

onesource Directorate
Exchequer & Transactional Services Directorate
Council Tax & Benefits Services



Council Tax Discretionary Reduction Policy

Policy updated	Policy updated by
December 2018	Head of Service, Collections & Recovery Manager
April 2020	Head of Service
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1. Introduction

Under section 13A of the Local Government Finance Act 1992 (LGFA 1992), the Council has discretion to reduce the amount of Council Tax payable that is not covered by statutory discounts and exemptions. This discretion can be exercised in relation to particular classes of case or by determining an individual case. The reduction can be for a specific period of time and the liability can be reduced by any amount the Council thinks fit.

In particular, the Council has the discretion to reduce the amount of Council Tax an individual person is liable to pay by any amount ranging from nil to 100% and for any period.

Since January 2018, Havering Care Leavers aged between 18 and 24 years were made a class of people who can be considered for a further reduction under this policy.

With effect from April 2021, Havering Foster Carers (excluding family and friends) have also been as another class of people who can be considered for a further reduction under this policy.

Under the Act, there is no right of appeal against the Council's use of discretionary powers; however, the Council will accept a customer's request for a further review of its decision as outlined further below in this document.

There are financial implications in that the cost of any reduction will be a direct cost to the Council. The cost of any local council tax reduction will, therefore, have to be met by the rest of the council tax payers in the borough.

Whilst each claim will be looked at individually, prudence should also be exercised and the impact of acceptance should be determined. For example, if one customer's case is accepted in a given situation, it may cause a 'snowball effect', which would mean that the Council must consider all such cases as this would affect the budget and other council tax payers.

2. Purpose

The purpose of this policy is to specify how this Council will operate the scheme and to indicate the factors that will be considered when deciding if a council tax reduction can be made. The aim is to treat all claimants equally when administering the scheme.

3. How to claim a Council Tax Reduction

Requests for reductions in Council Tax liability will be required from the taxpayer, their advocate/appointee or a recognised third party acting on their behalf. The request should specify the reasons the customer requires a reduction.

In considering whether a reduction should be made, the Council Tax & Benefits Service may request reasonable evidence to verify the information on which the request is based. Information regarding financial, personal or property status may also be provided as supporting evidence to the request.

The application shall be treated as relating to the year in which it was made unless extenuating circumstances have been provided.

The Council may request any reasonable evidence in support of an application including household finances, personal or property status to evidence the request.

Where further information is required, it will be reasonable to allow 14 days for its return. Collection or recovery proceedings will be suspended during this time.

Where it is appropriate, customers may also be advised to seek budgeting advice and assistance from Money Advice or other equivalent online service providers, the Citizens Advice Bureau, Welfare Rights Agencies and our own Customer Services in order to help gain evidence to support their request.

The Council Tax & Benefits Service may in any circumstances verify information or evidence provided by the customer by contacting third parties or other organisations.

4. Guidance

The Council will consider using its powers to reduce council tax liability for any case or class of case and treat all applications on their individual merit.

Ordinarily, the Council would expect there to be exceptional circumstances to justify a reduction and that the reduction would normally only be intended as short term assistance and should not be considered as a way of reducing council tax liability indefinitely.

The following guidance will be considered:

- There must be evidence of financial hardship or personal circumstances, which are exceptional and justify a reduction in council tax liability.
- The Council must be satisfied that the customer has taken reasonable steps to resolve their situation prior to the application for a reduction.
- The Council's finances will allow for a reduction to be made.
- The customer's eligibility for Council Tax Support has been considered and maximised.

- The customer's eligibility for welfare benefit has been considered and they have claimed all the benefits they are entitled to.
- All other eligible discounts, exemptions and reliefs have been awarded.
- The amount of council tax outstanding must not be the result of deliberate non-payment or negligence.
- It is reasonable to award a reduction having regard to the interests of other local council tax payers.
- The customer does not have access to other assets that could be used to pay the council tax.
- The customer has shown effort to discharge the council tax liability
- In order to target support effectively the focus may be on certain disadvantaged groups such as young people up to the age of 25 years leaving care in the transition to adult life, people with disabilities or mental health issues.

This guidance is not an exhaustive list. Instances where a customer is in a situation not noted within these guidelines will not mean their application should be dismissed. Each application will be evaluated upon its own merit and individual circumstances.

