

<b>Name:</b>	<b>The Leicester City Council Tax Discretionary Relief policy</b>
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## Approvals

The following people are points of contact for the scheme and are the point of contact for the approval of the scheme within each authority

<b>Name</b>	<b>Authority</b>	<b>Date</b>	<b>Report Number</b>
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Executive Committee	LCC		

## Distribution

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## Revision History

<b>Version</b>	<b>Date</b>	<b>Summary of Changes</b>
1.0	30.5.2012	First issue.
1.2	26.9.2012	Revision and update
1.3	2.11.12	Revision
1.4	28.11.2012	Finance revision
1.5	15.1.2013	Update

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## **1.0 Background**

- 1.1 Leicester City Council has updated their Council Tax Discretionary Relief policy. The policy has been designed to ensure that the most vulnerable members of the community are protected in line with the requirements of the Government's localisation of benefits, under which from 1 April 2013, Councils must have in place their own local schemes which will replace the existing Council Tax Benefits system.
- 1.2 This change to local taxation and benefits systems is amongst the first of a very wide range of changes to the national welfare benefits framework which begins in earnest from 1 April 2013.
- 1.3 The Council intends to update their Council Tax Discretionary Relief policy to offset the most severe impacts of these reforms on vulnerable persons, placing particular reference to protected characteristics', who face exceptional financial hardship. The relief will 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 such as in a fire or flood situation for a district of the city.
- 1.4 The Council Tax Discretionary Relief policy will operate in a similar methodology to the existing Housing and Council Tax Benefit Discretionary Housing Payments policy and will permit officers the discretion to provide discounts in council tax liability under the policy up to 100% of the remaining Council Tax liability.
- 1.5 The scheme will be locally funded but will seek a contribution from precepting authorities to offset the full cost of the schemes operation. The scheme will be subject to a budget cap each year set by the Council through its budgeting and precepting arrangements.

## **2.0 Legislative Framework**

- 2.1 The following legislation and guidelines are relevant to this document:
  - i. The Local Government Finance Act 2012
  - ii. The Local Government Finance Act 1992 Section 13A(2)
  - iii. The Leicester City Council Tax Reduction Scheme 2012
  - iv. Child Poverty Act 2010
  - v. Equality Act 2010 (incorporating the Disabled Persons Act 1986)
  - vi. Housing Act 1996
  - vii. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (DRAFT)
  - viii. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 Default Scheme (DRAFT)
  - ix. Social Security Act 1992
  - x. Universal Credit DRAFT Regulations 2012

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### **3.0 Policy objectives**

- 3.1 This policy aims to operate a Council Tax Discretionary Relief scheme to support local Council Tax charge payers experiencing financial hardship under section 13A Council Tax Hardship Regulations within the Local Government Finance Act 1992. These individuals or in certain circumstances can demonstrate that due to exceptional financial hardship they are unable to pay their Council Tax. The principles of the scheme are listed in appendix A
- 3.2 The relief is only be intended as short term assistance rather than a way of reducing council tax liability on a long term basis.
- 3.3 The City Council has a very broad discretion as to whether to make a Council Tax Discretionary Relief but will make its decisions in accordance with principles of good decision-making; in particular, it will act fairly and reasonably and each claim for a Council Tax Discretionary Relief will be decided on its own merits. The City Council will have regard to all the relevant circumstances.
- 3.4 If the City Council decides to award a Council Tax Discretionary Relief, it has discretion as to the amount of the award provided that the claimant's need for financial assistance arises in respect of a liability to pay their Council Tax, the amount cannot be more than the claimant's weekly liability.
- 3.5 The City Council may in the usual circumstances generally backdate an award of a Council Tax Discretionary Relief but only in respect of a period during which the claimant was entitled to Council Tax Reduction within the financial year council tax is chargeable, or where applicable Universal Credit.

### **4.0 Eligibility**

- 4.1 In order to qualify for a Council Tax Discretionary Relief, a charge payer must:
- have a Council Tax liability, and
  - be in receipt of council tax reduction; and/or
  - Universal Credit (UC); and/or
  - require further financial assistance; and if applicable in the application
  - the property has suffered structural damage, which could not reasonably have been rectified within the normal period of exemption and is caused by an external event.
- 4.2 The fund has financial limitations and as such awards can only be made based on eligibility and having regard to the level of funding available or remaining within the Council Tax Discretionary Relief budget each financial year.

