

TEIGNBRIDGE DISTRICT COUNCIL

**Council Tax Discretionary Discount
and
Exceptional Hardship
Policy**

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1. Introduction

1.1 This policy enables support to be given to Council Tax Payers who are in financial hardship or other crisis where no other legislative discounts, reductions or reliefs are available. This policy sets out guidelines for the factors to be considered in determining an application, the criteria that needs to be met and the type of information to be provided when a Council Taxpayer applies for a reduction in their Council Tax under Teignbridge District Council's (TDC) discretionary powers. It also sets out the delegated authority to award relief and establishes an appeals procedure for applicants dissatisfied with a decision.

1.2 There are two ways by which TDC can use its discretionary powers to give a reduction in Council Tax:

(1) **Discretionary Discount** under S13A(1)(c) of the Local Government Finance Act 1992 (as amended) provides powers to billing authorities to reduce the amount of Council Tax a person is liable to pay by such amount as it thinks fit. This power may be exercised in relation to individual cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination. This power was inserted into the Local Government Finance Act by the Local Government Act 2003. The intent behind this legislation is to allow billing authorities to create local discounts to cater for local circumstances, for example flooding, and to provide support in cases of exceptional financial hardship.

Any reduction awarded under this provision is wholly funded by TDC. The exception to this is when Central Government uses this provision to provide grant funding for specific issues, e.g. the storm damage of 2013-14.

(2) **The Exceptional Hardship Scheme (EHS)**. EHS is available to cover all or part of any shortfall between Council Tax Liability and entitlement under TDC's local Council Tax Reduction Scheme.

The Council recognises the importance of protecting our most vulnerable customers from the impact of changes to our Council Tax Reduction Scheme. This policy has been created to ensure that a level of protection and support is available to those applicants most in need. It is available to council tax payers who are in receipt of Council Tax Reduction, or who would be but for changes made to the qualifying criteria for Council Tax Reduction and are experiencing exceptional financial hardship.

The EHS is also available to provide transitional protection to council tax payers who experience financial hardship as a result of receiving reduced support under the new Council Tax Reduction Income Banded Scheme.

The funding of EHS is through the collection fund and is paid for by all preceptors in proportion to their share of Council Tax.

1.3 Bringing the two discretionary schemes together under the one policy raises awareness that there are two types of scheme available and provides a single point of reference for Council Tax Payers. Wherever possible, officers will consider applications against each of the schemes in turn reducing the need for a separate application to be made.

2. The TDC Policy

- 2.1 This policy supports the TDC vision and values of making a healthy and desirable place where people want to live, work and visit. It supports residents' health and wellbeing 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.
 - Support financially vulnerable young people in the financial transition to adult life
 - Helps prevent exceptional hardship
 - Helps alleviate poverty
 - Helps those who are trying to help themselves
 - Sustains tenancies and aids the prevention of homelessness
 - Keeps families together
 - Encourages and supports people to obtain and remain in employment
 - Encourages and supports customers to become self-sustaining where possible
- 2.2 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. Each case will be treated on its own merits and officers will have in mind the Council's obligations under the Equality Act 2010 when considering any application.
- 2.3 Any decision made will be without reference to any budgetary considerations notwithstanding the fact that any awards must be balanced against the needs of local taxpayers who will ultimately pay for a reduction in council tax income.
- 2.4 An application for financial hardship will need to be made only once. Where the Council Taxpayer is in receipt of Council Tax Reduction, or would be but for changes made to the qualifying criteria, this will be dealt with under the EHS provision. All other applications will be considered under the Discretionary Discount S13A(1)(c) scheme.
- 2.5 When considering an application on financial grounds, the Council Tax payer will be required to provide details of household income and expenditure, savings, capital, debts, etc. Because Council Tax is a priority bill, the assessment we will make for determining financial hardship will generally take account of only reasonable priority expenditure against income. It will not take account of any non-essential expenditure, unless reasonable grounds for doing so exist. Part of the assessment may include referral to an independent money advice and budgeting advice service.
- 2.6 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.

