

Council Tax Discretionary Hardship Policy

Background

Section 13A of the Local Government Finance Act 1992 allows billing authorities to reduce the amount of council tax payable by taxpayers because of hardship, through access to a central support fund. This provision was originally inserted by the Local Government Act 2003 and was further updated by the Local Government Finance Act 2012 to include Council Tax Reduction Schemes.

When considering applications under this policy Herefordshire Council will take into account any eligibility for council tax support, discount, exemption and national benefits.

Eligibility

Access to the fund will be applied to a defined class or to an individual taxpayer and made in accordance with this policy is intended as short term assistance rather than a way of reducing council tax liability on a long term basis. Awards will normally be payable for a maximum of six months only.

The Council have set the criteria which will be applied to all applications requesting a funding contribution towards the amount of council tax payable under these provisions where there is compelling evidence of exceptional circumstances that justify granting relief.

All applications will be evaluated based on their individual merit and taking into account the following criteria:

- 1) The taxpayer is facing exceptional and temporary hardship and they do not have access to other funds/assets that could be used to meet their council tax liability;
- 2) Any reduction made in accordance with this policy is intended as short term assistance rather than a way of reducing council tax liability on a long term basis;
- 3) The applicant's eligibility to council tax reduction and all other statutory reductions has been determined;
- 4) There are unusual and unforeseen circumstances which prevent the property from being occupied and this situation cannot be rectified within a reasonable period of time, for example because of flooding;
- 5) The applicant has taken reasonable steps to resolve their situation prior to making their application;
- 6) The applicant can demonstrate that their current circumstances are unlikely to improve in the following six months;

The Council expects to give higher priority to relieving temporary difficulties where the arrangement is likely to be sustainable longer term. Assisting people whose financial commitments are unsustainable and likely to remain so will normally be treated as a lower priority.

Alternative Criteria for applications where residents are in receipt of Council Tax Reduction

Herefordshire Council have set up a fund to cover the shortfall between Council Tax liability and payments of Council Tax Reduction, in cases of exceptional hardship.

Every customer who is entitled to Council Tax Reduction and who can evidence exceptional hardship is entitled to make a claim for financial assistance

The objectives of the fund are:-

- Assist customers who are experiencing a personal crisis and difficult events affecting their finances
- Assist customers through unforeseen short-term circumstances which is causing hardship
- Aim to prevent exceptional hardship and assist those who are financially vulnerable
- To support vulnerable young people in the transition to adult life
- To support customers with children to keep the families together
- To assist customers in obtaining and sustaining employment
- Aim to alleviate poverty

The main features of the fund are that:-

- The payments are discretionary
- Payments are time limited and to help with exceptional hardship
- There is no statutory right to be awarded a payment
- Hardship payments are not a payment of Council Tax Reduction
- The fund is a cash limited fund
- Applicants should normally be in receipt of Council Tax Reduction when the application is made
- All applications will be considered on its own merit

Considerations for making an award:-

- The exceptional nature of the customer and/or their family circumstances that impact on finances
- The steps taken by the customer to reduce the shortfall
- The amount of Council Tax to be paid
- Changing the payment methods, council tax instalments or set alternative arrangements in order to make payments affordable for the customer

- Eligibility for any Council Tax discount, exemptions or reductions
- Steps taken by the customer to identify and reduce non-essential expenditure
- Personal circumstances including age, medical circumstances including ill health and disabilities of the customer, partner and any other household members
- The financial difficulties of the customers which prevent them from being able to meet their council tax liability and the length of time the situation is likely to exist.
- All income of the customer, their partner and other household members including income that is disregarded when awarding Council Tax Reduction
- Savings or capital that is held by the customer and their partner
- All debts outstanding for the customer and partner
- The amount available in the fund at the time of the request

Payments from the fund will **not** be awarded in the following circumstances:-

- For any other reason other than to pay Council Tax
- Where it is considered that the customer has not taken reasonable steps to reduce unnecessary expenses and/or outstanding debts
- To recover an overpayment of Council Tax Reduction
- Where the shortfall is caused by a Department for Work and Pensions sanction or suspension being applied due to the customer turning down work/interviews or training opportunities
- Where Council Tax Reduction is suspended

An award from the fund will be considered on the individual application considering all the relevant factors and special circumstances of the customer

The award from the fund will normally be restricted up to 50% maximum of the Council Tax due for payment and should be considered as a one off discretionary hardship payment

An award made is not a guarantee that a further award will be made at a later date, even if the circumstances of the customer has not changed.

Applications

Applications to the fund must be made in writing or electronically to the Revenue and Benefits Service. The Director of Resources will delegate decision making to the Head of Service, and they will be responsible for determining applications.

The applicant will be required to complete an application form which requests a full financial statement that confirms their total assets with full details of all income and expenditure. The Council may seek reasonable evidence to support an application and failure to provide this information without appropriate evidence is likely to result in the application being refused.

Awards

Awards will normally be to meet current needs rather than past debts. However, retrospective payments may be appropriate to reduce council tax arrears or to avert recovery action where this would enable the applicant to deal effectively with any remaining arrears.

Decisions will normally be made within one month of the application provided all supporting information has been received and will be notified to the applicant as soon as practicable thereafter.

Where a request for a discretionary hardship payment has been refused further requests will be only be considered where the taxpayer can demonstrate that their situation has worsened significantly or a substantial period of time has elapsed.

Discretionary hardship council tax payments will always be credited to the applicants council tax account.

Period and Amount of Award

The award is designed to be a measure of temporary assistance although each case will be considered on its own merits.

Any payments awarded will usually be a percentage of the net council tax liability (the amount payable following the award of any benefit, discount, exemption or relief) and be for a specified period.

If it is subsequently identified that the payment has been awarded as a result of false or fraudulent information, the Council reserves the right to withdraw the award and recover the resulting sum due. The council also reserves the right to prosecute the applicant for false representation.

Review of Decision

Applicants may request a review of a decision relating to a council tax discretionary hardship payment. A request for review must be made in writing (requests submitted electronically will be allowed) within one month of the date of the letter informing the applicant of the original decision.

The review request must give the reasons why the applicant considers the original decision should be amended, and may include new or additional information relevant to the request to change the original decision.

Where necessary the Director of Resources will review the original decision and the outcome of the review will be notified to the applicant normally within one month of receipt.

Council Tax Hardship Applications

The only statutory avenue open to challenge a discretionary decision is through judicial review, where the High Court may be asked to consider whether the billing authority has acted within its powers. Unlike the majority of billing authority decisions relating to council tax, discretionary decisions cannot be appealed to the Valuation Tribunal which is responsible for hearing council tax appeals.

Council Tax Reduction Hardship Applications

Council Tax Reduction discretionary hardship payments are granted in accordance with the policy as part of the Council Tax Reduction Scheme. Where the original decision is upheld following an internal review an appeal may be made at any time to the Independent Valuation Tribunal.

Version Log

<i>Version</i>		<i>Date</i>	<i>Description of Change</i>	<i>Reason for Change</i>	<i>Pages affected</i>
1.0		December 2015	Policy updated	Policy review – New CTRS Scheme	
1.1		June 2017	End paragraph inserted	Correction of omission to clarify statutory appeals	Page 5