

Policy for Council Tax Relief on the grounds of hardship 2018-19 onwards

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1. Introduction

- 1.1 The Local Government Finance Act 1992 section 13a has always allowed for a discretionary relief of Council Tax in exceptional circumstances including hardship.
- 1.2 From 1 April 2013 the Council Tax Benefits scheme was replaced with the Council Tax Support scheme
- 1.3 The Council Tax Hardship scheme is developed to support residents who are suffering hardship and need assistance for a specified period of time to pay their Council Tax.
- 1.4 The scheme will only be used for the payment of Council Tax and all payments will be credited to the Council Tax account, no payments will be paid direct to the Customer.

2. Background

The following legislation and regulations are relevant to this document:

- 2.1 The Local Government Finance Act 2012
- 2.2 The Local Government Finance Act 1992 Section 13A(1)(c)
- 2.3 The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012
- 2.4 Slough Borough Council Local Council Tax Support Scheme 2018-19
- 2.5 Child Poverty Act 2010
- 2.6 Equality Act 2010 (incorporating the Disabled Persons Act 1986)
- 2.7 Housing Act 1996
- 2.8 Armed Forces Covenant
- 2.9 Social Security Act 1992

3. Costs to the Council

- 3.1 There is a cost to the Council of the full amount of hardship relief awarded for Council Tax which must be met by the Councils collection fund.

4. Council Tax

- 4.1 There is no definition in the legislation for 'hardship', and as the scheme is aimed at covering unforeseen events it is not possible to list precise criteria. Applications will be accepted on the basis that the applicant or household would suffer exceptional financial hardship if financial assistance were not given.

- 4.2 Exceptional circumstances for hardship under the Council Tax regulations will usually be circumstances that are outside the control of the household and beyond normal risks faced by a household. The household must demonstrate that it has done all it can to mitigate those risks and is taking action to minimise them.
- 4.3 To get help with Council Tax payments you need to apply for Council Tax Support. The Council recognises that where the Council Tax Support is less than 100% of the Council Tax due there may be cases of exceptional financial hardship where additional support is sought.
- 4.4 The Council also recognises that there are circumstances where a Council Tax Payer may be experiencing exceptional hardship but may not be eligible for Council Tax Support; the policy does not preclude applications from any Council Tax Payer as long as they meet the criteria set out.
- 4.5 Council Tax hardship relief will not be awarded for any reason other than to reduce Council Tax liability
- 4.6 Only one Council Tax hardship application can be made in a financial year by the household.
- 4.7 Council Tax hardship relief will only be awarded for the financial year in which the application is made.
- 4.8 An application can be made for backdated hardship relief but this will only be considered where the householder was incapacitated and unable to make a claim in the previous year.
- 4.9 Council Tax hardship payment cannot be made to cover previous year's arrears.
- 4.10 Individuals in this group will not be defined but need to be able to demonstrate their circumstances and have exhausted other sources of income that are available to them.

5. The scheme

- 5.1 This scheme exists for those experiencing exceptional financial hardship which is defined as the total weekly amount of uncontrolled outgoings being 65% or more of weekly income.

- 5.2 Individuals in this group will not be defined but need to be able to demonstrate their circumstances and have exhausted other sources of income that are available to them.
- 5.3 Each case will be considered on its own merits.
- 5.4. Where there is a Joint and Several liability for Council Tax, each liable person must be party to the application and both/all provide the information required to support the claim (see section 6).
- 5.5 Applications for Hardship Relief should be one of last resort. Applicants will be expected to have explored and secured any lawful entitlement to other benefits, incomes and reductions in preference to claiming Hardship Relief
- 5.6 Applicants will need to ensure they are able to satisfy the Council that they have taken all reasonable steps to resolve their own situation prior to award.
- 5.7 Awards may be made if the above applies and:
- There is evidence of exceptional financial hardship that justifies an award
 - The applicant or household has supplied all evidence requested by the Local Authority in respect of their claim for CTS
 - The applicant or household must have applied for any appropriate discount or exemption and supplied any evidence requested by the Local Authority in respect of that application
 - The applicant or household does not have access to any other financial assets that could be realised to pay the Council Tax
 - The applicant or household must not be avoiding outstanding Council Tax due to wilful refusal or culpable neglect
 - The Council's finances must allow for an award to be made
 - The applicant has applied for any welfare benefits they may be entitled to.

