

Appendix A



Bassetlaw
DISTRICT COUNCIL
— North Nottinghamshire —

Council Tax Discretionary Fund Policy

COUNCIL TAX DISCRETIONARY FUND POLICY

Bassetlaw District Council

1.0 BACKGROUND & PURPOSE

1.1 The purpose of this policy is to specify how the Council will operate its Council Tax Discretionary Fund scheme, to detail the application process and indicate a number of factors which will be considered when deciding if a Discretionary Fund award can be made. Each case will be treated on its own merits and all applicants will be treated fairly and equally in the accessibility to the fund and also the decisions made on applications.

1.2 The Council recognises the importance of protecting the most vulnerable customers with regard to the effects of the abolition of Council Tax Benefit and other Welfare Reforms. This policy has been devised to ensure that a level of protection and support is available to those Council Tax payers most in need. Whilst 'exceptional hardship' or "exceptional circumstances" is not defined by this policy, it is accepted that changes to the level of support generally could cause financial hardship and any payment made will be at the total discretion of the Council. Exceptional Hardship should be considered as 'hardship beyond that which would normally be suffered'.

1.3 Section 13A (a) and (b) of The Local Government Finance Act, as amended by 2012 legislation, makes provision for the Council Tax Reduction Scheme. Within section 13A(c), of the 2012 regulations, further provision is made to reduce to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit. This is the legal basis for this policy and gives provision for the Council to apply an additional discretionary reduction to Council Tax due. This scheme allows for considerations from applicants who are experiencing;

- Exceptional Hardship
- Exceptional circumstances (e.g., successful appeal against Council Tax Reduction)

1.4 The main features of the fund are as follows:

- The Council Tax Discretionary Fund will be cash-limited each year, and the amount will be subject to an annual review. Delegated Authority has been given to the Council's Chief Executive to set the amount of the fund each year.

- The operation of the Discretionary Fund will be at the total discretion of the Council and may be updated where temporary Government funding is allocated for exceptional circumstances (e.g Covid additional grant).
- The Fund will be operated by the Revenues and Benefits Service on behalf of the Council
- There is no statutory right to payments from the fund although the Council will consider all applications received
- Awards in respect of exceptional hardship are not payments of Council Tax Reduction (CTR) under the local scheme, but a discretionary reduction in the Council Tax due
- Awards from the fund will not be available for any other debt other than outstanding Council Tax
- There is no right of appeal to the Valuation Tribunal in respect of decisions made under this policy; however, applicants who disagree with a decision can state their reasons, in writing under the Council's complaints procedure.

2. Applications in respect of Exceptional Hardship

2.1 A pre-requisite to receiving a payment from the locally funded hardship element of the Council Tax Discretionary Fund is that;

- (i) a claim for Council Tax Reduction (CTR) must have been made and,
- (ii) that there must be entitlement to CTR or an interim assessment has been made and it is likely that the claimant will be entitled to CTR but the claim cannot be determined due to circumstances outside of their control eg, applicant is awaiting confirmation of entitlement to other benefits or awaiting the first payment of Universal Credit.
- (iii) Where (ii) applies, the applicant has accessed the additional support available from the Department for Work & Pensions, for example, an advance of their Universal Credit, but is still in need of additional support for their Housing costs, including Council Tax.

2.1.1 Where additional Government funding is provided for exceptional circumstances, the Council may waive the requirements in 2.1 (i) where it sees fit, provided Government Guidance associated with any additional grant is adhered to.

A Hardship Fund payment cannot be considered for a period prior to 1st April 2013 i.e. prior to the start of Council Tax Reduction Scheme and cannot be awarded beyond the 31st March of current year

2.2 Awards are designed as short-term help to the applicant only and it is expected that awards will be made as one-off credits to the Council Tax account, in the current year or further reduction of the amount due.

2.3 All applicants will be expected to engage with the Council and undertake the full application process. Failure to do so will mean that no award can be made.

2.4 As part of the application process under hardship grounds, all applicants must;

- a) Make a separate application for assistance; eg the claim itself cannot be transferred over from a Council Tax Reduction or Discretionary Housing Payment (DHP) claim, which covers Housing Benefit although information will be cross-checked;
- b) Provide full details, including evidence, of their income and expenditure. However, where up to date information has recently been provided for a DHP claim, we may share that information with the officer dealing with the Council Tax Hardship application, if appropriate;
- c) Agree to access further support e.g. personal budgeting support from one of the Council's Money Advisors. If recommended, accept assistance from other relevant departments of the Council or other partners, e.g., debt advice agencies to enable them to manage their finances more effectively including the termination of non-essential expenditure. This may include sharing information provided and /or referring cases to the other agencies under agreed data sharing protocols. (Applications and referrals will carry a declaration to obtain consent under the Data Protection Act 1998);
- d) Allow the Council to identify potential changes in payment methods and arrangements to assist the applicant; e.g., direct debit arrangements;
- e) Ensure that all Council Tax discounts, exemptions and reductions that the applicant is eligible for are properly claimed;
- f) Maximise their income through the application for other welfare benefits, cancellation of non-essential contracts and outgoings for example, referring to agencies who can help with identifying the most economical tariffs for the supply of utilities and services generally.