### **5.0 Equalities**

- 5.1 The Council is committed to equality, fairness and transparency. Equality is about ensuring people are treated fairly and given fair chances. It is also about ensuring that people receive fair outcomes in the standard of service they receive from the council and equality of access to council services. This

incorporates everyone, regardless of their race, gender, gender reassignment, age, disability, pregnancy and maternity, religion or belief, sex or sexual orientation, marital or civil partnership status and/or disability, in line with the 9 protected characteristics set out in the Equalities Act 2010.

- 5.2 A number of groups have been defined under the Council Tax Reduction Scheme Equality Impact Assessment (2012) as being potentially financially vulnerable. The main groups are listed in the table below (this list is neither exhaustive nor prescriptive):

<b>Examples of vulnerable people</b>
The applicant or member of the household or a dependent child is in receipt of the middle or higher rate of Disability Living Allowance (DLA) or the enhanced daily rate of Personal Independence Payment.
The applicant or a member of the household is a disabled adult living in supported living accommodation who has carers and is unable to work due to their health
The applicant or partner is in receipt of Employment Support Allowance (ESA) with support component
The applicant or household member is a care leaver up to the age of 22 years
The applicant or household member is deemed vulnerable through drug or alcohol dependency who are attending a rehabilitation programme
The applicant or household member has suffered domestic violence and is being supported by accredited local schemes to move into permanent accommodation, inclusive of forced marriages
The applicant or partner is a registered foster carer and has current foster child/adult placements
The applicant or partner is a foster carer (child or adult) and is in between foster care placements
The applicant or household member has dependent children under the age of 5 and is living on income support
Applicant and/or partner who is unable to work due to caring responsibilities.
The applicant or partner has parental care responsibility for non-resident children (up to 19 years old) to support family cohesion
The applicant or household member is a hostel leaver where they were resident in a hostel engaging with support while resident. Minimum period of hostel residency is 3 months
The applicant or household member has recently released from prison and under probation

## **6.0 Other examples of Severe Financial Hardship**

- 6.1 There may be households which for short periods of time may have exceptional circumstances or life events which lead to severe financial hardship. Examples of applicants or households who may potentially be awarded a Council Tax Discretionary Relief under exceptional circumstance are: (this list is not exhaustive)

a) recently bereaved and as a consequence benefits have been

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- suspended which had caused a disruption to their income
  - b) terminally ill and unable to contribute to the household income
  - c) recovering from a serious illness and unable to contribute to the household income

6.2 Claims for Council Tax Discretionary Relief under this scheme 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 Council Tax Discretionary Relief. 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 application.

## **7.0 Making a claim**

7.1 Applications to the City Council for a Council Tax Discretionary Relief may be made in one of the following ways:

- a) by visiting or writing to the Revenues & Benefits Office, Wellington House, 22-32 Wellington Street, Leicester LE1 6HL
- b) by telephoning (0116) 252 7006
- c) by emailing [housingbenefits@leicester.gov.uk](mailto:housingbenefits@leicester.gov.uk)
- d) by visiting our website: [www.leicester.gov.uk/housingbenefit](http://www.leicester.gov.uk/housingbenefit) to make an on line claim.

7.2 Applications may be made by a claimant or someone else on the claimant's behalf or be their representative with authority to act on their behalf i.e. Power of Attorney.

7.3 Claims can also be made by a referral process. Please see Section 11, Referrals from other sectors.

7.4 The claimant must provide the City Council with all information requested to enable it to assess the claim, supported by documentary evidence if required.

## **8.0 Notice of Decision**

8.1 The Council will provide a written notice of its decision to the applicant or their representative. The decision notice will set out:

- a) the amount of the award (if any).
- b) the period of the award (if any).
- c) provide a summary of the factors considered in reaching the decision.
- d) provide details of how to appeal or obtain more information about the decision.
- e) provide details of how the award (if any) will be made. This will usually be in the form of a credit on to the council tax account.

8.2 On the provision of all satisfactory requested information, a decision will be made, where practicable, within 14 working days.

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## **9.0 Deciding whether to make an award and the amount**

