

# West Devon Borough Council

## Council Tax Discretionary Discount and Reduction Policy

Issue details	
<b>Title:</b>	<b>Council Tax Discretionary Discount and Reduction Policy</b>
<b>Version number</b>	<b>Version 1.0</b>
<b>Officer responsible:</b>	<b>Isabel Blake Community of Practice Lead Specialist, Housing, Benefits &amp; Revenues.</b>
<b>Authorisation by:</b>	<b>Full Council</b>
<b>Authorisation date:</b>	

### 1 Previous Policies/Strategies

- 1.1 This policy brings together the Council Tax Discretionary Discount Policy and Exceptional Hardship Fund Policy.

### 2 Why has the council introduced this policy?

- 2.1 This policy sets out the criteria that need to be met and the type of information to be provided when a Council Taxpayer applies for a reduction in their Council Tax under West Devon Borough Council's (WDBC) discretionary powers.
- 2.2 There are two ways by which WDBC can use its discretionary powers to give a reduction in Council Tax:
- 2.2.1 S13a1c of the Local Government Finance Act 1992 (as amended) provides the billing authority with additional discretionary powers to reduce the Council Tax liability where national discounts and exemptions cannot be applied:

- a. Where a person is liable to pay Council Tax in respect of any chargeable dwelling and day, the billing authority for the area in which the dwelling is situated may reduce the amount which he is liable to pay as respects the dwelling and the day to such extent as it thinks fit.*
- b. The power under subsection 1) above includes the power to reduce an amount to nil.*
- c. The power under subsection 1) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.*

This is referred to in our policy as a Section 13a1c discretionary Council Tax reduction. This is wholly funded by WDBC, except when

Central Government has used this provision to provide grant funding for specific issues, for example the winter 2013/14 flooding.

2.2.2 In addition to our Council Tax Reduction Scheme Policy (Section 13a1a of the Local Government Finance Act 1992, as amended), WDBC has an Exceptional Hardship Fund (EHF). The EHF is available to cover the shortfall between Council Tax liability and payments of Council Tax Reduction. The funding of EHF is through the collection fund and is paid for by all preceptors in proportion to their share of Council Tax

2.3 The purpose of bringing the two discretionary schemes under the one policy allows for applications to be considered under the one framework and therefore removes the requirement for the Council Taxpayer having to apply under both discretionary provisions. It also means that WDBC has one financial assessment criteria ensuring that applicants are treated fairly and consistently.

### **3 What is WDBC's policy?**

3.1 This policy meets the corporate priorities of Community Life by looking after our residents' health and wellbeing.

It supports these priorities by delivering the following outcomes:

- A safety net to protect our most vulnerable Council Taxpayers who need additional financial assistance.
- Enables support to be given to Council Taxpayers who are in financial or other crisis where no other legislative discounts or reliefs exist.
- Helps Council Taxpayers through personal crisis, difficult events or where there are exceptional circumstances which impacts on their ability to pay.
- Prevents exceptional hardship
- Alleviates poverty
- Helps those who are trying to help themselves
- Sustains tenancies and prevention of homelessness
- Keeps families together
- Encourages and supports people to obtain and remain in employment

3.2 Officers applying this policy will consider whether all other statutory discounts or reliefs have been applied. This policy will normally only consider exceptional circumstances, due to financial need or crisis, where it is appropriate and fair to give a discretionary discount or reduction.

3.3 An application for financial hardship will only need to be made once. Where the Council Taxpayer is in receipt of Council Tax Reduction this will be dealt with under the EHF provision. The same assessment criteria used under the EHF will also be used for all non Council Tax Reduction customers who are applying for a reduction under Section 13a1c on the grounds of financial hardship.

- 3.4 When considering an application on financial grounds, the Council Taxpayer will be required to provide details of household income and expenditure, savings, capital, debts, etc. The assessment we will make for determining financial hardship will take account of only reasonable priority expenditure \* against income but will not take account of any non essential expenditure, as Council Tax is a priority bill. Part of the assessment may include referral to an independent money advice and budgeting advice service.
- 3.5 Where funding has been provided by Central Government any discretionary discounts that are made will be based upon the guidance and criteria that the Government issues, subject to WDBC agreeing to adopt this.