3. Further Council Tax Discretionary Reduction in exceptional circumstances (section 13A 1 (c) awards)

3.1 The amendments within paragraph 13A (1) of the Local Government Finance Act 2012 give the billing authority powers to reduce the amount of Council Tax payable. It is this power that legislates for reducing the amount payable by;

- *“An amount awarded under the Local Council Tax Reduction Scheme”.(section 13A 1 (a)LGFA 2012)*
- *“Or in any case, may be reduced to such an extent or further extent as the billing area thinks fits” (section 13A 1 (c) LGFA 2012)*

It is this second point which allows for discretionary reductions to Council Tax, due for example, following a successful Council Tax Reduction appeal.

Examples are:

- An “overpaid” Council Tax Reduction award which is recommended not to recover from the council tax payer eg, where an “official error” has been made and the applicant could not reasonably have known that the CTR was incorrect.
- A successful appeal to the Valuation Tribunal against a decision of the council in respect of an award of CTR affecting the Council Tax due.
- Other awards from additional grant funded schemes where Government guidance accompanies the grant.

3.3 The applicant must write to the Council stating the reasons why a decision is incorrect or the grounds on which they wish a decision to be reviewed. If the applicant wishes to appeal to the Valuation Tribunal, about Council Tax Reduction, this must be done within 1 month of the date of the original decision.

3.4 When representations are made, to the Council, the decision will be reviewed by a senior officer who may recommend an additional award from the discretionary fund.

3.5 The reviewing officer may request additional information or evidence from the applicant to assist with the review of the decision. This must be provided promptly.

3.6 The reviewing officer will ensure that the award details are recorded accurately against the Council Tax account and regular reconciliation to the Council Tax system will be undertaken.

4. The decision-making process

4.1 Once the application form (or letter in the case of an appeal) together with documentary evidence of income and outgoings is received, the Council will undertake an assessment to identify if there is a shortfall in income or if there are exceptional circumstances, or both.

4.2 Through the operation of the Discretionary Fund policy, the Council will look to;

- (i) Allow a short period of time for someone to adjust to unforeseen short-term circumstances and to enable them to “bridge the gap”

during this time, whilst the applicant seeks alternative solutions;

- (ii) Enable long-term support to households in managing their finances by referring the case to one of the Council's money advisors or to other relevant support agencies or providing the applicant with further information;
- (iii) Help applicants through personal setbacks and difficult events that affect their finances;
- (iv) Assist the applicant, where possible to help prevent further exceptional hardship;
- (v) Help those applicants who are trying to help themselves financially; and
- (vi) Encourage and support people to obtain and sustain employment.

4.3 When making this decision the Council will consider;

- (i) The shortfall between Council Tax Reduction and Council Tax liability or arrears of Council Tax ;
- (ii) Whether the applicant has engaged with the Discretionary Fund process;
- (iii) If a Discretionary Housing Payment (DHP), or other payment has already been awarded to meet a shortfall in rent;
- (iv) The personal circumstances, age and medical circumstances (including ill health and disabilities) of the applicant, their partner any dependants and any other occupants of the applicant's home;
- (v) The difficulty experienced by the applicant, which prohibits them from being able to meet their Council Tax liability, and the length of time this difficulty will exist;
- (vi) The income and expenditure of the applicant, their partner and any dependants or other occupants of the applicant's home and how reasonable expenditure exceeds income;
- (vii) As it is an assessment of money available to the applicant and outgoings, all income received by the applicant, and their partner (and this can include income that is disregarded for the main CTR assessment e.g. Personal Independence Payment) is taken into account. In these circumstances, the additional expenditure incurred by the household for additional needs will also be taken into account.
- (viii) Any savings or capital that might be held by the applicant and their partner irrespective of whether the capital may fall to be disregarded under the Council Tax Reduction Scheme;
- (ix) Other debts outstanding for the applicant and their partner;
- (x) The exceptional circumstances of the applicant and/or their family's circumstances that impact on the household's finances;

(xi) The length of time they have lived in the property

4.4 All decisions will be recorded, with the reason for the recommendation set out in a report. This will then be agreed by a senior officer within the Benefits Service.

4.5 Awards in the case of exceptional circumstances, under section 13A 1 (c) must be presented to the section 151 officer of the Council, to be authorised, and must be accompanied by any relevant information.

