



PR.34 14/15
Policy and Resources Committee
15 January 2015

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Subject: Council Tax Discretionary Relief (Section 13A of the Local Government Finance Act 1992)

Report by:	Chief Operating Officer
Contact Officer:	Alison McCulloch Revenues Team Manager Tel: 01427 676508 Alison.mcculloch@west-lindsey.gov.uk
Purpose / Summary:	This report seeks to clarify the Council's policy on special local discounts and sets out the details of the proposed guidelines for determining applications for reductions in Council Tax in individual cases.

RECOMMENDATION(S):

That the Policy and Resources Committee members;

1. Approve the Section 13A Policy (See Appendix A) in determining whether a reduction in Council Tax should be granted in the case of individual applications for reductions in Council Tax due.
2. Are asked to agree that individual applications for Section 13A Discretionary Relief be determined by the Director of Resources under his delegated powers.
3. Are asked to agree that, in the event of an appeal, it be heard by the Housing Appeals Board.

IMPLICATIONS

Legal:

Section 76 of the Local Government Act 2003 introduces Section 13A Billing Authority's (Power to Reduce Amount of Tax Payable) into the Local Government Finance Act 1992. This allows a billing authority to reduce the amount of Council Tax payable to such an amount as it thinks fit, including reducing the amount to zero.

This power may be exercised in relation to individual cases or by determining a class of case or cases in which liability is to be reduced to an extent provided by the determination.

The authority to determine individual applications under Section 13A may be delegated to an officer of the Authority under Section 101 of the Local Government Act 1972.

Members should also be aware of an Ombudsman case which held that Redcar and Cleveland Borough Council failed to recognise and accept that it could not 'fetter its discretion to reduce an individual's liability for Council Tax by having a 'blanket policy' that would never allow a reduction' and that it failed to consider and reach a decision on an individual's request.

The recommendations in the Ombudsman's report concluded that Councils must consider and reach a decision on a request and must establish internal arrangements for how such requests will be considered and decided. The Council is free to reach any decision that it believes fit on any request provided that it reaches such a decision properly.

Financial :FIN/116/15

The loss in Council Tax revenue resulting from the granting of a local discount or a reduction must be met by the billing authority and not passed on to other major precepting authorities. In other words Council Tax payers will fund any reduction that is granted.

It is anticipated that only a small number of reductions are likely to be granted and those that are will likely be for short periods of time. This being the case it is expected that any reductions granted can be provided for out of existing budgets.

Staffing :

None directly resulting from this report

Equality and Diversity including Human Rights :

*NB: A full impact assessment **HAS TO BE** attached if the report relates to any new or revised policy or revision to service delivery/introduction of new services.*

It is important that all taxpayers are treated fairly and the council seeks to collect all monies that are properly due. An equalities impact assessment is attached at Appendix B.

Risk Assessment :

If awarded the full cost of the relief would be incurred by West Lindsey District Council.

Due to the nature of the award, and the full cost falling upon West Lindsey District Council, if relief is granted it will be awarded, as a maximum, to the end of the financial year in which the application was made. The council taxpayer would be required to submit a new application for consideration of discretionary relief for any subsequent year.

Any new policy or decisions made based on such a policy would be open to legal challenge.

Conversely the risk associated with not adopting the suggested policy will significantly reduce the risk that decisions on discretionary discounts could be successfully challenged.

There may also be a damage to reputation if the Council fails to adopt a Section 13a Policy.

Climate Related Risks and Opportunities :

None arising from this report

Title and Location of any Background Papers used in the preparation of this report:

Local Government Finance Act 1992 – Section 13A

Local Government Finance Act 2003 – Section 76

Call in and Urgency:

Is the decision one which Rule 14 of the Scrutiny Procedure Rules apply?

Yes

No

Key Decision:

Yes

No

Executive Summary

Section 13A of the Local Government Finance Act 1992 (as amended by Section 76 of the Local Government Finance Act 2003) allows the Council to reduce the amount of council tax payable. Powers may be used on a case by case basis or by specifying a class of use where several taxpayers may fall into a group due to similar circumstances. There is currently an agreed class discount which is granted to council tax payers directly affected by external flooding caused by extreme weather conditions and where the occupier(s) have had to vacate the property for a period of time. This class discount is 100% discount payable for up to 12 months or less if the council tax payer moves back into the property sooner.

