

ROTHERHAM BOROUGH COUNCIL – REPORT TO CABINET

1.	Meeting:	Cabinet
2.	Date:	27th March 2013
3.	Title:	Council Tax Discretionary Relief Policy 13A(1)(c)
4.	Directorate:	Resources

5. Summary

Councils can reduce the amount of council tax payable by granting locally defined discounts under provisions contained in Section 13A of the Local Government Finance Act 1992. Section 13A(1)(c) allows for a discretionary reduction which can be used in relation to any individual case or by determining a class of case for which the charge should be reduced. The discount must be funded from the Council's Revenue Budget (General Fund) and can amount to anything up to 100% of the council tax charge.

The Council has previously used the discretion allowed under this Section to grant discounts for groups such as those affected by the 2007 floods. It has not had cause to consider granting discretionary discount for any individual case and **does not** currently have a policy for doing so.

With the introduction of the Council Tax Reduction Scheme that will limit support to working age claimants to a maximum of 91.5% of Council Tax liability (and other welfare reform changes) the expectation is that Councils may now receive more individual discretionary relief referrals. To enable the Council to administer and determine these potential referrals the Council needs to introduce clear guidelines under which individual requests for discretionary relief can be determined.

6. Recommendations

Cabinet are asked to:

- **Approve the introduction of the attached Council Tax Discretionary Relief Policy, incorporating powers to grant relief under Section 13A(1)(c) of the Local Government Finance Act 1992, from 1 April 2013;**
- **Delegated authority be given to the Director of Financial Services to determine such applications for Council Tax Discretionary Relief where they relate to individual cases of exceptional financial hardship;**
- **Agree that application of Council Tax Discretionary Relief to a class of case is considered by Cabinet subject to the submission of an additional report by the Director of Financial Services.**

7. Proposals and Details

- 7.1 The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 set out a prescribed procedure in which an application may be made for a discretionary reduction and this requires the Council to introduce a policy for considering such applications.
- 7.2 The Council will exercise its discretionary power to reduce Council Tax by considering applications in accordance with the attached policy.
- 7.3 Consideration will be given to reducing council tax for an individual applicant where they can show exceptional financial hardship. Each case will need to be considered on its own merits, taking into account the circumstances of the applicant, although a consistent approach will need to be taken to ensure fairness.
- 7.4 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 consideration.

8. Finance

- 8.1 Discretionary discounts must be funded entirely by the Council and could amount to anything up to 100%, after other reductions, of the Council Tax charge in individual cases.
- 8.2 Although in the past the Council has granted a discretionary relief for a specific class of case, eg properties affected by the floods, it has never had to consider granting a discretionary discount for any individual case. It is therefore difficult to accurately forecast the potential level of applications or how much relief could be granted.
- 8.3 Numbers of applications and the costs associated with any reliefs awarded will be monitored closely during the year and Members will be informed accordingly of any significant cost pressure issues that this may cause via the Council's routine budget monitoring and reporting process.

9. Risks and Uncertainties

The risks for the Council are as follows:

- It is not possible to forecast the numbers of applications and the likely cost to the authority. While we are not anticipating the numbers and cost to be significant there is potential for applications to be high, with over 16,000 working age claimants affected by a reduction in Council Tax support, through the introduction of the new Council Tax Reduction Scheme.
- The Council have never previously had to consider granting a discretionary discount for any individual case. This will increase the workload of the Benefit Assessment team where the applications will be assessed. It is anticipated that this work will be carried out without additional resources however should a substantial number of applications be received this may

create a capacity issue within the team which may adversely affect service performance standards.

10. Policy and Performance Agenda Implications

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 consideration.

11. Background Papers and Consultation

Council Tax Discretionary Relief Policy – attached.

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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 Reduction 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 Reduction 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 Reduction 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 Reduction Scheme or a Council Tax discount or exemption, and if so all 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 Reduction, 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;
- whether the hardship experienced by the applicant is outside their control, for example due to a flood, storm damage, explosion or 'major incident' which forces them out of their property;

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;
- 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 wilful 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 and recommendations will be prepared and presented to the Director of Financial Services for authorisation.

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 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.