



Tonbridge & Malling Borough Council

Council Tax

S13A (1) (c) Local Government Finance Act

1992 Policy

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1.0 Introduction

- 1.1 The following policy outlines the Council's approach to granting discretionary reductions in liability for Council Tax under S13A (1) (c) of the Local Government Finance Act 1992 (as amended). The Council has the ability to the reduce liability for Council Tax in relation to individual cases or class(es) of cases that it may determine where national discounts and exemptions cannot be applied.
- 1.2 This policy is basically divided into three main areas namely:
- (a) **The Council Tax Hardship Fund** – this part of the policy covers the recent initiatives by Central Government to assist taxpayers who are suffering financial hardship due to the onset of the Corona virus (COVID-19);
 - (b) **The Flood Recovery Framework** – this part of the policy covers situations outlined by Central Government where any parts of the Council's area were to be designated as a designated flood area; and
 - (c) **Granting of reductions in Council Tax liability in all other circumstances** - this part of the policy applies to all other circumstances where an application is made to the Council for a reduction in Council Tax liability under S13A (1)(c) of the Local Government Finance Act 1992 other than in respect of (a) and (b) above.

2.0 Legislation

- 2.1 The relevant legislation (S13 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012), states the following:

Reductions by billing authority

(1) The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13);

(a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority's council tax reduction scheme;

(b) in the case of a dwelling situated in the area of a billing authority in Wales,

(c) in any case, may be reduced 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.

- 2.2 The provisions stated in (c) above, allows the Council to reduce the Council Tax liability for any taxpayer in addition to any application for Council Tax Reduction under the Council's scheme. This is a general power that has always been available to the Council.

3.0 Finance

- 3.1 Any amounts granted under S13A (1) (c) are normally financed through the Council's general fund and do not form part of the collection fund. In certain circumstances, Central Government provides funding directly to the Council to compensate for specific events such as the COVID-19 crisis and in the case of severe flooding. Where this is available, the Council will look to use **all** funding provided.
- 3.2 Any additional assistance, outside of the funding, would fall to be paid by the Council itself.

4.0 The Council Tax Hardship Fund (COVID-19)

- 4.1 Central Government have announced a number of recent initiatives to assist taxpayers who are suffering financial hardship due to the onset of the Corona virus (COVID-19) and have provided funds to the Council under S31 of the Local Government Act 2003 with the proviso that all monies are paid strictly in accordance with S13A (1) (c) of the Local Government Finance Act 1992 and in line their guidance issued on 25th March 2020.
- 4.2 The funds named by Central Government as the 'Council Tax Hardship Fund' relate to the 2020/21 financial year only and are designed to meet the immediate needs of all taxpayers who are currently claiming Council Tax Reduction (CTR) under S13 A (1) (a) of the Local Government Finance Act 1992. The funds are primarily designed to assist working age applicants with payment of their Council Tax.
- 4.3 This is particularly important given that working age applicants are required to make a 'minimum payment' of Council Tax of 20% under the Council's working age scheme
- 4.4 It is essentially down to individual authorities to determine how to use the funds however, Central Government through the Ministry of Housing, Communities and Local Government (MHCLG) state that, in order to retain the funding, Councils must look to use monies as directed by them.
- 4.5 The scheme guidance issued by MHCLG states the following:
- (a) The Government's strong expectation is that billing authorities will provide all recipients of working age local Council Tax Reduction during the financial year 2020/21 with a further reduction in their annual council tax bill of £150, using their discretionary powers to reduce the liability of council taxpayers outside of their formal scheme design;
 - (b) Where a taxpayer's liability for 2020/21 is, following the application of Council Tax Reduction, less than £150, then their liability would be reduced to nil;

- (c) Where a taxpayer's liability for 2020/21 is nil, no reduction to the Council Tax bill will be available;
- (d) There should be no need for any recipient of Council Tax Reduction to make a separate claim for a reduction under this scheme. The billing authority should assess who is eligible for support from the hardship fund and automatically rebill those council taxpayers;
- (e) Whether or not a taxpayer has been affected by COVID-19, directly or indirectly, should not be taken into account in assessing eligibility for this reduction;
- (f) The Government recognises that existing support mechanisms vary locally, including CTR schemes, discretionary Council Tax discount/hardship schemes and local welfare schemes;
- (g) Having allocated grant to reduce the Council Tax bill of working age Council Tax Reduction recipients by a further £150, billing authorities should establish their own local approach to using any remaining grant to assist those in need. Billing authorities will want to revisit their broader approach at intervals during the financial year, in order to ensure expenditure for 2020/21 remains within their allocation;
- (h) In determining any broader approach to delivering support, authorities are best placed to reflect on the financial needs of their most vulnerable residents. In doing so, they may wish to consider using their remaining grant allocation as part of wider local support mechanisms. These may include, but are not restricted to:
 - (i) Council Tax relief using existing discretionary discount/hardship policies (adapted where necessary in order to capture those most likely to be affected by COVID-19);
 - (ii) Additional support outside the Council Tax system through Local Welfare or similar schemes; and
 - (iii) A higher level of Council Tax Reduction for those working age Council Tax Reduction recipients whose annual liability exceeds £150.
- (i) The Government is keen to ensure that support is provided as quickly as possible to individuals who are eligible. It therefore considers that there is a strong case for councils to provide the support 'up front' to enable the maximum benefit to be delivered promptly. However, the Government recognises that in some cases, authorities may consider that the most effective assistance could be profiled across the year.

