

# Policy for Council Tax Discretionary Discounts

## Under Section 13A (1) (C) of the Local Government Finance Act 1992

### 1. Introduction

- 1.1 Section 13A (1) (c) of the Local Government Finance Act 1992 (as amended by Section 10 of the Local Government Act 2012) allows the Council (in its capacity as billing authority) to reduce the amount of Council Tax payable to such extent as it thinks fit. This includes the power to reduce the council tax to nil.
- 1.2 The Council has the right to choose whether to use powers on a case by case basis to individual council tax payers or to specify a class of case, where several taxpayers may fall into a group due to similar circumstances (e.g. national disasters, such as severe flooding, coronavirus pandemic).
- 1.3 There is a financial implication to awarding discounts under Section 13A (1) (c) as the Council has to finance all such discounts from its own funds, whereas council tax income is shared with other preceptors (and this Council only retains around 14%). Therefore awards must meet the underlying principle of offering value for money to Council Tax payers. Normally the council will **not** grant local discounts unless there are very exceptional circumstances, however where the circumstances meet the criteria outlined in 3 below a discount may be granted. In any case, the Council will give consideration to all matters placed before it when considering whether a discretionary discount should apply.
- 1.4 This policy sets out how Derbyshire Dales District Council will consider applications and apply discounts under section 13A (1) (c). This updated policy applies from 28<sup>th</sup> January 2022.

### 2. Purpose of the policy

- 2.1 This policy outlines the conditions that should be satisfied in order for the Council to consider awarding discounts.
- 2.2 The policy is intended ultimately to enable the Council to provide discounts:
  - to specific classes of applicants, such as care leavers, households affected by national disasters, significant flooding events; or
  - to those who would suffer undue financial hardship if they had to pay the council tax without a discretionary discount, in cases of unforeseen or exceptional circumstances that affect their homes or wellbeing; or
  - to comply with government guidance.
- 2.3 The Council provides a Council Tax Support (Reduction) (CTS) Scheme in accordance with section 13A of the Local Government Finance Act 1992. The Council's CTS scheme can be downloaded from the Council's website.
- 2.4 This discretionary discounts policy is independent of the Council's CTS scheme.

### 3. Award criteria

3.1 Section 13A (1) (c) discount awards will be used in cases of unforeseen or very exceptional circumstances that threaten taxpayers' abilities to fund the cost of council tax and may affect their homes (e.g. properties affected by severe flooding). They are also used for certain categories of council tax payers that the Council has chosen to assist (such as care leavers) or to comply with government guidance.

3.2 The main features of this discount are that:

- it is discretionary;
- an applicant does not have a statutory right to a payment;
- the operation of the scheme is for the Council to determine;
- the Council may choose to vary the way in which funds are allocated according to community needs and Council resources;
- if the applicant is dissatisfied with any decision taken on a claim that they have made, they can ask for further details on the decision and make an appeal in line with Section 6.4 of this Policy.

3.3 To maintain equity between all council tax payers within the District, local discounts to **a class of persons or properties** should only be granted in exceptional circumstances. Before determining the award of a discount to any class of properties or persons the Council shall consider:

- i. Whether the proposed class would attract any existing statutory exemption or discount;
- ii. The likelihood of funding coming from other sources which could be used to reduce the Council Tax liability to the proposed class (or reduce the cost to the Council of such an award) e.g. central government funding for victims of national disasters or individuals having their own insurance cover;
- iii. The financial cost to the council of granting a local discount to the proposed class;
- iv. The ongoing effect of granting the discount e.g. is the discount so generous that it might attract persons falling into that class to relocate to the District thus incurring further financial costs?
- v. The "reasonableness" of granting a local discount having regard to the impact on other council tax payers within the District.

The Council has determined that local discounts should be awarded to **care leavers**. Further details relating to this class of persons are set out in 3.5 below.

3.4 To maintain equity between all council tax payers within the district, local discounts in respect of **individuals will not normally be granted**. However in some cases there may be exceptional circumstances. In determining whether there are exceptional circumstances the following should be taken into account:

- i. **Could the taxpayer have taken reasonable precautions to avoid incurring a council tax liability, for example by seeking advice from the council?**

