

COUNCIL TAX PROTECTION FUND 2020/21 TO 2022/23

Council Tax – ‘Section 13A’ Discretionary Relief Awards Policy Document

OBJECTIVES OF THIS POLICY

- The purpose of this policy is to set out how Harrow Council intends to deliver short term debt relief for customers experiencing exceptional hardship as a direct result of their obligation to pay Council Tax

It should be noted that where the Council has a discretionary power, it must not fetter its discretion by having a set of rules that are inflexible. Each case must be considered on its own merits, determined within the budget provided and administered under the framework set out in this scheme.

The Council Tax Protection Fund (CTPF) 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 funds within the CTPF scheme each financial year. If available funds have been exhausted from the scheme, no further awards will be made.

The Council is committed to equality and fairness. 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, age, religion or belief, sexual orientation, marital or civil partnership status and/or disability in line with the principles set out in the Equalities Act 2010, amended 2018.

INTRODUCTION

Under s.13A of the Local Government Finance Act 1992 a local authority has the power to reduce the amount of Council Tax due ‘as it sees fit.’ This section (as amended by the Local Government Finance Act 2012) also allows a local authority to create a ‘scheme’ to reduce the Council Tax for persons or a class of persons that it considers being in financial need.

The cost of any reduction awarded under Section 13A(1)(c) must be met in full by Harrow Council. Decisions whether to award a reduction under Section 13A(1)(c) will be on a case by case basis. Schemes adopted under this policy are discretionary. This policy, once adopted, will be available on the Council’s website.

LEGISLATIVE BACKGROUND

Section 13A (1) (C) of the Local Government Finance Act 1992, provides the Council with additional discretionary powers to enable it to reduce the council tax liability after discounts, exemptions and reductions are applied.

These discretionary awards can be given to:

- Individual Council Taxpayers;
- Groups of Council Taxpayers defined by a common set of circumstances;
- Council Taxpayers within a defined area: or
- To all Council Taxpayers within the Council’s area.

The legislation states:

.....in any case, council tax may be reduced to such extent or, if the amount has been reduced under S13a (1) (a) (Council Tax Reduction Scheme) such further extent as the billing authority for the area in which the dwelling is situated thinks fit.....

The provision allows the Council the discretion to provide assistance to taxpayers where either the existing legislation does not provide a discount, exemption or reduction or in such circumstances where the Council feels that the level of discount; exemption or reduction is insufficient given the circumstances.

When deciding on whether to grant a discretionary award, principles of reasonableness will apply in all cases. Each application will be considered on its own merits, whilst having due consideration to this policy, national legislation and any guidance issued by the Secretary of State.

Any decision made will be without reference to any budgetary considerations; however, consideration in all cases will be given to the interests of the council taxpayers of the district who will ultimately pay for any reduction given. All awards of relief are only intended as short term assistance and will not extend beyond the current financial year of the bill and should not be considered as a way of reducing Council Tax liability indefinitely.

These schemes will take effect for all applications made / eligible tax payers in respect of Council Tax liabilities incurred from 1st April 2020, and shall apply for a period of three years, (ie.until 31/3/23), or unless determined sooner, or where group categories specify that they apply for a specific period only.

For the purposes of administration, the decision to grant any reduction in liability shall be considered for the following classes / categories:

**Groups of Council Taxpayers defined by a common set of circumstances -
Universal Credit Migration Category**

Under the “Migrating to Universal Credit” (UC) category of Harrow Council Tax Support scheme, a working age claimant in receipt of council tax support and migrating to the DWP’s UC benefit may be eligible for a reduction under this scheme.

From 1st April 2020, claimants in receipt of council tax support who migrate across to Universal credit in any of the financial years 2020/21, 2021/22 & 2022/23, will be eligible to receive an additional reduction in their council tax liability from the date of their migration to UC, for a period of two weeks.

The amount of the reduction permitted shall be the equivalent of 2 weeks net council tax (after Council Tax Support entitlement, single person discounts and other discounts are taken into account) at the time that they migrate across to Universal Credit. This relief will only be granted once to any recipient of CTS, regardless they may come off UC and resume being entitled to UC again in the future.

Working Age CTS recipients affected by 2020/21 Council Tax inflation increase

Under this category, working age CTS claimants having to pay more council tax for the financial year 1st of April 2020 due to the impact of the 3.99% council tax increase, may be eligible for a reduction under this scheme.

From 1st of April 2020, council tax support claimants who are liable for payment of council tax on 1st of April 2020 and who remain council tax payers in Harrow for the full 2020/21 financial year, will be eligible for a reduction from their council tax, equivalent to the additional amount they would otherwise have had to pay solely due to the effect of council tax inflation included in the 2020/21 bill and assuming all other circumstances prevailing on 1/4/2020 remained the same.

For the avoidance of doubt, this will be calculated based on net council tax liability at the end of the financial year or other date as may be practicable.

The award will be calculated as follows;

Regarding the percentage of Council Tax weekly liability covered by CTS

(31/03/20 Council Tax weekly liability less CTS award) Less
(31/03/20 Council Tax weekly liability plus 4% less CTS award)

= Hardship Relief award amount to be granted

Weekly amount will be prorated over the year.

