

## **WAVERLEY BOROUGH COUNCIL**

**EXECUTIVE - 28 NOVEMBER 2017**

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### **Title:**

#### **COUNCIL TAX DISCRETIONARY RELIEF POLICY**

**[Portfolio Holder: Cllr Ged Hall]**

**[Wards Affected: All]**

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### **Summary and purpose:**

The Council Tax Discretionary Relief Policy has been revised to streamline the administrative process and give clarity on factors to be considered in decisions for grant relief.

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### **How this report relates to the Council's Corporate Priorities:**

#### **Financial Implications:**

The cost of granting a S13A reduction under section 13A of the Local Government Finance Act 1992 is met fully by the Council and not passed on to the precepting authorities. The Council does not have a budget provision for discretionary reliefs granted under Section 13A because these are exceptional by their nature.

#### **Legal Implications:**

The criteria against which requests for a reduction should be considered are set out within the body of this report.

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#### **Background**

1. Council tax statute requires that all properties listed by the Valuation Office on the Valuation List are liable to be levied council tax; the statute contains specific criteria of properties and individuals who qualify for nationally prescribed discounts and exemptions.
2. The Council is able to use its discretion under section 13A(1)(c) to reduce the amount of council tax payable by a council taxpayer if a reduction is not already covered by the nationally prescribed discounts and exemptions.
3. The Council must implement a Section 13A scheme through which any person can make a request for an amount of council tax to be reduced. The Council does not have to grant any requests but they must have a system in place to allow a person to make the request. The Council has to make a judgement call as to whether the outstanding balance should be reduced. This must be balanced against their overall duty to all council tax payers.
4. The Council's current discretionary reduction policy requires that requests will only be considered if it is clearly in the wider interests of Waverley's council taxpayers. The criteria and guidelines have now been enhanced to streamline the

administrative process and give clarity on factors to be considered in decisions to grant relief. The detailed criteria for how the Council will consider requests for discretionary relief under section 13A(1)(c) from council tax payers experiencing severe hardship, crisis or exceptional circumstances are in Annexe 1.

5. The Discretionary scheme is not to be confused with the Council Tax Support / Reduction (CTRS) scheme that replaced Council Tax Benefit in April 2013, which is a means-tested benefit. The Council recognises that it must be able to respond flexibly to the needs of taxpayers within the borough if it wants to support strong and sustainable local communities.
6. The objective of the discretionary power is to assist residents to cover their council tax on a temporary one off basis and not to remove them from liability to the tax. Discretionary awards will be used to help mitigate the escalation of needs that arise from unforeseen or exceptional circumstances that threaten taxpayer's abilities to fund the cost of council tax and may threaten their ability to remain in their homes.
7. The revised policy has been enhanced with defining characteristics for exceptional circumstances, hardship and crisis; none of which can be given a precise meaning.
8. The current policy requires applications to be made to the Strategic Director for Finance and Resources, in consultation with the Finance Portfolio Holder, with any objections heard by the Executive. The efficiency of this process could be improved and it is therefore proposed to bring this policy in line with the responsibility for decisions on all application of discounts and exemptions where the Revenues Service Manager and Housing Benefits Manager apply discretion. Appeals can be made, with additional supporting evidence in line with these criteria, to the Head of Finance.

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## **Recommendation**

The Executive are asked to:

1. adopt the Council Tax Discretionary Relief Policy as set out in Annexe 1; and
2. delegate authority to the Head of Finance to apply discretion and make decisions to award discretionary relief, including any sub-delegation of those powers, and if an objection is received the Head of Finance considers the case, and the scheme of delegation be amended accordingly.

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## **Background Papers**

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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# **Waverley Borough Council**

## **Council Tax**

### **Discretionary Relief**

**(Under Section 13A of the Local  
Government Finance Act 1992)**

Author: Peter Vickers, Head of Finance  
Version: 1  
Date: 28 November 2017

## Background

Waverley Borough Council has created a Council Tax Support Scheme (CTSS), to award discounts to customers who are on low incomes. In addition to this Section 13A of the Local Government Finance Act 1992 (as amended by section 76 of the Local Government Act 2003) gives power to a billing authority as follows:

- 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 respect the dwelling and the day to such extent as it thinks fit.
- The power under subsection (1) above includes power to reduce an amount to nil.
- 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.

This regulation enables Waverley Borough Council to award council tax discretionary relief on a case-by-case basis, or to specify a class of use. A class of case is where several people who pay council tax fall into a group because their circumstances are similar.

The purpose of this document is to specify how Waverley Borough Council will administer requests for discretionary relief from payment of council tax from customers experiencing severe financial hardship, and to indicate factors that will be consider when deciding if the relief should be granted.

