



Leicester
City Council

**WARDS AFFECTED
ALL WARDS (CORPORATE ISSUE)**

Cabinet

12 July 2010

Council Tax Discretionary Relief – Local Discounts

REPORT OF THE CHIEF FINANCE OFFICER

1. Purpose of the Report

- 1.1 This report proposes a framework for applying Council Tax Discretionary Relief under Section 13A of the Local Government Finance Act 1992 (LGFA 1992) as inserted by Section 76 of the Local Government Act 2003 (LGA 2003).

2. Recommendations

2.1 Recommendations:

- (a) Approve that the Chief Finance Officer is given delegated authority to determine applications for Council Tax Discretionary Relief in respect of individual cases of exceptional financial hardship.
- (b) Approve that if an application for relief under Section 13A potentially relates to a class of property it will be decided by Cabinet following consideration of a report from the Chief Finance Officer.
- (c) Require a review of the framework guidelines every three years to ensure it remains fit for purpose. (The first being in 2013.)
- (d) Request the Select Committee to receive an annual report on the use of these discretions.

3. Summary

- 3.1 The LGFA 1992 provides the statutory framework for a variety of reductions in Council Tax charge to be applied provided taxpayers meet certain criteria. The reductions that exist already include exemptions for certain types of dwelling, discounts based on the number and status of adult residents in a property, and a reduction where a disabled person is in occupation and certain additional criteria are met.

- 3.2 Before 2003, The Council had no discretion to grant reductions through the local definition of exemptions or discounts, or remit council tax on hardship grounds. However, Section 76 of the LGA introduced a new section 13A into the LGFA 1992 that created this discretionary power. The legislation allows authorities to create local discounts in respect of individuals due to, for instance, financial hardship, or to a class of properties like those affected by flooding in Yorkshire 2007 and Cumbria 2009; when 100's of people were forced out of their homes for long periods by flooding and the resulting work necessary to bring homes back into use. The understanding however is that any such reductions are made only in local and exceptional circumstances, and on a temporary basis.
- 3.3 Although Section 13A has permitted Council Tax discretionary relief since the legislation became effective in December 2003, the Council has not been asked to consider any such relief. However, the current economic climate has raised the profile of council tax collection together with the recovery and enforcement methods. The Ombudsman has commented on a number of councils' approach to enforcement and made it apparent that billing authorities need to have transparent policies.
- 3.4 Recommended practice now suggests a need for clear guidelines under which any request for a reduction under Section 13A is considered. Each case would be considered on its own merits; however guidelines are intended to ensure that a fair and consistent approach is taken to help applicants understand how any application will be assessed. Appendix A to this report defines the proposed Council Tax Discretionary Relief framework.

4. Financial Implications

The policy's statutory framework is contained within the Local Government Finance Act 1992 and the Local Government Act 2003.

The total cost of any reduction or remission under Section 13A falls to Leicester City Council as the billing authority; there is no cost to the police and fire precepting authorities. As such the annual budget process makes a corporate provision for discretionary relief, which was increased in 10/11 to recognise the current economic conditions. Due to the need for relief only to be awarded in exceptional circumstances, the financial impact is not expected to exceed the budgetary provision. However, the introduction of a particular class of property eligible for relief would reduce the tax base and consequently the Council's potential income.

Alison Greenhill, Principal Accountant (Revenues)

5. Legal Implications

There are no legal implications.

Peter Nicholls, Divisional Director - Legal Services

6. Climate Change Implications

This report does not contain significant climate change implications and therefore should not have a detrimental effect on the Council's climate change targets.

Helen Lansdown, Senior Environmental Consultant - Sustainable Procurement

7. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting Information
Equal Opportunities	No	
Policy	Yes	The report sets out a new, additional process for administering Council Tax debt.
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	3.2 In cases of exceptional financial hardship.
Corporate Parenting	No	
Health Inequalities Impact	No	

8. Background Papers – None

9. Consultations - Yes

10. Report Author/Officer To Contact

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22 June 2010

Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)

Proposed Framework for Council Tax Discretionary Relief

Background

Section 13A of the Local Government Finance Act allows a billing authority to reduce the Council Tax payable after taking into account eligibility for any national benefits, discounts, reliefs and exemptions. The reduction can be applied to an individual or to a defined class of cases.