3. Discretionary Discount under Section 13A(1)(c)

Awards

- 3.1 Every Council Taxpayer is entitled to make an application for a discretionary Council Tax discount. Discretionary discounts will generally be considered only in cases of exceptional circumstance, or where a tax payer is facing exceptional financial hardship.
- 3.2 Where the council decides it is appropriate to award a discount the amount of the discount may be for less than the sum due for the period in question. The actual amount awarded will be the minimum required to address the exceptional circumstances of the case and must be reasonable in all the circumstances taking into account that the cost of awarding relief will fall on the Council taxpayers
- 3.3 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.
- 3.4 When considering an application the following factors will be taken into account:
 - Whether a crisis or event has occurred that has rendered accommodation uninhabitable such as fire or flood, where a liability to pay Council Tax remains in respect of that accommodation and for which they have no recourse to compensation nor to any statutory exemptions or discounts or where the crisis or event is not covered by any insurance policy.
 - Whether the relief sought applies to their primary home or other property.
 - Evidence of financial hardship or unforeseen, exceptional circumstances to justify any reduction.
 - The personal circumstances, age and medical circumstances (including ill health and disabilities) of the applicant, their partner any dependants and any other occupants of the applicant's home
 - The difficulty experienced by the applicant, which prohibits them from being able to meet their Council Tax liability, and the length of time this difficulty will exist
 - Household income and expenditure
 - The possibility of changing payment methods, re-profiling Council Tax instalments or setting alternative payment arrangements to make them more affordable.
 - The willingness of the Council Taxpayer to accept assistance either through TDC or a third party, such as; Citizens Advice or similar organisations, to enable them to manage their finances more effectively, which may include termination of non-essential expenditure.
 - The Council Taxpayer has taken all reasonable steps to resolve their situation prior to making an application, including applications for employment or additional employment (if appropriate), alternative lines of affordable credit and benefits, CTR, discounts and exemptions.
 - Whether they have applied for Council Tax Reduction. This scheme exists to ensure low income households receive financial assistance with their Council Tax.
 - Whether non-essential contracts have been cancelled and outgoings for the supply of utilities and services generally are the most economical available.
 - Whether the Council Taxpayer has access to other funds/assets that could be used to pay Council Tax.

- Whether other legitimate means of resolving the situation have been investigated and exhausted by the applicant.
 - Whether the amount outstanding is a result of wilful refusal to pay or culpable neglect.
- 3.5 This list is not exhaustive and other relevant factors and special circumstances will be considered. When making any decision, officers will be mindful of any protected characteristics and the impacts these may have on the household.
- 3.6 Discretionary reductions will be withdrawn if the:
- Conditions or circumstances on which the reduction was granted change or fail to materialise.
 - Information submitted as part of the application proves to be false or misleading.
 - The applicant ceases to be the Council Taxpayer.
- 3.7 Where the reduction is cancelled this will normally take effect from the actual date of change. However, in certain circumstances, for example, a false statement, this may be withdrawn in full. A revised Council Tax bill will be issued for payment.

4. Administering the Discretionary Discount Scheme under S13A(1)(c)

- 4.1 Applications for Discretionary Council Tax reductions must be made in writing. They can be made by the Council Taxpayer, their advocate/appointee or a recognised third party authorised to act 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 one of TDC's offices or on TDC's website.
- 4.2 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.
- 4.3 When an application is received, recovery action will be suspended until a decision has been notified to the applicant.
- 4.4 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
 - Any other information that might reasonably be requested by TDC to support an application

Amount of Award and notification

- 4.5 Both the amount and the duration of the award are determined at the discretion of TDC, and will be done so on the basis of the evidence supplied and the circumstances of the claim.
- 4.6 The Revenue Manager or the Revenue, Benefits and Fraud Manager will normally determine Discretionary Discount applications. However, where any individual award exceeds £2,000 the decision will be made in consultation with the Portfolio Holder.

- 4.7 S13A(1)(c) Local Government Finance Act also empowers billing authorities to determine a class of council tax payer to whom a discount will be awarded. Should the need arise to consider creating specific classes of discount and the total value of such cases is likely to be less than £50,000 the decision will be taken by the Leader of the Council. Where the value is expected to exceed £50,000 the request will be referred to the Executive for consideration.
- 4.8 Successful applicants will be notified in writing of the amount and period a Discretionary Discount has been awarded for. Any entitlement is applied to the Council Tax account and a revised bill will be sent. Awards are limited to the end of the financial year in which the application is made. Unsuccessful applicants will be notified in writing together with the reason for the decision. TDC will aim to make a decision within 20 days of receiving all the information required.

Changes in circumstances

- 4.9 Council Tax Payers who are receiving a Discretionary Discount must report changes in their circumstances within 21 days of the change occurring. Any overpaid awards will generally be recovered directly from the council tax payer's council tax account, increasing the amount of council tax due to be paid.