Individual Council Taxpayers - Exceptional Financial Hardship

In accordance with Section 13A (1) (C) of the Local Government Finance Act 1992, the Council has a Council Tax (CTS) Scheme which provides support, through a discount, to those deemed to be within financial need.

Applications will be accepted under this part of the scheme from claimants who have qualified for a reduction under the Harrow Council Tax Support Scheme but who are experiencing severe financial hardship.

Applications will only be granted in exceptional or unforeseen circumstances that threaten a taxpayer's ability to discharge their liability for council tax and may threaten their ability to stay in their home. It is a pre-requisite that other eligible welfare benefits and council tax discounts, reliefs and exemptions have been considered, applied for and exhausted, to deal with council tax hardship and affordability issues. In these circumstances, Harrow Council will give consideration to reducing Council Tax liability for any applicant within the borough, including to those taxpayers not in receipt of CTS. Additionally, any sum of unpaid Council Tax must not be the result of wilful refusal to pay or culpable neglect.

The amount and duration of an award under this section shall be determined on the merits of each individual case. Generally awards are anticipated to equate to one month's worth of the annual net council tax liability for the year in which an application is received (around £150 based on a band D council tax bill for 2019/20). In exceptional cases and on individual merit, higher amounts may be granted dependent on circumstances. Applications in this category will be via a completed

application form and provision of satisfactory evidence that demonstrates financial need.

The Award

For the category award regarding UC, the amount shall not exceed 2 weeks equivalent of net annual council tax. An award will only be given once, normally in the financial year when the claimant migrates to UC.

For the category award regarding working age CTS recipients affected by council tax inflation, the amount will be worked out as per the formula set out in the policy under the appropriate group category. An award will only be given once, and apply to the 2020/21 financial year only.

For individual awards under the Hardship category will normally only be given once in any financial year.

Changes in an applicant's circumstances

Should an applicants' circumstances change dramatically for the better whilst an application is being considered (cash / asset inheritance, obtained employment etc), the authority retains the right to refuse the application.

Payment

In line with legislation, any award shall be granted as a reduction in the liability of the Council Tax Payer thereby reducing the amount of Council Tax payable. Where a reduction in liability has been granted incorrectly or in error, either due to a failure to provide the correct or accurate information to the Council or some other circumstances, the amount will be recovered from the Council Taxpayers account in the normal way.

Recovery Costs

Where an award is made under the individual tax payers "exceptional financial hardship" scheme, should there remain any unpaid summons or Enforcement Agent costs or charges, consideration will be given to have these costs waived so the tax payer does not have to pay them.

Fraud

Where a customer has failed to provide information, the Council reserves the right to withdraw any award made under this scheme. If an award has been made due to an applicant knowingly supplying false or misleading information, Harrow Council reserves the right to cancel any reduction that may have been given and reserves the right to prosecute.

Application Process

For individual hardship relief, requests will need to be made in writing, via the appropriate application form, detailing hardship suffered. The Council will consider applications on a case-by-case basis in consultation with other organisations as appropriate. Harrow Council may request evidence that is relevant to the application. No costs will be borne by the Council in the provision of this request for evidence.

For category cases (migrating to UC & affected by inflation), these will be assessed automatically by the local authority, following either receipt of instructions from the DWP that the claimant is to migrate to UC, or from the Housing Benefits Team confirming that the working age CTS claimant's council tax bill in 2020/21 is higher than the 2019/20 bill solely due to council tax inflation. A notice will be sent showing the award.

As part of the process of applying for additional support, all applicants (but excludes those eligible for awards under the group categories) must be willing to undertake all of the following:

- Make a separate application for assistance.
- Provide full details of their income and expenditure.
- Satisfy the Council that they are not able to meet their full Council Tax liability and that they have taken all reasonable steps to do so; including making applications for employment or additional employment.
- Accept reasonable assistance from a third party such as the Citizens Advice Bureau or similar organisation, to enable them to manage their finances more effectively including the termination of non-essential expenditure.
- Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly claimed.
- Satisfy the Council that they have applied for all appropriate Benefits and support available from the DWP.

The Council will treat all applications on their individual merits, however all of the following criteria must be met for each case:

- There must be evidence of financial hardship or personal circumstances that justifies a reduction in council tax liability
- The applicant has applied for council tax support / DWP benefits
- All other appropriate council tax discounts/reliefs have already been awarded
- The applicant does not have access to other assets that could be used to pay council tax
- The amount outstanding must not be the result of deliberate non-payment or failure to make payments as required through neglect.
- The purpose of the award is to allow the customer time to put mechanisms in place to allow them to pay their ongoing council tax liability in the medium term

The Council will be responsible for assessing applications against this policy and an officer will consider the following factors when applying this policy:

- Current household composition and any specific circumstances including disability or caring responsibilities.
- The exceptional circumstances of the applicant and/or their family's circumstances that impact on finances;
- The length of time they have lived in the property;
- The amount available in the Hardship Fund at the time of the application.
- Entitlement to Council Tax Reduction.
- Current financial circumstances.