6. Applications

- 6.1 Applications must be made in writing using the approved claim form together with supporting evidence as required.
- 6.2 The applicant must be the person or persons liable to pay the Council Tax, or be their representative with authority to act on their behalf i.e. Power of Attorney
- 6.3 If an applicant or household needs advice and support to complete a claim form, they will be signposted to an appropriate service that offers support relevant to their needs.
- 6.4 The applicant must set out the reasons for applying including explaining any special circumstances or hardship being experienced.

6.5 Applicants must provide the following to support their application

- Evidence of hardship or personal circumstances that justifies a reduction in Council Tax Liability.
- Evidence that the Council Tax Payer has taken reasonable steps to resolve their situation prior to application.
- The Council Tax Payer can demonstrate that they do not have access to other assets that could be realised and used to pay Council Tax
- The Council Tax payer must provided evidence of their income and outgoings, where a Housing Benefit or Council Tax Support claim is in payment this can be used for income purposes
- All other eligible discounts/reliefs have been awarded to the council tax payer
- All eligible benefits must have been claimed, where a benefit is suspended this will be treated as in payment for the purposes of the above calculation.
- The liable person for a long term 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.

6.6 The Council may require further information e.g.

- Evidence may be requested that is relevant to the nature of the claim e.g. evidence of illness. It should be noted that no costs will be borne by the Council with regard to obtaining the evidence.
- Failure to provide supporting information and evidence that is requested will lead to a refusal, unless the applicant can show good cause for the failure.
- All information and evidence provided will be treated in confidence and in accordance with the Data Protection Act 1998 and proposed GDPR legislation.
- Where the Council requires additional information or evidence it will write to the applicant requesting that the information is supplied within one calendar month.
- The applicant is required to report any changes in their circumstances or the circumstances of household members immediately in writing to the Council. A failure to report changes will lead to a loss of Council Tax Hardship Payment and may lead to prosecution where appropriate.

7. Authority to award relief

- 7.1 All applications will be considered on an individual basis by the Head Revenues and Benefits who will provide an in depth report and

recommendations which will include but not be limited to review sheet, with findings and financial implications and initial recommendations to the Council's Section 151 officer.

- 7.2 All applications for awards of Local Council Tax discount in cases of hardship will be determined by the Council's S151 Officer.
- 7.3 Hardship Relief will only be awarded where it is reasonable to do so in light of the impact on other council tax payers
- 7.4 All applications for awards of Hardship Relief will be subject to a maximum award of the equivalent of 6 months Council Tax Payable
- 7.5 A written record will be kept of the decision and of the factors considered in the process. This record will be available to the applicant free of charge on request.
- 7.5 The decision will be notified to the applicant in writing
- 7.6 Appeals against awards to be finally determined by a Member Appeals Panel.
- 7.7 Details of the recipients and the amount of awards will be reported to the Cabinet annually.

8. Interests of officers and members

- 8.1 Officers and members who have an interest in any aspect of an application for relief must not participate in the decision making process and must declare their interest.
- 8.2 Examples of interests include those in the following list. However, the list is not intended to be exhaustive.
 - A close relative of the applicant
 - An interest in the property for which the relief is being sought

Where an officer is unsure whether they have an interest they should seek advice from the Section 151 Officer . Where a Councillor is unsure whether they have an interest they should seek advice from the Council's Monitoring Officer.

These three Heads Service Leads (i.e. Section 151 Officer, Monitoring Officer and Head of Paid Service, & Legal) may in turn need to liaise with the Head of Revenue and Benefits on any case referred to them (e.g. where cases of conflict of interest will need to be monitored by Revenue Services on an on-going basis).

9. Appeals

- 9.1 There is no statutory right of appeal against a decision regarding a hardship relief made by the Council. However, the Council recognises that charge payers should be entitled to have a decision reviewed objectively if they are dissatisfied with the outcome.
- 9.2 The Council agrees to abide by the following appeals process and aggrieved charge payers should make an appeal in accordance with the process.
- 9.3 Charge payers will be notified of the appeals process in writing at the time that they are notified of the outcome of their request for rates relief.
- 9.4 This appeals process does not affect a charge payers legal rights.