5. Exceptional Hardship Scheme (EHS)

Awards

- 5.0 Every Council Taxpayer who has made a claim for Council Tax Reduction and who has a shortfall or does not qualify because of changes made to the scheme, is entitled to make a claim for help from the EHS. An exceptional hardship payment is generally a short-term award whilst the Council Tax Payer seeks alternative solutions, but can provide longer term support where the Council Tax Payer is not in a position to improve their situation.
- 5.1 It is recognised that there may be unforeseen circumstances arising from the change from a fully means tested Council Tax Reduction Scheme to a simplified income banded discount scheme. Officers will have this in mind when considering applications and will assess and mitigate any impacts according to the individual circumstances of the case.
- 5.2 The main features of the Fund are that:
- EHS awards are discretionary.
 - Council Taxpayers do not have a statutory right to an award.
 - EHS awards are not a payment of Council Tax Reduction.
 - A Council Tax Reduction application must have been made in order for an award for EHS to be considered.
- 5.3 EHS cannot be awarded for the following circumstances:
- To pay for any arrears of Council Tax Reduction caused through the failure of the applicant to apply or notify changes in circumstances in a timely manner or where the applicant has failed to act correctly or honestly.
 - Where TDC considers that there are unnecessary expenses/debts etc and that the Council Taxpayer has not taken reasonable steps to reduce these or is unwilling to do so
 - A shortfall caused by a Department for Work and Pensions sanction or a suspension has been applied because the Council Taxpayer has turned down work/interview/training opportunities.
- 5.4 The Exceptional Hardship Policy is intended to help in cases of exceptional financial hardship. Whilst the definition 'Exceptional Hardship' is not precisely defined by this policy, it is accepted that changes to the level of support generally will cause financial hardship and any payment made will be at the total discretion of the Council. Exceptional Hardship should be considered as 'hardship beyond that which would normally be suffered'.
- 5.5 It is recognised that Council Tax Payers who receive a significant reduction in support as a result of the move to an income-banded scheme may need time to transition to this reduced level and officers will be mindful of this and the time required to adapt to the new scheme when considering applications.

5.6 The Revenues and Benefits Service will determine whether or not to make an EHS award, and how much any award might be. When making this decision the Revenues and Benefits Service will consider the following before making an award:

- Whether the Council Tax Payer has sufficient disposable income to meet their council tax liability after paying priority debts such as rent/mortgage, utility bills (non-water), court fines, taxes etc. and any reasonably incurred essential household expenditure such as food, transport, clothing, health costs etc.
- The shortfall between Council Tax Reduction and Council Tax liability.
- The possibility of changing payment methods, re-profiling Council Tax instalments or setting alternative payment arrangements in order to make them affordable.
- Whether there is any entitlement to statutory council tax discounts or exemptions and the steps taken by the Council Tax payer to reduce their liability.
- Steps taken by the Council Taxpayer to establish whether they are entitled to other welfare benefits.
- Steps taken by the Council Taxpayer to benefit from the most economical tariffs for supply of utilities where possible.
- Steps taken by the Council Taxpayer or the willingness demonstrated by the council tax payer to improve their circumstances where reasonable to do so with a view to either increasing their income or reducing their outgoings
- Willingness of the Council Tax Payer to review their budgets and spending habits in order to improve their financial situation.
- Whether the Council Taxpayer has already accessed or is engaging for assistance with budgeting and financial/debt management advice. An EHS award may not be made until the Council Taxpayer has accepted assistance either from TDC or third party, such as the Citizens Advice or similar organisations, to enable them to manage their finances more effectively, including the termination of non-essential expenditure.
- Whether the applicant has been adversely affected by changes made to the Council Tax Reduction Scheme.
- The income and expenditure of the Council Tax payer's partner and any dependants or other occupants of the Council Taxpayer's home.
- All incomes may be taken into account, including those which are disregarded when awarding Council Tax Reduction e.g. disability-related incomes. The assessment officer may decide to include or exclude these incomes in the calculation but this will depend on the circumstances of the individual case. Where a decision is taken to include this income, any disability-related expenditure will be disregarded in full.
- In the case of a self-employed applicant (or their partner), whether they are in gainful employment. This can be defined as that they are carrying on their activity as their main employment, the earnings from it are genuinely self-employed earnings, and it is organised, developed, regular and carried on in expectation of profit.
- In the case of self-employed applicants where the minimum income floor applies additional factors which will be considered will include:
 - The reason the application for EHS being made, and, where relevant, why the customer is unable to work 35 hours per week
 - Whether the customer is vulnerable and how this restricts their ability to grow their business or move into alternative employment