West Lindsey District Council recognises that it must be able to respond flexibly to the needs of its taxpayers and that it wishes to support strong and sustainable local communities.

In order that West Lindsey complies with some of our own priorities we need to ensure that we continue to achieve value for money in the delivery of services and play a key role in addressing issues such as homelessness and health inequalities.

Section 13A awards will be used to help mitigate any unforeseen or exceptional hardship circumstances that threaten taxpayers' ability to pay the council tax or to remain in their homes.

However, as there is a financial implication when awarding discounts under Section 13A because the Council has to fund all awards from its own funds without any Government support, any such awards must meet certain criteria to ensure they offer value for money to the districts taxpayers.

The scheme is discretionary, the applicant does not have a statutory right to a payment and other than the normal appeal against the application of a discretionary function by Judicial Review there is no right to a statutory appeal of any application decision. However, in the interests of fairness, the council should operate an internal review procedure for appeals.

It is envisaged that individual applications for Section 13A Discretionary Relief be determined by the Director of Resources under his delegated powers.

In the event of an appeal these should be considered by the Housing Appeals Board.

Notifications will always be made in writing to the applicant and any awards will be made by crediting the council tax account to which it applies.

1 Introduction

1.1 Section 13A of the Local Government Finance Act 1992 now allows a billing authority to reduce the council tax payable where national discounts and exemptions cannot be applied.

- (1) *Where a person is liable to pay Council Tax in respect of any chargeable dwelling and any 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.*
- (2) *The power under subsection (1) above includes power to reduce an amount to nil.*
- (3) *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."*

1.2 The council can determine a class or classes of case for which liability can be discounted or a reduction can be granted as a result of an individual application ie: on the grounds of exceptional financial hardship.

2. Individual Discounts

2.1 It is proposed to set out guidelines under which an individual application for a reduction under Section 13A could be considered. Each case would have to be looked at on its individual merits but the guidelines are intended to ensure that a consistent approach is taken and that applicants understand the criteria that will be taken into account when assessing their application.

2.2 In order to ensure that all applicants provide the same level of information and can therefore be assessed fairly it is proposed that an application form be completed (See Appendix C)

3. Guidelines for Using Powers

3.1 The Council will consider using its powers to reduce Council Tax liability for any Council Tax payer.

3.2 Ordinarily, the Council would expect that there would have to be evidence that extreme financial hardship would be caused to justify any reduction and that it will be intended only as short term assistance and should not be considered as a way of reducing Council Tax liability indefinitely.

3.3 Each case will be considered on 'its individual merits'.

3.4 The Council will have regard to the following guidelines before recommending any reduction:

- Requests for reductions in Council Tax liability will be required on the application form (See Appendix C) from the taxpayer, their advocate/appointee or a duly authorised third party acting on his/her behalf.

- The request should set out the circumstances on which the application is based and any hardship or personal circumstances relating to the application.
- The application should include a full income and expenditure breakdown of the applicant together with that of any partner.
- The Council may request evidence in support of the application.
- The taxpayer must satisfy the Council that all reasonable steps have been taken by them to resolve their own situation prior to application.
- Consideration has been given to any entitlement the applicant might have to Council Tax Reduction
- The taxpayer has been considered for entitlement to Discretionary Housing Payment if appropriate.
- All other discounts/reliefs have been awarded to the taxpayer that he/she is entitled to.
- The taxpayer does not have access to other assets that could be used to pay the Council Tax.
- The Council can take into consideration the financial circumstances of the taxpayer at the time the debt accrued.
- If the Council Tax account is in arrears, that non-payment was not due to wilful refusal or culpable neglect.
- If the debt outstanding is due to an error by the Council.

4. Decision Making Process

- 4.1 To enable a request for a reduction to be dealt with in a timely manner it is proposed that the Director of Resources is given delegated power to determine applications.

5. Notification of Decision

- 5.1 The Council will notify a taxpayer of their decision in writing.