5. The Effect of a Council Tax Reduction

In making a council tax reduction, consideration will be given to achieving the following:

- Protecting the public purse and maintaining financial budgets
- Helping customers to help themselves
- No increase in council tax for resident taxpayers

6. The Amount and Period of the Council Tax Reduction

The amount of the reduction should not normally exceed a 12-month period or the end of the current financial year in which the request is made. The customer should make another application if they require a further reduction in their council tax.

The amount of council tax reduction at one time does not guarantee that a further reduction will be made later even if the customer's circumstances remain the same. The Council will not fetter its discretion in making one decision on an application with regard to a later claim by the same customer.

The value of the reduction should not exceed the value of the council tax owed.

The period of the council tax reduction should not be retrospective unless significant evidence or information is provided to warrant backdating a reduction.

If after awarding a council tax discretionary reduction there is a reduction in liability arising from a council tax band reduction or council tax support for example, the level of payment under S13A(1)(c) LGFA 1992 shall be reduced accordingly.

7. Class of People for Reduction

Care leavers

Since 1 April 2018 discretionary payment has been awarded to Havering's care leavers aged between 18 and 25 years old and who are liable for Council Tax in Havering. Care leavers are identified by the Council, to be eligible the care leaver must be liable for Council Tax and are being supported by Havering Council. Care leavers from out of the borough would not be eligible.

Discretionary payment will be considered after all other reductions have been awarded where there is a balance left to pay. Discretionary payment will be awarded up to the end of each financial year or on the care leavers 25th birthday whichever is the earlier.

Section 13A(1)(c) of the Local Government Finance Act 1992 allows the Council to reduce the amount to pay but not to amend the named person of who is liable to pay Council Tax.

Foster Carers

From April 2021, Havering Foster Carers (excluding family and friends) who live in Havering and are actively fostering, will be eligible for a discretionary payment. Those eligible would need to complete a new application form every financial year. The Havering Foster Carers class will not include those individuals who are fostering for adoption, friends and family, family link and respite carers.

Foster carers living in Havering who currently have a child/children placed with them can apply for the discretionary payment with effect from 1 April 2021. Subject to a successful review with Children's Services, a Discretionary payment will be awarded from 1 April to 31 March each financial year, upon receipt of a fully completed application form available on the Council's website. A new application would need to be completed each financial year. Foster carers who currently do not have a child/children in place, would be able to apply as soon as they do have a child/children in place.

Discretionary payment will cease from the date that the foster care is no longer available to foster children or is removed from the Council's foster carers register.

8. Making and challenging decisions for a Council Tax Reduction

The procedure for determining individual applications will require the Principal Officer (fourth tier officer or above) in the Council Tax & Benefits Service, to review the application and make a recommendation to the Head of Council Tax & Benefits.

The report will record the effect on other taxpayers, financial or otherwise, and will include whether:

- It will be likely that the majority of local residents will, on the balance of probabilities, agree with the decision.
- The Council's finances will allow for the reduction to be made

The Head of Council Tax & Benefits will determine whether a payment will be made and the amount of the reduction. The Council will notify a customer of its decision in writing within one month of the date the application is received.

Whilst under the Local Government Finance Act 1992, there is no right of appeal against the Council's use of discretionary powers; the Council will accept a request from a customer to review its decision within one calendar month of the date of the letter informing the customer of the decision.

The review will be undertaken by the Director of Exchequer & Transactional Services and the decision given in writing within one month of the date on which the request is received.

There is no entitlement to withhold the payment of Council Tax pending the determination of an application for a reduction or request for a review. Receipt of an application for relief will not negate the taxpayer's obligation to pay the council tax.

In the event the customer is still aggrieved following the Service Director review, the third stage of the Corporate Complaints' Procedure will be invoked.

Where a council tax support claimant is still aggrieved following a decision to refuse a further council tax reduction, the claimant may be referred to the Valuation Tribunal.

9. Fraud

The Council is committed to challenging fraud in all its forms. Any applicant who tries to fraudulently claim a council tax reduction by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968.

Any cases where the Council suspects that this has occurred will be investigated and subject to the actions available within the Council's Anti-Fraud policy, this may lead to the commencement of criminal proceedings against suspected fraudsters.