10. Appeals Process

- 10.1 Appeals may only be made by the original applicant. An appellant may appoint an agent to act on their behalf and in such cases the Council will require written authorisation from the appellant before dealing with their agent.
- 10.2 Appeals against decisions will be considered by the Appeal Panel Decisions on appeals made by the Appeal Panel will be final.
- 10.3 Applicants must make an appeal within four weeks of the issue of the letter notifying them of the Council's decision.
- 10.4 Applicants will be notified of the date on which the appeal will be considered, which will be within eight weeks of receipt of the appeal, or as soon as reasonably practicable thereafter.
- 10.5 Applicants may appeal against the decision to award or not award relief, or against the level of relief awarded.
- 10.6 Appeals must be made in writing and must give the reasons why it is believed the decision should be amended. New or additional information may be included, but only if it is relevant to the decision making process.
- 10.7 The appellant does not have a right to appear in person but may make a request to present evidence in person. Such requests will be considered at the discretion of the Appeal Panel as appropriate.
- 10.8 The Appeal Panel can request a meeting with either the applicant and/or the appropriate Revenues and Benefits officer to hear evidence in person. The Appeal Panel may nominate a representative or representatives to attend such meetings on its behalf.
- 10.9 Each application will be considered individually on its merit.

- 10.10 The appeal decision may be adjourned if further information is required from either party.
- 10.11 The applicant will be informed of the final decision, and the reasons for the decision within four weeks of the hearing.
- 10.12 Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process.

11. Discontinuation of applications or appeals

- 11.1 If the Council has requested further evidence from the charge payer and this has not been received within four weeks the application or appeal will be deemed to have been discontinued.
- 11.2 Charge payers will be notified in writing in these circumstances

12. Notifications and payment of award

- 12.1 The Council will consider applications within six weeks of the application and all supporting information being received or as soon as practicable thereafter.
- 12.2 Notification of the outcome of the decision will be made in writing within fourteen days of the decision being considered.
- 12.3 If your application is successful, the balance on your Council Tax. The maximum amount of help combined with Council Tax Support is 100% of your Council Tax. Any hardship payment will be made by way of reduction to your Council Tax charge.

13. Action to recover unpaid Council Tax

- 13.1 Once an application, or an appeal, is received for Hardship Relief no action will be taken to recover unpaid charges until fourteen days after the decision has been notified to the ratepayer.
- 13.2 In the event of an application or appeal being discontinued recovery action may be commenced seven days after the charge payer has been notified of the discontinuation.

14. Promotion of Hardship Relief

- 14.1 The Council will promote the availability of hardship relief, and this policy, in the following ways.

- All demands will have accompanying information explaining the availability of relief.
- Employees who deal with enquiries from charge payers will be trained in all aspects of this policy
- The Council will work in partnership with other organisations that may have a stake in this area.
- The policy will be published on the Council's web site and printed copies will be made available to ratepayers and other stakeholders on request.

15. Recovery of a Hardship Relief award

- 15.1 If an amount of hardship relief awarded is subsequently cancelled the amount will be removed from the applicant's Council Tax account and will be payable as Council Tax due under Council Tax regulations.

16. Fraud

- 16.1 The Council may always correct any award made under this scheme where fraud or error has occurred.
- 16.2. Where a customer has failed to provide information or has knowingly supplied false or misleading information the Council reserves the right to withdraw any award made under this scheme.
- 16.3. Furthermore, the Council reserves the right to investigate any alleged offences, to levy penalties in accordance with the law and to prosecute anyone who has committed a criminal offence

17. Data sharing and fair processing

- 17.1 The Council may use any evidence and information supplied to it in respect of hardship relief to check the eligibility of the applicant in respect of this scheme or any other welfare benefit, discounts or exemptions.
- 17.2 Slough Borough Council is required by law to protect the public funds it administers. It may share information provided to it with other bodies responsible for auditing or administering public funds, in order to prevent and detect fraud. Data will only be shared if the law permits it.

18. Budget restrictions

- 18.1 The Council Tax Hardship Relief will have a budget set each financial year.
- 18.2 The allocated budget will be taken into account when making a decision on the award of relief but the availability of the budget will not preclude the award of relief.