The Council's Policy in respect of the Council Tax Hardship Scheme (COVID-19)

- 4.6 The Council is keen to support all taxpayers within the area and, as such, will implement the scheme strictly in accordance with Central Government guidelines by taking the following actions:

- (a) An amount of up to £150 will be credited to the Council Tax account of all working age applicants who are in receipt of Council Tax Reduction on 1st April 2020 (it should be noted that where any residual liability of any taxpayer is less than £150, then an amount will be granted to ensure that the liability is reduced to zero). There will be no requirement for any taxpayer to apply for this initial award and it shall be automatically applied to their account;
- (b) Where the taxpayer is not entitled to Council Tax Reduction on 1st April 2020 but subsequently becomes entitled, or in such other cases where any taxpayer is experiencing hardship due to the COVID-19 crisis, assistance will be given through this policy. In such cases, the Council will award an amount of up to £150 to the Council Tax account; and
- (c) In any other circumstance, where a taxpayer is suffering hardship due to the COVID-19 crisis, the Council will accept applications for help under this scheme. Priority will be given to those taxpayers facing homelessness due to the crisis.

4.7 In line with Central Government guidance, the funding shall be used initially for (a) above and any residual monies shall be used for cases falling with section (b) and (c).

5.0 The Flood Recovery Framework

- 5.1 In a severe weather event with significant wide area impacts, local authorities may need central support to help their communities and businesses return to normal. Building on these principles, a core package of business and community recovery support has been developed by Central Government to serve as a framework for flood recovery funding when needed.
- 5.2 It will be for Government Ministers to determine when this support will be made available. Weather incidents with localised impacts will not usually trigger a recovery support package.
- 5.3 In relation to Council Tax, Central Government have developed a Council Tax discount package that is available under S13A (1) (c).

Who is eligible for a council tax discount?

- 5.4 Where the Council Tax Discount Scheme is activated following severe weather, MHCLG will refund eligible local authorities for granting discounts in the following circumstances:
 - (a) 100% discount for a minimum of 3 months, or while anyone is unable to return home if longer, for **primary residences** whereas a result of the relevant weather event:
 - Flood water entered into the habitable areas; or,
 - Flood water did not enter into the habitable areas, but the local authority regards that the residence was otherwise considered **unliveable** for any period of time. **AND**

(b) 100% council tax discount on temporary accommodation for anyone unable to return to their home, in parallel with the discount on their primary residence where applicable.

5.5 Second homes and empty homes will **not** be eligible.

5.6 Instances where households might be considered **unliveable** could include:

- where access to the property is severely restricted (e.g. upper floor flats with no access);
- key services such as sewerage, draining, and electricity are severely affected;
- the adverse weather has resulted in other significant damage to the property such that it would be, or would have been, advisable for residents to vacate the premises for any period of time, regardless of whether they do vacate or not;
- flooded gardens or garages will **not** usually render a household eligible but there may be exceptions where it could be demonstrated that such instances mean effectively that the property is unliveable.

5.7 It will be for the Council to determine eligibility under the scheme.

Properties affected by multiple instances of flooding

5.8 Residences impacted in multiple flood events will not be precluded from repeat support where this is made available by Government in respect of separate weather events.

5.9 Where the scheme is activated for two separate instances of flooding within 3 months of each other, the two discount periods will run concurrently. For example, if the second flood event occurred after 2 months, flooded properties already receiving support could be eligible for another 3 months' discount, making the total period of reimbursement 5 months.

Funding

5.10 In such cases, Central Government will make payment to the Council via a Section 31 grant.

The Council's Policy in respect of the Flood Recovery Framework

5.11 The Council shall operate the scheme strictly in accordance with Central Government guidelines.

6.0 Applications for S13A (1) (c) in other cases

- 6.1 Where Central Government specifies the scheme, no application will be required, and the Council will award reductions as appropriate. In all other cases, Tonbridge & Malling Borough Council shall have regard to this policy document and all applications will be treated on their individual merits.
- 6.2 In all such cases, the Council will require the following:
- The applicant to explain the exceptional circumstances for which the reduction is being requested including, any hardship or personal circumstances relating to the application;
 - A full income and expenditure breakdown, plus a declaration of savings and assets, for the applicant and all other persons residing in the property. This can either be in the form of an 'income and expenditure' form for Council Tax or a similar form that is used for Housing Benefit Overpayments by the Council or by any advice agencies;
 - Details of the amount of reduction being requested and the period of time it is being requested for; and
 - What other steps have been taken by the applicant to meet, or mitigate, the council tax liability