Eligibility Guidelines

The Council will consider using its powers to reduce Council Tax liability for any Council Tax payer or class of payer, however the Council will need to be satisfied there are exceptional circumstances to justify any reduction, which will only be intended as short term assistance rather than a way of reducing council tax liability on a long term basis.

Applications will be evaluated on their individual merits by reference to the following criteria:

- 1) Applications must fall within one of the following criteria:
 - a) Structural damage to the property which could not reasonably have been rectified within the normal period of exemption and is caused by an external event; or
 - b) Exceptional personal hardship, where the debt could not reasonably have been offset by benefit, and the case does not meet the council's normal write off criteria.
- 2) A full financial statement detailed on a standard application form provided by the Revenues & Benefits Service will need to be submitted to confirm the applicant's household's total income and expenditure.
- 3) The Council must be satisfied that the applicant has taken reasonable steps to resolve their situation prior to making their application.
- 4) The applicant does not have access to other assets that could be used to pay their Council Tax.
- 5) The applicant's eligibility to Council Tax benefit, discretionary housing benefit payment and all other statutory reductions has been assessed.
- 6) The applicant can prove that their current circumstances are unlikely to improve in the following twelve months, making the payment of Council Tax impossible.
- 7) The Council's finances allow for a reduction to be made, on the basis that sufficient money is available in the relevant budget to meet the potential cost of any relief granted, including relief to others who might meet some criteria.
- 8) 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.

Applications

Applications for reductions will need to be submitted in writing to the Revenues and Benefits Service by the taxpayer or a third party authorised to act on their behalf. Applications submitted electronically will be allowed.

The Council may request any reasonable evidence in support of an application, and applicants will be required to provide all information reasonably requested.

The Head of Revenues and Benefits will forward each application along with his/her recommendation to the Chief Finance Officer for consideration once satisfied that sufficient supporting evidence has been supplied.

Failure to provide the information required to support an application without sufficient reason will result in the application being considered without the information. This is likely to result in the request being refused.

There is no entitlement to withhold payment of Council Tax pending the submission and determination of an application, or during any subsequent request for a review of the decision. If a taxpayer has overpaid Council Tax it will be refunded. A reduced payment arrangement will be considered pending the submission and assessment of any application.

Determination of Applications

The Chief Finance Officer will determine applications in respect of individual cases. Applications which relate, or potentially relate, to a class of cases will be determined by Cabinet following consideration and recommendation from the Chief Finance Officer. This system of delegation should ensure proper and consistent consideration is given to all applications.

Period and Amount of Award

A discretionary relief award will not be backdated earlier than the start of the financial year preceding the application's receipt by the Council. This allows a period of consideration to be nearly 2 years relief where circumstances warrant it. The award is designed to be a measure of temporary assistance, and the Council would not normally award a reduction indefinitely, although each case would be considered on its own merits.

The relief will normally cease at the end of a financial year unless an earlier date is specified, however an applicant is not prevented from reapplying for a further award in subsequent years.

Any discretionary relief awarded will usually be a percentage of the net Council Tax liability (the amount payable following the award of any benefit, discount, exemption or relief) for a specified period.

If it is subsequently identified that a reduction has been awarded as a result of false or fraudulent information, the Council reserves the right to withdraw the award and recover the resulting sum due. The council also reserves the right to prosecute the applicant for false representation.

Notification of Award

Decisions will be made normally within six weeks of the application (all supporting information being received), and the decision will be notified to the applicant as soon as practicable thereafter.

Review of Decision

Applicants may request a review of a decision relating to Council Tax discretionary relief. The review request must be made in writing (requests submitted electronically will be allowed) and sent to the Head of Revenues and Benefits within one calendar month of the issue of the letter that confirmed the Council's decision.

It will be considered on its own merits, in the light of all relevant circumstances at the time (as described in the eligibility guidelines).

The re-determination request must give the reasons why the applicant considers the original decision should be amended, and may include new or additional information relevant to the request to change the original decision.

The Chief Finance Officer and relevant portfolio holder will review the original decision and the outcome of the re-determination request will be notified to the applicant normally within 28 days of its receipt.

The only statutory avenue open to challenge such decisions is through judicial review, where the High Court may be asked to consider whether the billing authority has acted within its powers. Unlike the majority of billing authority decisions relating to Council Tax, discretionary decisions cannot be appealed to the Valuation Tribunal that hears Council Tax appeals.