- Whether the customer has caring responsibilities, disabilities, young and/or disabled children or other factors to consider which may impact on their ability to grow their business or move into alternative employment
 - Whether external business pressures are impacting on the profitability of the business preventing the business being able, for a reasonable period of time, to support at least one full time wage.
 - Any savings or capital that might be held by the Council Taxpayer or their partner, but excluding compensation payments made under the Windrush Compensation Scheme, We Love Manchester Emergency Fund and similar schemes.
 - Other debts outstanding for the Council Taxpayer and their partner and whether the level of repayment could reasonably be reduced or suspended.
 - The personal circumstances, age and medical circumstances (which shall include mental and physical disabilities) of the Council Taxpayer, their partner and any dependants and any other occupants of the Council Taxpayer's home. The exceptional nature of the Council Taxpayer and/or their family's circumstances that impact on finances.
- 5.7 The list is not exhaustive and other relevant factors and special circumstances will be considered. When making any decision, officers will be mindful of any protected characteristics and the impacts these may have on the household.
- 5.8 An application for a further EHS award can be made and there will be a review of the application and what actions have been taken since the last award.
- 5.9 An EHS award may be less than the difference between the Council Tax liability and the amount of Council Tax Reduction paid.

6 Administering the Exceptional Hardship Scheme

- 6.0 Applications for EHS must be made in writing using the EHS application form. In most cases the person who claims the EHS 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 advocate/appointee or a recognised third party authorised to act, if it is considered reasonable.
- 6.1 The application form can be obtained via the telephone, in person at one of TDC's offices and TDC's website. Council Taxpayers can get assistance with the completion of the form from the Revenues and Benefits Service.
- 6.2 The application form must be fully completed and supporting information or evidence provided, as reasonably requested by TDC. The requirement for a written application may be waived in circumstances where the Revenue and Benefits Service holds sufficient information to indicate that an award of EHS is warranted.
- 6.3 The Revenues and Benefits Service may revise an award from the EHS where the Council Taxpayer's circumstances have changed, which either increases or reduces their Council Tax Reduction entitlement.
- 6.4 When an application is received recovery action will be suspended until a decision has been notified to the applicant.
- 6.5 A person claiming an EHS Payment is required to:
- Give TDC such information as it may reasonably require to make a decision.

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

Amount of Award and notification

- 6.6 Both the amount and the duration of the award are determined at the discretion of TDC, 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 date the EHS claim is received by the Revenues and Benefits Service, although in some cases it may be possible to backdate this award, based upon individual circumstances of each case.
- 6.7 An EHS award will be made directly to the Council Tax account, thus reducing the amount of Council Tax payable and will normally be awarded for a minimum of one month. The maximum length of the award will not exceed the end of the financial year in which the award is given.
- 6.8 TDC will aim to make a decision within 20 days of receiving all the information required and 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.

Changes in circumstances

- 6.9 Council Tax Payers who are receiving an exceptional hardship payment must report changes in their circumstances within 21 days of the change occurring. Overpaid EHS awards will generally be recovered directly from the Council Taxpayers Council Tax account, increasing the amount of Council Tax due and payable.

7. Right to appeal

- 7.0 Decisions about discretionary discounts and exceptional hardship are subject to the statutory appeal process.
- 7.1 If the Council Taxpayer is not satisfied with a decision in respect of:
- an application for a discretionary discount or exceptional hardship award
 - a decision not to grant a discretionary discount or exceptional hardship award
 - a decision to award a reduced amount of discretionary discount or exceptional hardship award
 - a decision not to backdate a discretionary discount or exceptional hardship award
- 7.2 he/she may request a review in writing. In these cases TDC will look at the decision again.
- 7.3 An officer, other than 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.
- 7.4 Any request for a review must be made in writing, within two months of the date of the notification letter confirming the original decision.
- 7.5 The outcome of the review will be given in writing by the Council, detailing the reasons for changing or upholding the original decision.
- 7.6 If TDC does not respond within two months of receiving the Council Taxpayer's request for a review or the Council Taxpayer considers that TDC's decision is wrong, they can appeal directly to the Valuation Tribunal

8. Fraud

- 8.0 TDC is committed to protect public funds and ensure funds are awarded to the people who are rightly eligible to them.
- 8.1 An applicant who tries to fraudulently claim a discretionary discount or exceptional hardship payment by falsely declaring their circumstances, providing a false page 67 statement or evidence in support of their application may have committed an offence under The Fraud Act 2006 or the Theft Act 1968.
- 8.2 Where the Council suspects that fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

9. Publicity of Discretionary Discount and Exceptional Hardship Policy

- 9.0 The Revenues and Benefits Service 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 TDC's website.

10. Related policies

- Discretionary Housing Payments policy.
- Council Tax Reduction Scheme Policy.

11. Legislation

- Local Government Finance Act 1992, as amended.

12. Policy date for review and responsible officer

- 12.1 This policy will be reviewed by the Revenue, Benefits and Fraud Manager periodically but no later than 2023.

Version date 14.02.2020