### **Guidance for considering requests for discretionary relief under section 13A(1)(c):**

1. The principles of Waverley's Section 13A policy are that:
  - it is discretionary and is for a one off temporary period;
  - an applicant does not have a statutory right to a payment;
  - the operation of the scheme is for the Council to determine;
  - if the applicant is dissatisfied with any decision taken on a claim that they have made they can make an appeal by providing further supporting information in line this Policy.
2. The Council has to use its judgment in order to reach a decision as to whether the outstanding balance should be reduced. This must be balanced against its overall duty to all of its council taxpayers. What the Council should not do is consider the application only on the basis of the financial cost to Waverley's council taxpayers and/or from a purely budget-minded perspective. The Council will need to take into account a range of factors, including the following, when considering an application:
  - The level of relief being requested (i.e. whether it is a full- or part-year's council tax or a proportion of a charge);
  - The reason for the request (i.e. the applicant's reasons and circumstances);
  - The period of time requested (i.e. a full or part financial year, or another period); and

- Steps taken by the application to mitigate the council tax liability (i.e. any other reductions, discounts or benefits applied for).
3. Exceptional circumstances for hardship under the Council Tax legislation will usually be circumstances that are outside the control of the household and beyond normal risks faced by a household. The household must demonstrate that it has done all it can to mitigate those risks and is taking action to minimise them.
  4. There is no definition in the legislation for 'hardship', and as the scheme is aimed at covering unforeseen events it is not possible to list precise criteria. Applications will be accepted on the basis that the applicant or household would suffer exceptional hardship if financial assistance were not given.
  5. There must be evidence of hardship or personal circumstance that justifies relief from council tax liability. The council taxpayer must not have access to financial support, access to financial support from other agencies, assets or savings that could be realised and used to pay council tax.
  6. The Council has a means tested Council Tax Support Scheme which provides support, through a discount, to those deemed to be within financial need. The scheme has been designed to take into account the financial and specific circumstances of individuals through the use of applicable amounts, premiums and income disregards.
  7. The Council will consider requests for assistance from council taxpayers who, through no fault of their own, have experienced a crisis or an event that has made their property uninhabitable e.g. due to fire or flooding.
  8. The Council will consider requests from council taxpayers for relief from their liability based on other circumstances, not specifically mentioned within this document. However, the Council must be of the opinion that the circumstances relating to the application warrant relief from their liability for council tax having regard to the effect on other council taxpayers.
  9. Relief will only be granted in exceptional circumstances and after other eligible discounts, reliefs, exemptions, Discretionary Housing Payments, Valuation Office/Valuation Tribunal action or appeals have been considered.
  10. In awarding relief, the Council must give consideration to achieving the following:
    - Protecting the public purse and maintaining financial budgets
    - Helping residents to help themselves
    - Minimise any increase in council tax for other resident taxpayers
  11. The Council must consider the likely effect on other council taxpayers, financial or otherwise, and whether it will be likely that the majority of local residents would, on the balance of probabilities, consider the Council's decision to be reasonable.
  12. An application for discretionary relief under section 13A(1)(c) will be considered in the first instance by the Revenues Manager.

## **How to Claim a discretionary relief**

13. Requests for relief from council tax liability should be made in writing by the customer claiming the relief, or a party authorised by the applicant. Where an application in writing is not possible the Council will consider alternative forms of application.
14. The request must set out the circumstances upon which the application is based and any hardship or personal circumstances concerning why the relief is required.
15. Details of the applicant's financial circumstances are required. Evidence can include, but is not limited to, household income and expenditure details (using an Income and Expenditure form such as the National Debt Line budget form), utility and household bills.
16. Evidence may be requested that is relevant to the application (e.g. income and expenditure details, evidence of illness). No costs will be borne by the Authority in the provision of this evidence.
17. 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 on its possession. The Council may refuse to award relief where lack of this information and evidence does not enable the Council to reach an informed decision regarding the applicant's circumstances.

## **Payment of a Section 13A Award**

18. All relief awards will be made by crediting the award value to the council tax account to which it applies.

## **Notification**

19. The Council will notify the applicant in writing of the outcome of their request. Where the request for a Section 13A Relief award 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.

## **The Right to Appeal**

20. Section 13A relief awards are administered under the Local Government Finance Act 1992. Any appeals against a decision to refuse an award or about the amount of any award made will be administered in accordance with the following process:
  - An applicant (or their representative) who wants an explanation of a Section 13A relief application decision may request one in writing within one calendar month of notification of the decision;
  - An applicant (or their representative) who disagrees with a decision may appeal the decision;
  - Any appeal must be made in writing within one calendar month of the original decision being notified to the applicant or, if requested, within one calendar month of the written reasons being notified to the applicant, whichever is the later;

- Where possible the Council will try to resolve the matter by explaining the reasons for the decision to the applicant or their representative either verbally or in writing;
- Where agreement cannot be reached, the Head of Finance will review the decision. The review will be suspended if more information is needed from the applicant;
- The applicant will have one calendar month to respond to the request for further information, thereafter the review will be undertaken on the information held;

21. Where a council tax payer disagrees with the Council's refusal to abide by its own resolution to award relief regarding a specific class, further appeal may be made to the Valuation Tribunal.

22. The Valuation Tribunal will look at the Authority's policy and the decision against that policy. If the policy is reasonable and the decision follows the policy then the Tribunal will not look into the merits of the decision. In these instances, the Valuation Tribunal's opinion is that the council tax payer should make an application before the High Court for a judicial review.