6. Amount of Discount or Reduction Granted

- 6.1 Officers do not propose to set percentage discounts or reductions to be applied as each case will have different circumstances. The amount of any discount or reduction will take into account the amount of the debt and the extent to which the criteria or guidelines are met.

7. Appeals

- 7.1 Section 13A awards are administered under the Local Government Finance Act 1992 and are not subject to a statutory appeals process. However, in the interests of fairness the council will accept a taxpayer's request for a reconsideration of a decision where the council has not awarded a discretionary relief or where the taxpayer feels the award should be increased.
- 7.2 In the event of any such appeal, it will be heard by the Housing Appeals Board and their decision will be final.
- 7.3 It is not in the Valuation Tribunal's jurisdiction to investigate an Authority's decision not to exercise its discretion in individual cases. In these instances the Council Taxpayer should make an application before the High Court for a judicial review.

8. Risks

- 8.1 Any new policy or decisions made based on such a policy would be open to legal challenge
- 8.2 Conversely the risk associated with not adopting the suggested policy contained within Appendix A, B and C will significantly reduce the risk that decisions on discretionary discounts could be successfully challenged.
- 8.3 Damage to reputation is a risk by failing to adopt a policy.

9. Recommendations

- 9.1 The committee is requested to approve the Section 13A Policy
- 9.2 The committee is requested to delegate the granting of Discretionary Section 13A council tax relief to the Director of Resources.
- 9.3 The committee is requested to agree that, in the event of an appeal, it be heard by the Housing Appeals Board.

10. Appendices

- A. Section 13A Discretionary Relief Policy
- B. Equalities Impact Assessment
- C. Application Form

APPENDIX A – SECTION 13A POLICY (See below)

West Lindsey District Council

Council Tax Section 13A Relief Policy Statement

September 2014



The Entrepreneurial Council

Council Tax Section 13A Relief Policy and Procedures

Section 1	Background Information Nationally Locally
Section 2	Statement of Objectives
Section 3	The Policy Section 13A Scheme Applying for Section 13A Relief Eligibility Criteria Awarding Section 13A Relief Payment of an award Notification Right of Appeal Overpayments Fraud
Section 4	Monitoring
Appendix A	Application Form

Section 1

Background Information

Section 13A Relief Background

1.1 Nationally

Section 13A of the Local Government Finance Act 1992 allows the council to reduce the amount of Council Tax payable where national discounts and exemptions cannot be applied. The council has the right to choose whether to use powers on a case by case basis ie: on the grounds of exceptional financial hardship or to specify certain classes of use where several taxpayers may fall into a group due to similar circumstances.

1.2 Locally

The council agreed, in February 2014, under Section 13A of the Local Government Finance Act 1992, to introduce a class discount where a dwelling has been affected by external flooding caused by extreme weather conditions and the occupier(s) have had to vacate the property for a period of time. This scheme is only applicable for the impact of flooding caused by extreme weather conditions where water comes into the property; it does not cover events such as flooding caused by burst water pipes etc.

There is a financial implication to awarding discounts under Section 13A as the Council has to fund all awards without any Government support and this therefore has a direct impact on the taxpayers of West Lindsey.

Section 2

Statement of Objectives

West Lindsey District Council recognises that it must be able to respond flexibly to the needs of its taxpayers and that it wishes to support strong and sustainable local communities.

In order to comply with some of our own priorities we need to ensure that we continue to achieve value for money in the delivery of services and play a key role in addressing issues such as homelessness and health inequalities.

Section 13A awards will be used to help mitigate any unforeseen or exceptional hardship circumstances that threaten taxpayers' ability to pay the council tax or to remain in their homes.

As there is a financial implication when awarding discounts under Section 13A because the Council has to fund all awards from its own funds without any Government support, any such awards must meet certain criteria to ensure they offer value for money to the districts taxpayers.

Section 3

The Policy

3.1 Section 13A Scheme

The council will consider making a Section 13A award to applicants who meet the qualifying criteria, as specified in this policy. All applications will be considered on their individual merits. Council Tax accounts in joint names should make joint applications for Section 13A Relief.

3.2 Applying for Section 13A Relief

Features of the scheme are that:

- it is discretionary
- the applicant does not have a statutory right to a payment
- other than the normal appeal against the application of a discretionary function by Judicial Review there is no right to a statutory appeal of any application decision. However, in the interests of fairness, the council will operate an internal review procedure for appeals.