### **3.6 Section 13a 1c Discretionary Council Tax reduction**

- 3.6.1 Every Council Taxpayer is entitled to make an application for a discretionary Council Tax reduction. It is anticipated that a discretionary reduction will only be granted to Council Taxpayers in exceptional circumstances and will normally be for a short term period. An application for a further award can be made and there will be a review of the application and what actions have been taken since the last award.
- 3.6.2 When considering an application the following factors will be taken into account:
- There must be evidence of financial hardship or unforeseen or exceptional circumstances to justify any reduction.
  - Whether changing payment methods, re-profiling Council Tax instalments or setting alternative payment arrangements in order to make them more affordable.
  - An award may not be made until the Council Taxpayer has accepted assistance either through WDBC or a third party, such as; Citizens Advice Bureau or similar organisations, to enable them to manage their finances more effectively, including termination of non-essential expenditure.
  - The Council Taxpayer has experienced a crisis or event that has made their property uninhabitable eg due to fire or flooding, where they remain liable to pay Council Tax and for which they have no recourse for compensation.
  - The Council Taxpayer must satisfy WDBC that all reasonable steps have been taken to resolve their situation prior to an application.
  - If the Council Taxpayer is on a low income, whether they have applied for a Council Tax Reduction (WDBC's scheme is called Council Tax Reduction). The Council Tax Reduction scheme exists to ensure that those on low incomes receive financial assistance with their Council Tax.
  - All other eligible discounts/reliefs have been explored prior to an application being made.

- The Council Taxpayer does not have access to other funds/assets that could be used to pay Council Tax.
- All other legitimate means of resolving the situation have been investigated and exhausted by the applicant. If they have not been, it is unlikely that an award will be made.
- The payment record history of the Council Taxpayer.
- The amount outstanding must not be the result of wilful refusal to pay or culpable neglect.
- Relief will normally only apply to the Council Taxpayer's primary home.

### 3.6.3 Discretionary reductions will be withdrawn if:

- The conditions or circumstances on which the reduction was granted change or fail to materialise,
- The information submitted as part of the application proves to be misleading.
- The applicant ceases to be the Council Taxpayer.

3.6.4 Where the reduction is cancelled this will normally take effect from the actual date of change. However, in certain circumstances this may be withdrawn in full. A revised Council Tax bill will be issued for payment.

## 3.7 Administering the scheme

3.7.1 Discretionary Council Tax reductions must be applied for in writing from the Council Taxpayer, their advocate/appointee or a recognised third party acting on their behalf. Where the application is on the grounds of financial hardship a standard form is available which can be obtained via the telephone, in person at Kilworthy Park, Tavistock or St James Street, Okehampton or on WDBC's website.

3.7.2 The application should normally relate to the current Council Tax year, unless the Council Taxpayer has only recently received a bill following a retrospective change to a previous year.

3.7.3 It is expected that the Council Taxpayer will need to provide:

- The period and amount of reduction being sought.
- Reasons why a discretionary reduction should be given, and how this meets our policy.
- What action(s) the applicant has taken to alleviate the situation

3.7.4 WDBC may request any reasonable evidence in support of an application.

- 3.7.5 The Housing, Revenues & Benefits Community of Practice Lead in consultation with the Finance Community of Practice Lead will normally determine Discretionary Discount applications and in their absence this will be passed to the Customer First Group Manager.
- 3.7.6 Successful applicants will be notified in writing of the amount and period a Discretionary Council Tax reduction has been awarded for. Any entitlement is applied to the Council Tax account and a revised bill is sent. Awards are limited to the end of the financial year in which the application is made.
- 3.7.7 If a reduction has been made as a result of a false or fraudulent claim WDBC reserves the right to withdraw the award. WDBC will consider prosecuting any applicant who makes a false statement or provides fraudulent evidence in support of an application.
- 3.7.8 Unsuccessful applicants will be notified in writing together with the reason for the decision.
- 3.7.9 WDBC will aim to make a decision within 14 days of receiving all the information required.
- 3.7.10 Applicants who are receiving a Council Tax discretionary reduction must report changes in their circumstances within 21 days of the change occurring.

