?		

Conclusions & recommendation

16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	YES	Brief statement of main issue
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	YES	Please explain
	NO	
Recommendation to proceed to a full impact assessment?		
NO	This function/ policy/ service change complies with the requirements of the legislation and there is evidence to show this is the case.	
NO, BUT ...	What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?	Monitoring applications and awards to ensure that these are reflective of taxpayers as a whole.
YES	Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)	