7.0 Consideration of applications

- 7.1 Where an application is made (other than for Central Government sponsored schemes), Applications will be considered within 21 working days of receipt of the application and all supporting information being received.
- 7.2 Tonbridge & Malling Borough Council will notify the applicant should there be a delay in processing the application.
- 7.3 Decisions on eligibility (or not) for an award will normally be made by the Director of Finance and Transformation, or an officer delegated by her within the Council's Constitution.
- 7.4 The applicant will be notified of the decision as detailed below. Where the applicant has failed to provide information reasonably requested by the Council, no award shall be given.
- 7.5 The Council will carefully consider all information provided by the applicant and will endeavour to determine whether there is financial hardship. There must be clear evidence of hardship or personal circumstance that justifies a reduction in Council Tax liability.
- 7.6 In all case, the Council will require the applicant (where appropriate) to:
- Consider potential changes in payment methods and payment arrangements;

- Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted;
 - Maximise their income through the application for other welfare benefits or Council Tax Reduction;
 - Have taken all reasonable steps to resolve their situation prior to application;
 - Provide evidence of exceptional financial hardship or exceptional personal circumstance that would merit a reduction in the Council Tax liability; and
 - Not have access to assets, capital or other financial remedy that could be used to meet the Council Tax liability;
- 7.7 The circumstances affecting the ability to meet Council Tax liability must not be intentional by the applicant and must be deemed to be out of the applicant's individual control.
- 7.8 In addition, the Council will consider:
- whether a reduction in liability would be a temporary or long-term solution. (A S13 (1) (c)) award should never be viewed as a permanent solution;
 - Whether any other assistance can be offered such as a Discretionary Housing Payment could be given; and
 - Any issues of vulnerability that need to be taken into consideration.

8.0 Delegated Powers

- 8.1 This S13A (1) (c) policy has been approved by the Council. However, the Director of Finance and Transformation is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and, for certain defined schemes, Central Government guidance.

9.0 Notification

- 9.1 In the case of the Council Tax Hardship Scheme (COVID-19), all eligible taxpayers will be notified of the decision to apply any reduction as soon as possible after it has been made and any award will be by means of a discount being applied to the relevant Council Tax account.
- 9.2 In all other cases, the Council will issue a written decision letter to the applicant within one month of the request or as soon as practicable thereafter. This will include:
- the level of the award, if relevant;
 - full reasons for the decision;
 - how it will be paid; and
 - information about how to ask for a review of the decision.

10.0 Review of Decisions

- 10.1 Notwithstanding any reductions applied automatically to the Council Tax account, where any application is refused, the applicant will be notified that they can ask for the decision to be reviewed. Any request for a review must be made, in writing or by email, within one month of the decision letter.
- 10.2 The Council shall undertake the review and shall respond within two months and will have regard to any further evidence supplied.
- 10.3 If the applicant is dissatisfied with the outcome of the review, they can, within two months of the Council's reply, appeal to the independent Valuation Tribunal Service to consider their case. Details of how to apply to the Valuation Tribunal Service can be found at:
<https://www.valuationtribunal.gov.uk/forms/appeal-forms/>

11.0 Duration of Reduction

- 11.1 The duration of any award will depend of the circumstances of each case. However, in all cases, the following principles will apply:
 - (a) Where the reduction is applied under a Central Government Scheme, the reduction shall be applied to the Council Tax account for the period specified in Government guidance;
 - (b) In all other cases:
 - (i) the application for the reduction can only relate to the current Council Tax financial year in which the application is made unless the delay was due to an exceptional circumstance which will need to be proven by the applicant; and
 - (ii) If an application is successful, the award period will be specific to the applicant's circumstances and will not exceed the total Council Tax charge for that period.

12.0 Changes in circumstances, cancellation of the reduction in liability and misrepresentation

- 12.1 A reduction in liability under S13A(1)(c) can be recovered if it has been made as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise. It can also be recovered as a result of the subsequent application of a national discount or adjustment in banding by the Valuation Office Agency
- 12.2 Changes of circumstances that subsequently negate the need for a reduction in liability under this policy will be recovered by the Council. Where this occurs, the Council shall notify the taxpayer accordingly.
- 12.3 A reduction in liability will be cancelled if any of the following occur:
- The applicant ceases to be the Council Taxpayer;
 - The property becomes empty or becomes occupied, or all or part of the unoccupied area becomes occupied;
 - The use of the property changes; or
 - The applicant's financial circumstances change.
- 12.4 The applicant is responsible for notifying the Council of any changes in circumstances which may affect the reduction in liability
- 12.5 Reductions in liability are not transferable following a change in address.
- 12.6 The Council reserves the right to recover any reductions in liability as a result of a change in legislation or regulation.
- 12.7 The Council is mindful that it is important to protect public funds and, as such, will take action to prosecute any case where the applicant acts fraudulently in applying for a reduction in Council Tax liability.