In order for an application to be considered it should be made in writing using the form at Appendix A and submitted to the Council Tax Section.

3.3 Eligibility Criteria

When determining an application consideration will be made to:

- the applicants personal circumstances
- the applicants evidence of hardship
- the applicants not having access to assets or savings that could be realised to pay the council tax
- any other eligible discounts, reliefs or exemptions that could be awarded
- the council tax account and if it is in arrears the Council must be satisfied that non-payment is not due to wilful refusal or culpable neglect.

3.4 Awarding Section 13A Relief

In deciding whether to make a Section 13A award we must have regard to the applicants' circumstances and in order to do this reasonable evidence may be requested in support of their application. This may include:

- Income and expenditure statements
- Any sources of credit for example cash cards, credit cards, store cards, overdraft facilities and loan arrangements
- Any help which is likely to be available from other sources
- Any special circumstances of which we are aware

Council taxpayers will be expected to make contact with external agencies for assistance eg: Citizens Advice Bureau, Money Advice etc.

The council will decide how much to award based on all the applicants circumstances and will be at the councils discretion.

All decisions will be made by the Head of Revenues, Benefits and Central Services in conjunction with the Revenues Team Manager.

3.5 Payment of an award

All awards will be made by crediting the award value to the council tax account to which it applies. The relief will only be paid to a maximum of the end of the tax period to which it is claimed and will not automatically continue to reduce a future year's liability as it is a short term assistance only and should not be considered a way of reducing the council tax long term.

3.6 Notification

The council will notify the applicant of the outcome of their request within 5 working days of the date that the decision is made. This will be in writing and will detail:

- The amount of the award (if appropriate)
- The period of the award (if appropriate)
- Provide details of how the award will be made (if appropriate)
- The reasons why a decision was made (if unsuccessful)
- The rights of appeal (if appropriate)

3.7 Right of Appeal

Section 13A awards are administered under the Local Government Finance Act 1992 and are not subject to a statutory appeals process. However, in the interests for fairness the council will accept a taxpayer's request for a reconsideration of a decision where the council has not awarded a discretionary relief or where the taxpayer feels the award should be increased.

Requests for an appeal should:

- Be made in writing
- Be received within 21 days of receipt of the initial decision notice
- Be signed by the applicant or their representative
- Include full reasons and evidence for the appeal

Decisions on appeals will be made by the Housing Appeals Board.

The council will notify a taxpayer of its decision on the appeal within 21 days of receiving the request.

It is not in the Valuation Tribunal's jurisdiction to investigate an Authority's decision not to exercise its discretion in individual cases. In these instances the Council Taxpayer should make an application before the High Court for a judicial review.

3.8 Overpayments

If the council becomes aware that the information contained in an application for Section 13A relief was incorrect or that relevant information was not declared either intentionally or otherwise, the council may seek to recover the value of any award made as a result of that application. The award will be removed from the council tax account and any resulting balance will be subject to the normal methods of collection and recovery applicable to such accounts.

3.9 Fraud

The council is committed to the fight against fraud in all its forms. Any applicant who tries to fraudulently claim a Section 13A relief might have committed an offence under the Fraud Act 2006 and the matter will be

investigated and dealt with appropriately. This could lead to criminal proceedings.

Section 4

Monitoring

The council is committed to its responsibility to equality and fairness and will ensure that people are treated fairly and given fair chances. The scheme aims to give the fairest outcomes to everyone regardless of race, gender reassignment, age, disability, religious beliefs, sex or sexual orientation.

This policy will be monitored and reviewed to ensure it has been applied fairly and consistently.