- 9.1 The City Council has a very broad discretion as to whether to make a Council Tax Discretionary Relief payment but will make its decisions in accordance with principles of good decision-making; in particular, it will act fairly and reasonably and each claim for a Council Tax Discretionary Relief will be decided on its own merits. The City Council will have regard to all the relevant circumstances.
- 9.2 If the City Council decides to award Council Tax Discretionary Relief, it has discretion as to the amount of the award provided that the claimant's need for financial assistance arises in respect of a liability to pay their Council Tax but the value will not exceed 100% of the Council Tax liability.
- 9.3 The Council must be satisfied that the applicant has taken reasonable steps to resolve their situation prior to making their application.
- 9.4 The applicant does not have access to other assets that could be used to pay their Council Tax.
- 9.5 The applicant's eligibility to Council Tax Reduction, any other discretionary fund or welfare benefit such as Housing Benefit entitlement/ Universal Credit and all other statutory reductions has been assessed.
- 9.6 The applicant can prove that their current circumstances are unlikely to improve in the following twelve months or a shorter period as circumstances dictates, making the payment of Council Tax impossible.
- 9.7 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.
- 9.8 It is reasonable for the Council to award a reduction having regard to the interests of other local Council Tax payers who have contributed to meeting the cost of any relief granted.
- 9.9 Awards will stop immediately if the applicant or household or their representative has misrepresented or failed to disclose a material fact, fraudulently or otherwise. The authority may look to recover any overpayment of award but instances of proven fraudulent activity the council will always seek to recover any overpayment in all cases.
- 9.10 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.
- 9.11 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

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the submission and assessment of any application.

- | 9.12 Applications which relate, or potentially relate, to a class of cases (such as in a fire or flood) will be determined by the City Major following consideration and recommendation from the Director of Finance.

## **10.0 Payment**

- 10.1 A discretionary relief award can be backdated for a period not exceeding 2 years where circumstances warrant it. This is considered to be the exception rather than the rule. It is to be applied in cases of relief for instances of fire or flood rather than exceptional financial hardship.
- 10.2 The award in general 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.
- 10.3 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.
- 10.4 Any discretionary relief awarded will usually be a percentage of the net Council Tax liability. The net charge is the amount payable following the deduction of a discount, an exemption award of any benefit, or relief for a specified period.
- 10.5 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.
- 10.6 The City Council may make single or periodic payments of Council Tax Discretionary Relief. Payments may be made to:
- a) the claimant;
  - b) his or her partner,
  - c) an appointee
  - d) to a third party to whom it might be most appropriate to make a payment.
- 10.7 Council Tax Discretionary Relief maybe paid using the following methods:
- by crediting the customer's Council tax /or rent account
  - payment will usually match the frequency of the Council Tax Reduction claims which are generally a one off credit
  - by electronic transfer (eg BACs) or by cheque in the form of a refund if the Council Tax account has been paid in full or is in credit.



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## **11.0 Applications and /or Referrals from other sectors**

11.1 The billing authority will accept referrals by email from:

- a) Leicester County Council and Leicestershire District Councils on behalf of Leicester City residents
- b) Leicestershire & Rutland Combined Fire Authority.
- c) Leicestershire Policy Authority.

11.2 The billing authority will accept applications from:

- a) Third sector organisations i.e. Citizens Advice Bureau, Welfare Rights.
- b) Leicester City Council internal partners
- c) to a third party to whom it might be most appropriate to make a payment.

## **12.0 Backdating**

12.1 Applications for a discretionary relief will usually be backdated up to one calendar month from the date the written application is received where continuous good cause exists throughout the period for the delay in making the application. There will be discretionary provision for backdating for a longer period not exceeding 2 years, ( per 10.1) in exceptional circumstances.

## **13.0 Change in circumstances**

13.1 A claimant who is in receipt of a Council Tax Discretionary Relief discount must inform the City Council of any relevant changes in circumstances which may affect the continuation of the award, in particular the claimant must tell the City Council about any of the following changes for themselves or their partner:

- a) entitlement and payment of housing benefit
- b) address
- c) income and capital
- d) employment status and earnings
- e) outgoings
- f) availability of other financial assistance
- g) household composition
- h) health

This list is not exhaustive. Recipients are advised to contact the service if they require clarification. If in doubt they are advised to tell us.

13.2 Any changes must be reported to the City Council as soon as possible and may be reported by letter, telephone or email within one month.

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## **14.0 Ceasing payment / Fraud**

- 14.1 The City Council may cease making, or reduce the amount of, a Council Tax Discretionary Relief where:
- a) the decision to make the award was based in whole or in part on a misrepresentation;
  - b) the claimant failed to disclose a material fact;
  - c) the award was made as a result of an error; and
  - d) the claimant failed to inform the City Council of a relevant change of circumstances.
- 14.2 If the City Council decides to cease making, or reduce the amount of, a Council Tax Discretionary Relief, it will notify the claimant of this decision in writing, provide reasons for the decision and inform them of their right to request a review of the decision. This will include the period in which to make the request and to whom the review request must be made.
- 14.3 The claimant may request a review of such a decision in accordance with paragraphs 15.