4.6 An award from the Council Tax Discretionary Fund cannot be made for the following circumstances;

- Where full Council Tax liability is being met by a Council Tax Reduction;
- For any other reason, other than to reduce Council Tax liability;
- Where the Council considers that there are unnecessary expenses/debts etc. that the applicant has not taken reasonable steps to reduce
- To pay for any overpayment of Council Tax Reduction caused through the failure of the applicant to notify changes in circumstances in a timely manner or where the applicant has failed to act correctly or honestly;
- The applicant has not completed the application process or provided sufficient evidence

4.7 The list detailed in 4.6 is not exhaustive and other relevant factors and special circumstances may be considered.

4.8 An award from the Fund does not guarantee that a further award will be made at a later date, even if the applicant's circumstances have not changed.

4.9 A Discretionary Fund payment may be less than the difference between the Council Tax liability and the amount of Council Tax Reduction. The level of payment may be nil if the authority feels that, in its opinion, the applicant is not suffering 'exceptional hardship' or where the applicant has failed to comply with the process.

5.0 Publicity

5.1 The Council will make a copy of this policy available for inspection and it will be published on the Council's website.

6.0 Assistance with claiming from the fund

- 6.1** The application form can be obtained via the telephone, in person at the Council's Offices or help points or on-line from the Council's website at www.bassetlaw.gov.uk
- 6.2** An applicant may also get assistance from the Council's Benefits Unit regarding any aspect of this policy or to assist or advise them about asking for a review of a decision. The Benefits Unit can be contacted on 01909 533710
- 6.3** Help is also available from the Citizens Advice Bureau who operate a drop in service Mondays, Wednesdays and Fridays or the North Notts Support Partnership www.bcvs.org.uk/north-nottinghamshire-support-partnership
- 6.4** In most cases the person who claims from the Fund award will be the person liable for council tax or entitled to Council Tax Reduction. However, a claim can be accepted from someone acting on another's behalf, such as an **appointee**, if it is considered reasonable.

7.0 Changes in circumstances

- 7.1** The Council may revise an award from the Discretionary Fund where the applicant's circumstances have changed which either increases or reduces their Council Tax Reduction entitlement or their Council Tax liability.

8.0 Duties of the applicant and the applicant's household

- 8.1** A person claiming from the Fund is required to:
- Provide the Council with such information as it may require to make a decision;
 - Tell the Council of any changes in circumstances that may be relevant to their on-going claim for Council tax Reduction or that would affect the award from the discretionary fund.
 - Agree to access further support eg personal budgeting support from one of the Council's Money Advisors.

9.0 The amount, duration and notification of a Hardship award

- 9.1** Both the amount and the duration of the award are determined at the discretion of the Council, and will be done so on the basis of the evidence supplied and the circumstances of the claim.
- 9.2** The start date of such a payment and the duration of any payment will be determined by the Council. In any event, the maximum length of

the award will not exceed the end of the financial year in which the award is given.

- 9.2 Any discretionary award will be made direct onto the applicant's Council Tax account, thereby reducing the amount of Council Tax payable.
- 9.3 The Council will notify the outcome of each application for Discretionary Fund payments in writing. The notification will include the reason for the decision and advise the applicant of what to do if they disagree with the decision.

10.0 Overpaid Hardship Fund Payments

- 10.1 Overpaid Discretionary Fund payments will generally be recovered directly from the applicant's Council Tax account so increasing the amount of Council Tax due and payable.

11.0 Appeals & complaints

- 11.1 Awards from the fund are not part of the Council Tax Reduction Scheme, and are therefore not subject to any formal appeal process.
- 11.2 If the applicant is not satisfied with the decision made in respect of an award, the Council will look at the decision again.
- 11.3 An officer, other than the original decision maker, will review the original application and any other additional information and/or representation made, and will make a decision as soon as practicable. This decision will be final.
- 11.4 If the applicant remains dissatisfied they may decide to use the Judicial Review process. This is not a matter for the standard appeals process, but the Council's complaints process is available.
- 11.5 Any request for a review must be made within one month of the date of the notification letter confirming the original decision.
- 11.6 The outcome of the review will be set out in writing, detailing the reasons for the decision or upholding the original decision.
- 11.7 The Council's Complaints Procedure will be applied in the event of any complaint received about this policy.

12.0 Fraud

- 12.1 The Council is committed to protect public funds and ensure funds are awarded to the people who are rightfully entitled to them.

- 12.2** An applicant who tries to fraudulently claim an award from the Council Tax Discretionary Fund by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.
- 12.3** Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

13.0 Policy Review

- 13.1** This policy will be reviewed prior to the commencement of a new financial year and updated if appropriate, to ensure it remains up to date. However, a review may take place sooner should there be any significant changes in legislation.

14.0 Equality Impact Assessment

- 14.1** The creation of a Discretionary Fund facility meets the Council's obligations under the Equality Act 2010.
- 14.2** An Equality Impact Assessment has been undertaken and reviewed with no issues identified.