- The personal circumstances of the individual should be taken into account but usually a discount would not be granted in these circumstances.
- ii. **Does the council tax liability arise through circumstances which could not have been reasonably envisaged by the taxpayer and which are beyond the taxpayer's control? For example the taxpayer is left a property by a deceased person which cannot be sold or otherwise utilised. Will these circumstances cause the taxpayer undue hardship?**
- A local discount equal to the empty homes premium may be awarded where there is evidence that all reasonable steps have been taken to dispose of an **age-designated property** for at least two years; the period of discount will not commence before the two years have expired. An age designated property is defined as one where residents have to be over a certain age and usually applies to specialist housing for older people;
  - The personal circumstances of the individual should be taken into account and a discount could be considered after consideration of the other remaining factors.
- iii. **Has the taxpayer become subject to legal provisions which Parliament intended for another cause resulting in the taxpayer suffering injustice? Will these circumstances cause the taxpayer undue hardship?**
- Can the taxpayer take any reasonable steps to rectify this situation? If so, this will be taken into account when the application is considered. If no reasonable steps can be taken, a discount could be considered after consideration of the other remaining factors.
- iv. **What are the taxpayer's current financial circumstances? Will the taxpayer obtain some future gain from the property on which the Council Tax liability arises?**
- Could payment of the council tax be deferred until the gain is realised? If so, payment should usually be deferred rather than granting a discount. A charging order would secure the council's interest in the property.
- v. **Are there any other statutory exemptions, discounts, council tax support or benefits which could reduce the liability and the burden on the tax payer?**
- The extent to which these reduce or assist in payment of the tax liability will determine whether a discount should be granted and how much should be granted.
- vi. **Would failure to award a discount conflict with legal provisions or government guidance?**
- A local discount equal to the empty homes premium may be awarded where the tax payer provides evidence that the relevant property is genuinely on the

market for sale or rent (without the need to provide evidence of undue hardship).

The Council will make all decisions on the basis of merit; it will act fairly and reasonably and will have regard to all the relevant circumstances.

3.5 Where the scheme applies to a **local council tax discount for care leavers**, the following criteria will apply:

- i) A care leaver is defined as a young person aged 18 to 25 who was formerly a child in the care of a local authority and who then became a 'care leaver' as described in The Children (Leaving Care) Act 2000 and is liable for Council Tax on a dwelling within the Derbyshire Dales District Council area.
- ii) Applications may be made by the care leaver or by the Leaving Care Team, or equivalent, for and on behalf of the care leaver previously registered with a local authority in the financial year immediately preceding their 18th birthday.
- iii) Council Tax Discount will be awarded on a property that is occupied as the care leaver's sole or main residence in the District Council's area, from the date of the care leaver's 18th birthday until the day immediately preceding their 25th birthday, as follows:
  - a. Where the care leaver is the sole occupant of the property a discount will be awarded that is equivalent to 100% of the residual balance of Council Tax payable after the award of any other discount, relief or exemption.
  - b. Where a care leaver is jointly liable a proportionate award will be made according to their individual circumstances, e.g. if there's one other occupier then a 50% discount will apply.
  - c. Where the care leaver is not liable for Council Tax no discount will apply.
- iv) Discounts will be subject to annual review of eligibility which will include financial circumstances.
- v) The Scheme may be varied or terminated on 12 months' notice on a decision by the Council. (We will keep the Scheme under review as regards cost and administration).

This discount is in addition to the Council's current Local Council Tax Support Scheme (CTS scheme) and will provide assistance to people living within the District that have previously been in care and meet the appropriate qualifying criteria, as detailed above.

The Local Council Tax Discount for Care Leavers Scheme will only be applied after all other relevant discounts and exemptions have been applied. Where the qualifying criteria is met and all discounts and exemptions, including CTS, do not cover the full Council Tax charge, then under this scheme the qualifying care leaver will receive further assistance to cover 100% of their council tax charge.

## **4. Application Process**

- 4.1 Unless the Director of Resources has determined that applications are not required under certain circumstances, applications should be made in writing (including email) to the Revenues Team under the title of Section 13A (1) (c) Discount Application. Applications may be made by the customer claiming the reduction, or a party authorised by the applicant.
- 4.2 Each application must set out the circumstances upon which the application is based and should include:
1. The level of discount being requested (i.e. is this for the full year's council tax or part of it, such as 50%);
  2. The reason for the request (i.e. why is the discount wanted and how this meets our policy);
  3. Whether the applicant is a Care Leaver
  4. Period of time the discount is wanted for (i.e. the full financial year, part of financial year or some other period of time);
  5. Steps that have been taken to meet or mitigate the council tax liability (i.e. any other discounts or reductions awarded).
- 4.3 Where the costs of the local discount are likely to be reduced by government funding, the award of any discount will reflect any government guidance or, where local discretion is allowed, be defined by the Council for that specific instance.
- 4.4 The application process may be amended by the Director of Resources where deemed necessary to streamline processing e.g. to award discounts to a class of persons following a national disaster.
- 4.5 The Council aims to make a decision within 28 days of receiving all the information required.

