

Rotherham Metropolitan Borough Council

- Council Tax Discretionary Relief Policy -

1. General Provisions

- 1.1 The Council has power under S13A(1)(c) of the Local Government and Finance Act 1992 to reduce the council tax charge on any chargeable property in the borough for any day. This power can be exercised in relation to any individual case or by determining a class of case for which the charge should be reduced.
- 1.2 Should the Council identify the need to determine a specific class of case to which discretionary relief should be granted it will bring a separate report to Cabinet for its consideration.
- 1.3 Each case will be considered on its own merits but applications potentially relating to the wider determination of a class of property will be subject to consideration by Cabinet.
- 1.4 The amount of any successful award may reduce a Council Tax charge to nil, including reducing any balance left payable after Council Tax Support Scheme, discounts and exemptions have previously been granted to the applicant.
- 1.5 Any application made under S13A(1)(c) provisions must be a last resort following the exploration of any other entitlement such as Council Tax Support Scheme, discounts and exemptions.
- 1.6 There must be exceptional circumstances to justify any request for a reduction and the Council will only consider granting short term assistance, and not reduce Council Tax liability indefinitely.
- 1.7 These guidelines set out the manner in which the Council will receive and consider applications for discretionary council tax relief.

2. Application Process

2.1 An application for a discretionary relief award can be made in writing, or by electronic communication in accordance with the approval of the Chief Executive of the Council.

2.2 Where:

- the Council has made a determination under s13A(1)(c) in relation to a class of case in which the liability for council tax has been reduced, and
- a person in that class would otherwise be entitled to a reduction under its scheme,

that person's application for a reduction under the Council's local Council Tax Support Scheme will also be treated as an application under S13A (1) (c).

2.3 Applications that cannot be made personally by an applicant can be made by their advocate, appointee or a recognised third party acting on their behalf.

2.4 Applications must be accompanied by:

- the name, address and Council Tax reference number of the applicant.
- a full explanation as to why the discretionary relief is claimed.
- details of any hardship, including a full financial statement of income and expenditure, or personal circumstances relating to the application.
- the period for which relief is requested.

3. Criteria for Considering Relief

3.1 The Council may consider the following in determining whether to grant to grant relief.

- whether an application has been made for Council Tax Support Scheme or a Council Tax discount or exemption, and if so, all requested evidence has been received in order to determine those claims;
- the circumstances on which the application is based including evidence of the financial hardship incurred by the applicant, details how this is affecting their

personal circumstances and this would justify a reduction in their council tax charge.

- whether Council Tax Support, a discount or exemption has been awarded as a result of an error which the applicant could not reasonably have been expected to know about and is now being reclaimed.
- whether the hardship experienced by the applicant is outside their control, for example due to a fire, flood, storm damage, explosion or 'major incident' which forces them out of their property. Where hardship is not experienced by the applicant, relief may still be awarded where it is considered unreasonable to charge them Council Tax based on the individual circumstances of the case and the claimant is paying Council Tax for another property where they now reside because of the incident.

NB. A major incident is defined as: *“Any event or circumstances (happening with or without warning) that causes or threatens death or injury, disruption to the community, damage to property or to the environment, on such a scale that the effects cannot be dealt with by emergency services, local authorities and other organisations as part of their normal day to day activities” (Dealing with Disasters Cabinet Office booklet).*

- what reasonable steps have been taken by the applicant to resolve their situation prior to the application.
 - whether the Council Tax is being covered by other means such as an insurance policy
 - the likelihood of the circumstances of the applicant improving;
 - whether the applicant has access to other assets which could be accessed to help pay Council Tax;
 - whether any outstanding debt is unpaid as a result of the willful refusal or culpable neglect of the applicant to make payment;
 - whether any award would be reasonable having regard to the interests of other council tax payers;
- 3.2 Alternative available assistance will be provided to applicants where it is considered appropriate.
- 3.3 Failure to provide information requested to support an application without sufficient reason, within any timescale set, will result in it being considered without that information;

3.3 Only in exceptional circumstances, for example where an applicant has just received an account due to late billing beyond their control, will consideration be given to granting relief for a financial year prior to that in which the application is made.

4. Decision Making Process

4.1 Determination on discretionary relief applications in individual cases of exceptional financial hardship will be made by the Benefits Assessment Team.

4.2 Details of applications which are being recommended for an award will be prepared and presented to the Strategic Director Finance & Customer Services for approval.

4.3 Applications for Council Tax Discretionary Relief which could potentially relate to a wider determination of class of case will be submitted to Cabinet by the Director of Financial Services.

5. Period of Relief

5.1 Relief will normally be granted for a specific determined period, depending on the circumstances of the application, but not for more than 12 months.

5.2 Only in exceptional circumstances, for example where an applicant has just received an account due to late billing beyond their control, will relief be considered in respect of a financial year prior to which the application is made.

6. Notification of Decision

6.1 The Council will aim to notify the applicant of its decision within 14 days of receiving sufficient information to make a decision.

7. Review of Decisions

7.1 Section 13A discretionary discounts are administered in accordance with the LGFA 1992, as amended, and are subject to a statutory appeals process. If the applicant disagrees with a decision, they can request a reconsideration by writing to the Council giving their reasons.

7.2 The applicant will be notified of the outcome of the reconsideration within two months.

7.3 If the applicant remains dissatisfied with the decision, an appeal may be made to the independent Valuation Tribunal but must do so within two months. Further details on this process will be notified to the applicant with the re-consideration outcome.

7.4 If the council does not reply to the applicant within 2 months, they you can still appeal to the independent Valuation Tribunal. In that case, they must appeal within 4 months from the date they first contacted the council.

8. Equalities

8.1 In assessing applications for discretionary Council Tax relief, the Council will consider its responsibilities under the Public Sector Equality Duty. That is to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.2 Consequently, The Council is committed to equality and fair application of the policy, ensuring that people receive fair outcomes in the standard of service they receive from the Council and equality of access to Council Services. This policy is fully inclusive and could support all members of the community 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.

7. Review of Decisions

7.1 The Local Government Finance Act 1992 provides no right of appeal against the Council's use of discretionary powers. However, in the interests of

transparency, the Council will provide a process for reviewing decisions where discretionary relief has not been granted. However, a review will only be conducted if the applicant's circumstances have changed and they can provide sufficient new evidence to support their application.

7.2 The applicant must put their case in writing, giving the reason(s) why they consider the original decision should be overturned, to the Director of Financial Services, requesting a review of the decision. They must do this within 28 days of the date of the original decision, and provide additional evidence to support their request.

7.3 Any review will be considered on its own merits.

7.4 The Council will then decide whether the applicant has provided any additional information against the required criteria that could justify a change to its decision.

7.5 Any subsequent legal decision to allow discretionary decisions to be subject to appeal to the Valuation Tribunal Service will be addressed in accordance with procedures laid down.

8. Review Decisions

8.1 The Council will aim to notify an applicant, setting out the reason for its decision, within 8 weeks of receiving the appeal.

9. Fraudulent Claims

9.1 The Council reserves the right to withdraw any award for relief where, following a decision, it becomes aware that this has been made as a result of a false or fraudulent claim.