### **3.8 Exceptional Hardship Fund (EHF) Awards**

- 3.8.1 Every Council Taxpayer who is entitled to Council Tax Reduction and who has a shortfall is entitled to make a claim for help from EHF. It is normally a short-term emergency fund, whilst the Council Taxpayer seeks alternative solutions.
- 3.8.2 The main features of the Fund are that:
- EHF awards are discretionary
  - Council Taxpayers do not have a statutory right to an award
  - EHF awards are not a payment of Council Tax Reduction
  - Council Tax Reduction must be in payment in the week in which an EHF award is made.
  - WDBC may decide that a backdated EHF award is appropriate; which could then settle Council Tax arrears. This would be the only circumstance where the EHF could be used to facilitate payment of Council Tax arrears.
  - EHF awards cannot be made to settle arrears of Council Tax unless due to an award of backdated EHF as set out above.
- 3.8.3 EHF cannot be awarded for the following circumstances:
- Where full Council Tax liability is being met by Council Tax Reduction.
  - For any other reason, other than to reduce Council Tax liability.

- Where WDBC considers that there are unnecessary expenses/debts etc and that the Council Taxpayer has not taken reasonable steps to reduce these.
- To reduce any Council Tax Reduction recoverable overpayment.
- To cover previous years Council Tax arrears.
- A shortfall caused by a Department for Work and Pensions sanction or suspension which has been applied because the Council Taxpayer has turned down work/interview/training opportunities.

3.8.4 Trained officers from Benefits Team will determine whether or not to make an EHF award, and how much any award might be. This will be monitored by the Housing Benefits Manager to ensure consistency and fair application of the award.

When making this decision the officers will consider the following before making an award:

- The shortfall between Council Tax Reduction and Council Tax liability.
- The steps taken by the Council Taxpayer to reduce their Council Tax liability.
- Changing payment methods, re-profiling Council Tax instalments or setting alternative payment arrangements in order to make them affordable.
- Ensure that all appropriate discounts, exemptions and reductions are granted.
- Steps taken by the Council Taxpayer to establish whether they are entitled to other welfare benefits.
- Steps taken by the Council Taxpayer in considering and identifying where possible the most economical tariffs for supply of utilities.
- If a Discretionary Housing Payment has already been awarded to meet a shortfall in rent.
- The personal circumstances, age and medical circumstances (including ill health and disabilities) of the Council Taxpayer, their partner and any dependants and any other occupants of the Council Taxpayer's home.
- The difficulty experienced by the Council Taxpayer, which prohibits them from being able to meet their Council Tax liability, and the likely length of time this difficulty will exist.
- Shortfalls due to non-dependant deductions.
- The income and expenditure of the Council Taxpayer, their partner and any dependants or other occupants of the Council Taxpayer's home.
- How deemed reasonable expenditure exceeds income.
- All income may be taken into account, including those which are disregarded when awarding Council Tax Reduction.
- Any savings or capital that might be held by the Council Taxpayer or their partner.
- Other debts outstanding for the Council Taxpayer and their partner.
- Whether the Council Taxpayer has already accessed or is engaging for assistance with budgeting and financial/debt management advice. An EHF award may not be made until the Council Taxpayer has accepted assistance either from WDBC or third party, such as the Citizens Advice

Bureau or similar organisations, to enable them to manage their finances more effectively, including the termination of non essential expenditure.

- The exceptional nature of the Council Taxpayer and/or their family's circumstances that impact on finances.
- The length of time they have lived in the property.

The list is not exhaustive and other relevant factors and special circumstances will be considered.

3.8.5 An application for a further EHF award can be made and there will be a review of the application and what actions have been taken since the last award.

3.8.6 An EHF award may be less than the difference between the Council Tax liability and the amount of Council Tax Reduction paid.

### **3.9 Administering EHF**

3.9.1 The Council Taxpayer must make a claim for an EHF award by submitting an application to WDBC. The application form can be made in conjunction with a third party providing money advice or obtained via the telephone, in person at Kilworthy Park, Tavistock or St James Street, Okehampton and WDBC's website. A copy of the application form is at Appendix A of this policy. Council Taxpayers can get assistance with the completion of the form from the Customer Service Team or the Benefits Team at WDBC.