## **15.0 Challenge**

- 15.1 Applicants may request the council looks again at the decision within one calendar month of the decision notice where:
- a) a) They have not been awarded Council Tax Discretionary Relief ; or
  - b) Where they feel the award should be increased.
  - c) They disagree with the period of the award.
- 15.2 Requests for review must be:
- a) submitted in writing;
  - b) addressed to the Head of Revenues and Benefits
  - c) Received at the Council offices within one calendar month of the date of the decision notice;
  - d) Signed by the applicant or representative;
  - e) Outline the grounds for review;
- 15.3 Applicants will not have the right of review:
- a) where their request is received by the council more than one calendar month after the date of the decision notice; unless exceptional circumstances can be shown for the delay
  - b) where the council has already made a determination of a previous request for review in respect of the matter; unless significant new information is identified; putting that previous decision in doubt; or

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c) for any day on which they have already received 100% discount or exemption;

- 15.4 Any request for review of the decision under this scheme will be determined within one calendar month of receipt of the request or as soon as reasonably practicable.
- 15.5 Any review will be considered on its own merits, in the light of all relevant circumstances at the time (as described in the eligibility guidelines part 4).
- 15.6 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.
- 15.7 The benefit appeals officer will review the original decision and make a recommendation to the relevant portfolio holder. The outcome of the re-determination request will be notified to the applicant normally within 28 days of its receipt.
- 15.8 If a customer disagrees with the decision the only statutory avenue open to challenge such decisions is through judicial review. The High Court may be asked to consider whether the billing authority has acted within its powers.

## **16.0 Recovery of an overpaid Discretionary award**

- 16.1 The Council may recover any overpayment of discretionary relief that has been paid by removing the discount from the Council Tax account, or by invoicing the customer where the Council Tax account is closed.

## **17.0 Data Sharing and Fair Processing**

- 17.1 The council may use any evidence and information supplied to it in respect of Council Tax Discretionary Relief to check the eligibility of the applicant in respect of this scheme or any other welfare benefit, discounts or exemptions.
- 17.2 Leicester City Councils data sharing and fair processing detail can be found at the following web link. <http://www.leicester.gov.uk/your-council-services/council-and-democracy/key-documents/internet-disclaimer/>

## **18.0 Publicity**

- 18.1 The Leicester City Council Tax Reduction Discretionary Payment Scheme will be publicised across the city.
- 18.2 The following methods of communication may be used:

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- Leaflets, posters, articles in various publications.
  - Information on the Council Tax Reduction decision notices will contain publicity promoting Council Tax Discretionary Relief
  - Face to face and verbal advice when contacting the council's customer service
  - Information on the authority's website.
  - Claim forms available to download or complete online.
  - Information with council tax reminders notices where the taxpayer is in receipt of Local Council Tax Reduction.
  - Promotion to all relevant stakeholders

## **19.0 Policy Review**

- 19.1 Council Tax Discretionary Relief Policy will be reviewed every three years or more frequently as deemed necessary. The next review will be undertaken in the financial year 2015/16.
- 19.2 Any major changes will be subject to consultation in accordance with best practice.
- 19.3 The Council Tax Discretionary Relief Policy will be published and available to view on LCC website.

## **20.0 Budget considerations**

- 20.1 The Council Tax Discretionary Relief Policy will have a budget set each financial year for each local authority. This will be set in agreement with and with a contribution from major precipitating authorities
- 20.2 Once all available funds have been exhausted from the discretionary discount budget, no further awards will be made until a new financial year

## **21.0 Legislation**

- 21.1 Awards under this scheme are made in line with the Local Government Finance Act as outlined below:
- a) Section 13A and 76 Local Government Finance Act 1992 – The award of discretionary discounts.
  - b) Section 4 Local Government Finance Act 1992 - Dwellings may be exempt from Council Tax if they fall within one of the specified classes.
  - c) Section 11 Local Government Finance Act 1992 - The amount of Council Tax payable may be subject to a discount where there is no resident, or all but one of them falls to be disregarded.

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- d) Section 13 Local Government Finance Act 1992 - The amount may be reduced where it is occupied by a disabled person(s).

#### Appendix A

- **alleviating poverty**
- **encouraging and sustaining people in employment and education**
- **sustaining tenancies and preventing homelessness**
- **maintaining residents in their own homes**
- **supporting vulnerable people**
- **support those subject to other welfare reform changes including income capping**
- **safeguarding residents in their own homes**
- **helping those who are trying to help themselves**
- **keeping families together**
- **supporting domestic violence victims who are trying to move to a place of safety**
- **supporting the vulnerable or the elderly in the local community**
- **helping customers through personal and difficult events**
- **supporting young people in the transition to adult life, or promoting good educational outcomes for children and young people**