

CABINET

14 APRIL 2015

COUNCIL TAX DISCRETIONARY RELIEF POLICY

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

Report from: Phil Watts, Chief Finance Officer

Author: Jon Poulson, Revenues & Benefits Manager

Summary

This report seeks Cabinet approval of a revised 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 changes proposed in this report do not alter the impact of the Council tax Relief policy on the revenue budget.

2. Background

2.1 On 12 March 2013 Cabinet adopted a Council Tax Discretionary Relief policy (Decision 62/2013).

2.2 The scheme provides additional help with Council Tax helping to alleviate 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.

2.3 Following clarification from the President of the Valuation Tribunal, there is a right of appeal against any decision not to award Council Tax Discretionary

Relief. As such officers are seeking to incorporate the right of appeal to the Valuation Tribunal into the existing policy.

- 2.4 After two years in operation, a number of administrative inefficiencies in the operation of the policy have been identified and officers are seeking to streamline the process.

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 was completed and can be found at Appendix 2. Given that the changes introduce an additional appeal right and are otherwise administrative rather than decision making there are no concerns that any particular groups would be adversely affected by the changes to this policy. However, officers are in the process of completing a new Diversity Impact Assessment for the Local Council Tax Reduction Scheme which will encompass the Council Tax Discretionary Relief Policy.

4. Risk Management

Risk	Description	Action to avoid or mitigate risk
Claimants denied full appeal rights	Likelihood B (High) Impact 2 (Critical) Claimants would not be aware of their right to apply to the Valuation Tribunal	Ensure all claimants appeal rights included within policy and provided to them during application process.
Declaration of maladministration by the Local Government Ombudsman (LGO)	Likelihood A (Very High) Impact 2 (Critical) The LGO expects all published policies to contain appropriate appeal rights	Ensure all claimants appeal rights included within policy and provided to them during application process
Double handling of claims and delays in processing	Likelihood B (High) Impact 2 (Critical)	Amend application process and policy accordingly

5. Financial and legal implications

5.1 There are no financial implications to this report. For information the total amount awarded in 2013/14 was £8,934.77 and as at 28 February £6,532.20 had been awarded in 2014/15.

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

6. Recommendation

6.1 That Cabinet adopt the amended Discretionary Council Tax Relief Policy at Appendix 1.

7. Suggested reasons for decisions

- 7.1 The Council Tax Discretionary Relief policy continues to provide assistance to those facing financial hardship as a result of welfare reform changes. However, after two years in operation it is believed that the revised policy will provide a more robust policy for claimants and a more efficient application process for both the claimant and the authority.

Lead officer contact

Jon Poulson
Revenues & Benefits Manager
Finance – MRBS
Business Support Department
01634 333700
jon.poulson@medway.gov.uk

Appendices

Appendix 1 - Council Tax Discretionary Relief Policy
Appendix 2 – Diversity Impact Assessment

Background papers

Valuation Tribunal Practice Note VTE/PS/A11

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 [where appropriate](#). 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
- [At the end of any fixed period notified to the council taxpayer at the time the award](#)

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 [decisionawards](#) 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 [Assistant Revenues & Benefits](#) Manager who will make a final recommendation ~~to~~for the Revenues & Benefits Manager [considerationfor an award to be made where appropriate.- Where an award is not to be made the customer will be notified as at 6. Below.](#)
 - 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 [and provide details of the process for having the decision reviewed.-](#)

7. Review of decision

- [7.1 Where an award has been refused, the customer may ask for the decision to be reconsidered and may provide additional evidence to support their case.](#)

- ~~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 ~~Reconsideration-determination~~ will be undertaken by the [Chief Finance Officer Revenues & Benefits Manager](#)
- 7.3 The ~~Chief Finance Officer~~[Revenues & Benefits Manager](#) 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.
- [7.5 Where the decision remains not to award relief, the Council will also supply details of the customer's appeal rights to the Valuation Tribunal.](#)
7. **[Failure to comply with timescales](#)**
- [8.1 Whilst every effort will be made to meet the deadlines outlined in sections 5, 6 or 7 above failure by the Council to do so does not qualify the claimant for relief.](#)

**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 impact due to <i>racial/ethnic groups</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?		
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 impact due to <i>being transgendered or transsexual</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?		
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?		

<h2>Conclusions & recommendation</h2>		
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)	
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