3.9.2 The application form must be fully completed and supporting information or evidence provided, as reasonably requested by WDBC.

3.9.2 In most cases the person who claims the EHF award will be the person 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.

3.9.3 An EHF award may be revised where the Council Taxpayer's circumstances have changed, which either increases or reduces their Council Tax Reduction entitlement.

3.9.4 A person claiming an EHF Payment is required to:

- Give WDBC such information as it may require to make a decision.
- Tell WDBC of any changes in circumstances that may be relevant to their ongoing claim.
- Give WDBC such other information, as it may require, in connection with their claim.

3.9.5 Both the amount and the duration of the award are determined at the discretion of WDBC, and will be done so on the basis of the evidence supplied and the circumstances of the claim

- The start date will usually be the Monday after the written claim for an EHF award is received by WDBC, although in some cases it may be possible to backdate this award, based upon individual circumstances of each case.
- The EHF will normally be awarded for a minimum of one week
- The maximum length of the award will not exceed the end of the financial year in which the award is given.

3.9.6 Any EHF award will be made directly to the Council Tax account, thus reducing the amount of Council Tax payable.

3.9.7 Overpaid EHF awards will generally be recovered directly from the Council Taxpayers Council Tax account, increasing the amount of Council Tax due and payable.

3.9.8 WDBC will notify the outcome of each application in writing. The notification will include the reason for the decision and advise the Council Taxpayer of their appeal rights.

### **3.10 Publicity of discretionary reductions and discounts**

3.10.1 WDBC will publicise this policy and will work with interested parties to achieve the stated outcomes. A copy of this policy will be made available for inspection and will be published on WDBC's website.

### **3.11 Right to appeal**

3.11.1 Decisions about discretionary discounts and reductions are subject to the statutory appeal process.

3.11.2 If the Council Taxpayer is not satisfied with a decision in respect of:

- an application for a discretionary reduction
- a decision not grant a discretionary reduction
- a decision to award a reduced amount of discretionary reduction
- a decision not to backdate a discretionary reduction

They may request a review in writing. In these cases WDBC will look at the decision again.

3.11.3 An officer, senior to the original decision maker, will consider the dispute by Reviewing the original application and any additional information and/or Representation made and will make a decision within 14 days of referral or as Soon as practicable thereafter.



3.11.4 Any request for a review must be made in writing, within two months of the date of the notification letter confirming the original decision.

3.11.5 The outcome of the review will be given in writing by the Council, detailing the reasons for changing or upholding the original decision.

3.11.6 If WDBC does not respond within two months to the Council Taxpayer's request for a review or the Council Taxpayer considers that WDBC's decision is wrong, they can appeal directly to the Valuation Tribunal

#### **4 Equality impact considerations** – the policy is high relevance to equality if it has a big impact on residents and users of the service

##### **Low**

4.1 This Equality Impact Assessment considers the impact of this policy on the relevant protected characteristics, as defined by the Equality Duty, which are:

- Age (including children and young people)
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage or civil partnership status (in respect of the requirement to have due regard to eliminate discrimination)
- An additional WDBC local factor of community considerations such as socio-economic factors, criminal convictions, rural living or Human Rights

4.2 This policy has a positive or neutral impact on all protected characteristics.

4.3 The protected characteristics which are positively impacted are age, disability and WDBC local factors. This is because the policy, when considering EHF awards, considers household composition and disability related expenditure when looking at expenditure calculations.

4.4 The positive impact on local factors is high as the EH awards support vulnerable Council Taxpayers who may not otherwise be able to pay their Council Tax. Also the discretionary discounts help to support local areas which may be affected by natural disasters which affect the households.

#### **5 Appendices and other relevant information**

Appendix A – Application Form

#### **6 Who authorised the policy/strategy and date of authorisation.**

#### **7 Related Policies/Strategies, Procedures and Legislation**

**7.1 Related policies**

Discretionary Housing Payments policy

**7.2 Legislation**

Local Government Finance Act 1992, as amended

**8 Policy date for review and responsible officer**

- 8.1 This policy will be reviewed by the Customer First Group Manager periodically but no later than 2017.

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