## **5. Eligibility Criteria**

- 5.1 Each application will be considered on its individual merits against the conditions set out above.

## **6. Awarding a Section 13A (1) (c) Discount**

### **6.1 Evidence required for individual applications (not care leavers)**

In deciding whether to make a Section 13A (1) (c) award the Council will have regard to the applicant's circumstances. In order to do this the Council may make enquiries regarding the income and expenditure of all household members. Household members may be asked to supply reasonable supporting evidence to substantiate the answers that they give to the questions above. This may include, but is not limited to:

- income & expenditure statements;
- any sources of credit such as cash cards, credit cards, store cards, cheque cards, cheque accounts, overdraft facilities, loan arrangements;
- evidence of illness or other causes of undue hardship;
- evidence that the property is genuinely being marketed for sale or rental (in cases where the discount is requested to offset an empty homes premium);
- any help which is likely to be available to the applicant from other sources;
- evidence of any other special circumstances.

Where information or evidence requested has not been received within 21 days the Council will determine the application on the basis of the evidence and information in its possession. The Council may refuse to grant discounts where the absence of information and evidence prevents the Council from reaching an informed decision regarding the applicant's circumstances.

## **6.2 Amount of discount**

The amount of discretionary discount to be awarded will be at the Council's discretion. Any amount of discount granted will be credited to the council tax account.

## **6.3 Period of discount**

The Council retains ultimate discretion over the period for which a discount may be granted. The Council retains the right to withdraw a discount at any time, including for retrospective periods, if the:

- conditions or circumstances in which the discount was granted change or fail to materialise;
- information submitted as part of the application proves misleading;
- applicant ceases to be a council tax payer.

The customer must advise the Council of any such relevant change to their circumstances within 14 days of the change occurring.

## **6.4 Decision making and appeals**

Any discount granted in accordance with this policy must be determined as follows:

- 6.4.1 Our aim is to make decisions on these discounts within 28 days of receipt of application and all relevant information. The applicant will be notified of the decision in writing. The notification will include the decision and details of any amount of discount to be awarded and the period to which the award relates.
- 6.4.2 Where the request for a Section 13A (1) (c) discount is unsuccessful or not met in full the Council will explain the reasons why the decision was made, and explain the applicant's right of appeal.
- 6.4.3 Where a Council Tax payer disagrees with the Director of Resources' decision, the council tax payer may request that the decision be reconsidered by the Council's Appeals Committee.
- 6.4.4 Requests for reconsideration should be made in writing within 21 days of notification of the original decision and should detail the reasons for the request.

- 6.4.5 Upon receipt of a request for reconsideration the Director of Corporate & Customer Services will review the original decision and consider whether there are sufficient grounds to refer the decision to a sub-committee made up of three Members of the Licensing and Appeals Committee.
- 6.4.6 The ability to appeal does not deny the applicant the right to complaint through the District Council's complaints procedure, however the failure to take advantage of this ability may be taken into consideration when replying to the complaint.
- 6.4.7 Nothing in this policy is intended to fetter the discretion of Members on appeal to divert from the policy if deemed appropriate to do so. If the Sub-Committee take such a decision, reasons for diverting from policy will be given.
- 6.4.8 The Council will notify a customer of its decision within 21 days of the Sub-Committee hearing.
- 6.4.9 Where a council tax payer disagrees with the decision of the Appeals Committee, the council tax payer can make an appeal to the Valuation Tribunal. The Valuation Tribunal is independent of the Council and will consider the case at a hearing. The process is explained [on their website](#).

## **7 Overpayments**

- 7.1 If the Council becomes aware that the information contained in an application for a Section 13A (1) (c) Discount was incorrect or that relevant information was not declared, either intentionally or otherwise, the Council may seek to recover the value of any discount awarded as a result of that application. The discount will be removed from the relevant council tax account and any resulting balance will be subject to the normal methods of collection and recovery applicable to such accounts.

## **8. Fraud**

- 8.1 The Council is committed to the fight against fraud in all its forms. Any applicant who tries to fraudulently claim a Section 13A discount might have committed an offence under the Fraud Act 2006.
- 8.2 If the Council suspects that fraud may have occurred, the matter will be investigated as appropriate and this could lead to criminal proceedings.

## **9. Publicity**

- 9.1 The Council will publicise the scheme via their council tax literature and their website, and provide information to relevant agencies, stakeholders and other Council services.

## **10. Monitoring**

- 10.1 The Council will monitor Section 13A Discount awards to ensure that this policy has been applied fairly and consistently.
- 10.2 The Governance and Resources Committee will retain an overview of the policy and will receive an annual report on the application of the Policy.