- Determine what action(s) the applicant has taken to alleviate the situation.
- Consider alternative means of support that may be available to the applicant by:
 - i. the re-profiling of council tax debt or other debts;
 - ii. applying for a discretionary housing payment for Housing Benefit or the housing element of Universal Credit (where applicable);
 - iii. maximising other benefits; and
 - iv. determining whether in the opinion of the decision maker the spending priorities of the applicant should be re-arranged.

Applications for relief should be one of last resort. 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.

Who can apply?

Those persons liable to pay Council Tax to Harrow Council who can apply are:-

- Owner occupiers
- Tenants
- Liable residents (but not formally a 'tenant')
- Persons acting on behalf of a liable person i.e. an appointee, solicitor or someone with power of attorney

Who cannot apply?

Any person not liable to pay Council Tax to Harrow Council, but also specifically:-

- Landlords of properties where the tenant is liable
- Landlords, if liable
- Estate agents/managing agents on behalf of a landlord
- Previous Harrow Council Tax payers who are no longer resident or liable for on-going council tax in Harrow at the time of application
- Friends/relatives of the liable person (unless acting as an appointee or under a power of attorney)
- Support agencies (unless acting as an appointee or under a power of attorney)
- Banks or other holders of a mortgage or other legal charge on a property
- Owners or those in possession of empty properties (including long-term empty and furnished second homes)

The Council reserves the right to request any additional evidence in support of an application and will act consistently and reasonably in doing so. Where the applicant is unable to, or does not supply the required evidence, the Council consider the application on the information available, including documentation held on the housing benefit/council tax support case file. The Council may consider the household's overall financial capability when determining an award for discretionary relief. Applications where the applicant has failed to provide information required / requested within a reasonable timescale provided will be refused unless good cause can be shown as to why the delay occurred.

Consideration of Applications

In exercising its discretion, Harrow Council shall have regard to this scheme document and the considerations set out within it.

This is not to say that an application which appears to comply with the scheme will necessarily be granted or one that does not will necessarily be refused. Harrow Council will ensure that each application is considered on its own merits, and this scheme document is intended to act as a guide rather than a 'hard and fast' rule. That said, it will not be possible to consider the application without a statement of reasons for hardship and a financial statement.

Applications will be considered within 14 working days of receipt of the application or soon as is reasonably practicable and all supporting information being received and Harrow Council will notify the applicant should there be a delay in processing the application.

Decisions on eligibility for an award will normally be made by the Head of Service, Collections & Housing Benefits, or an officer delegated by them within the Council's Scheme of delegation. The applicant will be notified of the decision in writing.

When the application is received, careful consideration must be made to the reasons for financial hardship. There must be clear evidence of hardship or personal circumstance that justifies a reduction in Council Tax liability, the following will be considered before awarding any reduction;

- a) The applicant must demonstrate in their application that they have taken all reasonable steps to resolve their own situation prior to making an application.
- b) Income and allowable expenses; reference can be made to the National Debtline budget figures which give a guidance on how much should be allowed for day to day living expenses. If these seem unnecessarily high, further information may be sought as there may be a reason for such high expenditure.
- c) Luxuries and 'lifestyle' choices; this can include taking out of the calculations any excessive commitments for non-basic items (eg TV channel subscriptions, excessive mobile subscriptions, monies spent on cigarettes or alcohol, going out/entertainment expenses)
- d) Prospect of a change in the applicants circumstances; is the applicant able to work and likely to return to work?
- e) Whether the applicant has access to other assets that could be used to pay the Council Tax if there was a surplus income then it would be difficult to support the position that there is hardship.

Additional factors to be considered;

- i. Reasons for hardship? i.e. historical debt problems, sudden change in circumstances or a recent financial burden. If an applicant has had bereavement or life change such as divorce or separation, it could be considered that there are valid reasons that hardship is being experienced. However if there is evidence that a applicant has continued to seek credit beyond their means then it may be more appropriate to refer them for debt counselling than apply a s.13A reduction.

- ii. How has the applicant sought to relieve their financial hardship? – i.e. maximising income or seeking advice on debt management or working out a budget.
- iii. Will a discretionary award address the hardship or will it be a temporary solution to other ongoing issues? Whilst it could be beneficial to the applicant to relieve a financial burden in the short term, a s.13A reduction should never be viewed as an ongoing solution.
- iv. Is there any other assistance that can be offered – e.g. Discretionary Housing Payment or Council Tax Reduction?
- v. Are there any other methods of reducing financial hardship? Does the applicant have any other debts with the Council? If an applicant has a housing benefit overpayment or sundry debt, it may be possible to spread the payments over a longer period of time to ensure that the applicant is paying something towards all their debt.
- vi. Any issues of vulnerability.

Appeals procedure

Appeals against decisions to award a Section 13A(1)(c) reduction are to be made to the Valuation Tribunal under section 16 Local Government Finance Act 1992. Applicants will be notified of the appeals process in writing at the time that they are notified of the outcome of their application.

An appeal must be made within 28 days of the issue of the letter notifying them of the decision. The appeal must be made in writing.

Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process.

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