**For further information please contact the Council Tax
Section on 01427 676566**

If you would like a copy of
this in large, clear print, audio,
Braille or in another language,
please telephone
01427 676676

Guildhall, Marshall's Yard
Gainsborough, Lincolnshire DN21 2NA
Tel: 01427 676676 Fax: 01427 675170
DX 27214 Gainsborough



Appendix B – SECTION 13A EQUALITY IMPACT ASSESSMENT

<p>Name, brief description and objectives of policy, procedure, function?</p>	<p>Council Tax Section 13A Relief Policy</p> <p>To ensure that all council tax payers are treated equally if they make an application to reduce the amount of council tax they are required to pay under Section 13A of the Local Government Finance Act 1992.</p> <p>To ensure that before making a decision in respect of an individual that their particular circumstances have been considered at each stage in the process.</p> <p>To ensure that council tax is spent in the most efficient and effective way for the council and its council tax payers.</p>
<p>Have you consulted on the policy, procedure, function and if so, what were the outcomes?</p>	<p>No consultation has taken place as this policy is required in order to comply with Section 13A of the Local Government Finance Act 1992.</p>
<p>What barriers may these individuals or groups face, and how can you promote equality (where possible)</p>	
<p>Gender</p>	<p>There is no evidence that this policy would impact on people in any way because of this characteristic.</p>
<p>Age</p>	<p>There is no evidence that this policy would impact on people in any way because of this characteristic. However any person unable to complete the application form will be offered assistance from the Revenues Team in completing the form and also be signposted to outside agencies such as Age Concern, Money Advice Service</p>
<p>Disability</p>	<p>There is no evidence that this policy would impact on people in any way because of this characteristic. However any person unable to complete the application form will be offered assistance from the Revenues Team in completing the form and also be signposted to outside agencies such as Disability Network, Citizens Advice Bureau</p>
<p>Race</p>	<p>There is no evidence that this policy would impact on people in any way because of this characteristic.</p>
<p>Religion or Belief</p>	<p>There is no evidence that this policy would impact on people in any way because of this characteristic.</p>
<p>Sexual Orientation</p>	<p>There is no evidence that this policy would impact on people in any way because of this characteristic.</p>

Gender Reassignment	There is no evidence that this policy would impact on people in any way because of this characteristic.
Pregnancy, maternity or paternity	There is no evidence that this policy would impact on people in any way because of this characteristic.
Marriage and Civil Partnership	There is no evidence that this policy would impact on people in any way because of this characteristic.
Rural Isolation	There is no evidence that this policy would impact on people in any way because of this characteristic.
Socio-economic factors	There is no evidence that this policy would impact on people in any way because of this characteristic. However any person unable to complete the application form will be offered assistance from the Revenues Team in completing the form and also be signposted to outside agencies such as Citizens Advice Bureau, Money Advice Service.
Other (eg: those with dependants/caring responsibilities, asylum seeker and refugee communities, children in the care system etc)	There is no evidence that this policy would impact on people in any way because of this characteristic. However any person unable to complete the application form will be offered assistance from the Revenues Team in completing the form and also be signposted to outside agencies such as Sure start, Citizens Advice Bureau
Is there any evidence or research that demonstrates why some individuals or groups are, or are not, affected?	There is no evidence or research available. This policy is based on nationally applicable legislation and it covers all applicants who must all meet a set of standards and criteria intended to ensure that evidence of hardship justifies a reduction in council tax liability.
If there is a potential adverse impact, please state why and whether this is justifiable.	There is no potential adverse impact from this policy.
Outcome of EIA	<p>No major change needed <input checked="" type="checkbox"/> Adverse impact but continue <input type="checkbox"/></p> <p>Adjust the policy /proposal <input type="checkbox"/> Stop and remove the policy/proposal <input type="checkbox"/></p>
How will you monitor your policy, procedure, function to ensure there is no adverse effect on the protected characteristics (eg: gender, age, etc) in the future?	We will monitor the number of applications received and how many applications are refused and whether or not the reason is for any of the protected strands eg: race, religion, gender, age etc. Each application will be judged on its own merits based on the criteria set within the guidelines.

APPENDIX C – APPLICATION FORM



Guildhall
Marshall's Yard
Gainsborough
DN21 2NA
Telephone: (01427) 676676
Fax: (01427) 675173
Web: www.west-lindsey.gov.uk

**APPLICATION FOR COUNCIL TAX REDUCTION UNDER SECTION 13A
OF THE LOCAL GOVERNMENT FINANCE ACT 1992**

Please note that if a joint bill has been issued then the application must also be made in joint names.

