

Council Tax – ‘Section 13A’ Discretionary Relief Awards

Policy Document

Introduction

1. 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.
2. The cost of any reduction awarded under Section 13A(1)(c) must be met in full by Tonbridge and Malling Borough Council. Decisions whether to award a reduction under Section 13A(1)(c) will be on a case by case basis.
3. 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 discounts, reliefs and exemptions have been considered and exhausted. In these circumstances, Tonbridge and Malling Borough Council will give consideration to reducing Council Tax liability for any applicant within the local area.
4. From time to time, national schemes may be introduced by Government in response to events or natural disasters, such as flooding. In these cases, funding is normally met in full by Government and such schemes will be administered in accordance with instructions and guidance set out by Government.

Application Process

5. As the discretion under s.13A is very wide there is no formal application process to be followed and there is no statutory necessity to complete a formal application form. In exercising its discretion, Tonbridge & Malling Borough Council shall have regard to this policy document and the considerations set out above.
6. An application for a reduction of Council Tax liability can be made by the Council Tax payer, an appointee or an authorised third party.
7. Applications must be made in writing and be accompanied by the following;
 - a) The exceptional circumstances for which the reduction is being requested including any hardship or personal circumstances relating to the application;
 - b) A full income and expenditure breakdown 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 or by advice agencies;

- c) Details of the amount of reduction being requested and the period of time it is being requested for;
 - d) What other steps have been taken to meet, or mitigate, the council tax liability (e.g applying for other discounts or reductions)
8. Tonbridge and Malling Borough Council may request evidence that is relevant to the application. No costs will be borne by Tonbridge and Malling Borough Council in the provision of this request for evidence.

Consideration of Applications

9. As outlined above, in exercising its discretion, Tonbridge & Malling Borough Council shall have regard to this policy document and the considerations set out within it.
10. This is not to say that an application which appears to comply with the policy will necessarily be granted or one that does not will necessarily be refused. Tonbridge & Malling Borough Council will ensure that each application is considered on its own merits, and this policy 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.
11. Applications will be considered within 21 working days of receipt of the application and all supporting information being received and Tonbridge & Malling Borough Council will notify the applicant should there be a delay in processing the application.
12. 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.
13. The applicant will be notified of the decision in writing and where the reduction is refused or not fully awarded, an explanation of the reasons why will be given.
14. Applications where the applicant has failed to provide information within the timescales provided will be refused.
15. 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.

- 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.

16. 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 sales ledger 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.

Awards of Section 13A(1)(c)

- 17. We will normally only award Section 13A(1)(c) for the financial year that it is claimed.
- 18. The amount of reduction awarded will take into account the level of arrears or Council Tax charge and the extent to which the criteria or guidelines are met.
- 19. Applicants requesting a Section 13A(1)(c) reduction to be backdated i.e. for the previous year will be dealt with in the same way as applications for the current year and they will have to demonstrate that the financial hardship existed during the period requested.

20. Relief will be cancelled if;

- 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;
- The applicants financial circumstances change;
- The financial circumstances for an applicant changes.
- It is the responsibility of the applicant to advise us of any changes.

21. If a reduction has been awarded as a result of a false or fraudulent claim Tonbridge and Malling Borough Council reserves the right to withdraw the award granted and will consider prosecution if appropriate.

Appeals procedure

22. There is no statutory right of appeal against a decision whether to award a Section 13A(1)(c) reduction; however, Tonbridge & Malling Borough Council does recognise that applicants should be entitled to have a decision reviewed objectively, if they are dissatisfied with the outcome.

23. Appeals may only be made by the original applicant. The applicant may appoint a third party to act on their behalf and in such cases we will require written authorisation from the appellant.

24. Applicants will be notified of the appeals process in writing at the time that they are notified of the outcome of their application.

25. Appeals must be in writing and include the reasons why it is believed the decision should be amended and include any new or additional information relevant to the decision making process.

26. Appeals against decisions to award a Section 13A(1)(c) reduction will be considered by a different Officer than the one who made the original decision.

27. After it has been reviewed, the appellant can appeal to the Valuation Tribunal at the following address;

The Valuation Tribunal Service
2nd Floor
120 Lemn Street
London E1 8EU

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

29. An appeal must be made within four weeks of the issue of the letter notifying them of

the decision. Any appeals received outside of the four week period will only be considered if there are exceptional circumstances that led to the delay in submitting the appeal.

30. The applicant will be notified whether an appeal is refused or accepted in writing within 21 days.

31. If we have requested further evidence from the applicant to support the appeal and this has not been received within the specified time given, the appeal will be refused on the grounds of lack of supporting evidence.

Approved by Full Council: