



Corporate Policy and
Resources Committee

Thursday 17 September 2020

Subject: The Council Tax Discretionary Hardship Policy (Section 13A)

Report by:

Commercial Director

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Purpose / Summary:

This report seeks to clarify the Council's policy relating to special local discounts offered under Section 13A of the Local Government Finance Act 1992 (as amended)

RECOMMENDATION(S):

The Corporate Policy and Resources Committee members approve;

1. The Council Tax Discretionary Hardship Policy (Section 13A) (See Appendix A).
2. That minor policy changes be authorised by the Section 151 Officer under delegated powers.
3. That individual applications for Section 13A Discretionary Relief be determined by the Section 151 Officer under delegated powers.
4. It be **RECOMMENDED** to the Governance and Audit Committee, that the Constitution be amended in order to allow that in the event of an appeal, they be considered by the Chief Executive in consultation with the Leader of the Council.

IMPLICATIONS

Legal:

Section 13A (1)(c) of the Local Finance Act 1992 (as amended by Section 76 of the Local Government Finance Act 2003) and further amended by Section 10 of the Local Government Finance Act 2012 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/53/21

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. This will be monitored throughout the financial year.

Staffing :

(N.B.) Where there are staffing implications the report MUST have a HR Ref

None directly resulting from this report

Equality and Diversity including Human Rights :

NB: Please explain how you have considered the policy's impact on different groups (for example: young people, elderly, ethnic minorities, LGBT community, rural residents, disabled, others).

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.

Data Protection Implications :

None arising from this report

Climate Related Risks and Opportunities:

None arising from this report

Section 17 Crime and Disorder Considerations:

None arising from this report

Health Implications:

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

<http://www.legislation.gov.uk/ukpga/1992/14/section/13A>

Local Government Act 2003 – Section 76

<https://www.legislation.gov.uk/ukpga/2003/26/section/76>

Local Government Finance Act 2012 – Section 10

<https://www.legislation.gov.uk/ukpga/2012/17/section/10/enacted>

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.

As we now have 2 policies, one locally defined discount and a Covid 19 hardship grant it would seem prudent to review and collate them all into one new policy.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

X

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

X

No

Executive Summary

Section 13A (1)(c) of the Local Finance Act 1992 (as amended by Section 76 of the Local Government Finance Act 2003) and further amended by Section 10 of the Local Government Finance Act 2012 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.

Section 10 of the Local Government Finance Act 2012 introduces the legislation for billing authorities to introduce council tax reduction schemes, these are awarded under Section 13A (1)(a).

There is currently a Section 13a Hardship Policy and a Section 13A Care Leavers Hardship Policy in place but this new policy aims to consolidate these and incorporate the new Covid 19 discretionary relief and the agreed classes of discount.

Currently there is 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 awarded at 100% discount payable for up to 12 months or less if the council tax payer moves back into the property sooner.

This policy enables a further class discount to be awarded in respect of fire damaged properties with the same criteria for qualification as that required for flooded properties.

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 consider the wellbeing and financial security of our residents and communities, address deprivation where it occurs and deliver efficient and excellent services.

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 district's 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 Section 151 Officer under delegated powers but in the event of an appeal these should be considered by the Chief Executive in conjunction with the Leader of the Council.

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 The Council currently has a Section 13A policy agreed at Corporate Policy and Resources Committee on 20 September 2018. This updated policy aims to collate all the separate elements that fall within the remit of that regulation.
- 1.2 Section 13A of the Local Government Finance Act 1992 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."*
- 1.3 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. Section 13A Awards Granted during 2019/20

Number of applications received	Number awarded	Total Amount of Awards
22	11	£2,650.15

3. Policy Amendments in brief

Item No	Page No	Amendment
1.5	2	Include the Council Tax Support scheme which is Independent of discretionary hardship relief.
1.6 & 4	2 & 4	Introduce the Covid 19 hardship relief which is a one off fund for one year only, 2020/21, to assist council tax payers experiencing financial hardship to apply for a reduction from their council tax liability.
2.4	2	Care Leavers – inclusion into this policy and an amendment to pay the 25% single person discount via Section 13A to the council tax account holder if, when the care leaver turns 18 it results in the account holder losing their single person discount.
3.1	3	Introduce Flooding as a locally defined discount. This has already been agreed in February 2014 but it was not incorporated into the original Section 13A policy

3.2	3	Introduce Fire Damaged properties as a locally defined discount.
5.4	4	Extend award of Section 13A from, current year in which the application is made, to include where exceptional circumstances occur consideration will be given to awarding relief back to a previous year.
10.3	6	Appeals to be considered by the Chief Executive in collaboration with the Leader of the Council as opposed to via the Housing Appeal Board as per the previous policy.

4. Individual Discounts

- 4.1 It is proposed to set out guidelines under which an individual application for a reduction under Section 13A (1)(c) could be considered. Each case would be considered 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.
- 4.2 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 A) and a financial statement detailing income and expenditure (See Appendix B)

5. Care Leavers

- 5.1 It is proposed to set out guidelines under which a care leaver can make an application for a reduction under Section 13A (1)(c). There would be a requirement to complete an application form but this is simplified with no financial statement required but contact details of their support worker would be required.

6. Classes of Locally Defined Discounts

It is proposed to set out guidelines under which classes of council taxpayer could be considered for a reduction under Section 13A (3). These would be if a taxpayer is adversely affected by a natural disaster which renders the dwelling uninhabitable for example flooding, fire damage or subsidence. Each case would 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.

7. Covid 19 Grant

In March 2020 the Government announced it would provide local authorities in England with a Council Tax Hardship fund grant to support economically vulnerable people and households in their local area. This is payable for the financial year 2020/21 only and the Government's expectation is that

this is paid, in the first instance, to provide working age council tax support claimants with additional relief from their council tax liability.

8. Application Process

- 8.1 Individual applications for Section 13A will be required to complete an application form as attached at the end of the policy (see Appendix A) and a financial statement with evidence of all income and expenditure (see Appendix B)
- 8.2 Applications for Section 13A from care leavers will be required to complete an application form as attached at the end of the policy (see Appendix C)
- 8.3 Applications for a class of discount will not be required to complete an application form but may be required to provide evidence of their class status eg: insurance report, structural report, proof of living elsewhere
- 8.4 Applications for Covid 19 hardship relief will not be required to complete a form as these will be assessed automatically at the time of assessment for council tax support.

9. Decision Making Process

- 9.1 In the case of individual Section 13A Council Tax Discretionary Hardship applications that, in order to enable these requests for a reduction to be dealt with in a timely manner, it is proposed that the Section 151 Officer is given delegated power to determine applications.
- 9.2 In the case of Covid 19 grant applications (point 5 above), this is a central Government grant and it is essential that awards are granted in a timely manner. In order to facilitate this it is proposed that the Section 151 Officer is given delegated power to determine applications who in turn will delegate this to the Revenues and Benefits Team Managers.

10. Notification of Decision

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

11. Amount of Discount or Reduction Granted

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 and will be paid as a reduction against the council taxpayers liability.

12. Appeals

Section 13A awards are administered under the Local Government Finance Act 1992 (as amended) 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.

13. Overpayments

If the Council becomes aware that the information contained in an application for Section 13A discount award was incorrect or that relevant information was not declared, either intentionally or otherwise, the Council may seek to recover the value of any award.

14. Appendices

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