Name of Applicant(s)	Telephone Number
Contact Address	Email Address
Owners Name(s)	Address of property for which relief is being claimed
What is the value of equity in the property?	Is the property currently vacant? Yes <input type="checkbox"/> No <input type="checkbox"/>
Is the property currently marketed for sale? Yes <input type="checkbox"/> No <input type="checkbox"/>	£ Please provide details of marketing agent/estate agent for this property
Is the property currently marketed for rent? Yes <input type="checkbox"/> No <input type="checkbox"/>	Please provide details of marketing agent/estate agent for this property

Please provide details of any other properties or land owned by yourself and value of any rental income you are in receipt of

If you have left a property empty to move to more suitable accommodation or to receive or provide care due to old age, disablement, illness, alcohol or drug misuse or mental disorder then please provide details below

Please provide the detailed reasons why you are applying for a reduction in Council Tax. This should fully explain the circumstances that are creating financial difficulty and how long you expect these circumstances to continue

Has an application for Council Tax Reduction been made?

Yes

No

Are you receiving financial assistance from any other source?

Yes

No

Please provide details

Have you approached any organisation to assist with your current financial situation such as Citizen Advice Bureau / Money Advice etc.?

Yes

No

Please provide details

Please provide details of any stocks/shares/savings/ money you may have or money you are owed

Please provide any additional information you may wish to provide in support of your application

Your application will not be processed unless the enclosed financial information sheet is completed and returned.

All applicants must provide documentary evidence in support of their claim. At a minimum these should include the following:

- Confirmation of all income received
- Bank statements
- Any additional information to support the application
- Written details of any savings/stocks/shares

I declare that the information I have given on this form is complete and accurate, to the best of my knowledge.

I understand that a copy of this form may also be sent to Lincs2Advice who may be able to offer me further advice and assistance.

I also understand that whilst this application for relief is pending I am not entitled to withhold payment of the council tax due to the council.

Signature: _____ Date: _____

Full Name (please print): _____

Data Protection – We are asking for this information in accordance with the provisions of the Council Tax (Administration & Enforcement) Regulations 1992 (Reg. 3) and the Data Protection Act 1998, S.29. It will be used to help us determine your liability for and collect your Council Tax. It may be shared with other sections of this Council, with other Councils and with other public bodies to determine eligibility for Housing Benefit, liability for Council Tax, to collect Council Tax, to assess and collect other Taxes and Duties, to help detect and prevent fraud, to help detect and prevent crime and to carry out public duties.

**Please return your completed form to
West Lindsey District Council, Guildhall, Marshall's Yard, Gainsborough, Lincs.
DN21 2NA**



Guildhall
 Marshall's Yard
 Gainsborough
 DN21 2NA
 Telephone: (01427) 676676
 Fax: (01427) 675173
 Web: www.west-lindsey.gov.uk

Council Tax – Financial Statement for Section 13A Application

Account Reference Number:

Name of Applicant:

Address:

Income	Amount	Weekly/Monthly
Wages	£	
JSA/Income Support	£	
Working Tax Credit	£	
Disabled Tax Credit	£	
Child Tax Credit	£	
Retirement Pension	£	
Works Pension	£	
Guaranteed Pension Credit	£	
Savings Credit	£	
Child Benefit	£	
Incapacity Benefit/ESA	£	
Maintenance	£	
Non Dependant Contribution	£	
DLA	£	
Any other Income	£	
Total Income	£	

Expenditure	Amount	Weekly/Monthly
Rent/Mortgage	£	
Council Tax	£	
Water Rates	£	
House Insurance	£	
Gas/Electricity/Fuel	£	
Housekeeping	£	
Telephone/Mobile	£	
TV Rental	£	
TV Licence	£	
Travel Expenses	£	
Car Running Costs (Petrol, Oil)	£	
Car insurance	£	
Car Tax	£	
Car Repayments	£	
Catalogues	£	
Loans		
Credit Card/Store Cards	£	
Hire Purchase	£	
Fines	£	
Child Care	£	
Clothing	£	
Other Expenses (please detail)	£	
Total Expenditure	£	

WARNING: Deliberately giving false information could lead to prosecution.
I DECLARE that the information I have given on this form is complete and accurate to the best of my knowledge.
I understand that West Lindsey District Council may check the information.

Signed

Dated