



Council Tax Exceptional Hardship Policy

Background

1. Section 13A of the Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012), provides the Council with discretionary powers to enable it to reduce a person's Council Tax liability.
2. The provision allows the Council the discretion to provide assistance to taxpayers where either the existing legislation does not provide a discount, exemption or reduction or in such circumstances where the Council feels that the level of discount, exemption or reduction is insufficient.

Eligibility

3. In order to be eligible for a Council Tax discretionary reduction, the applicant must have a Council Tax liability.
4. When deciding on whether to grant a discretionary award, the Council will consider each case on its merits.
5. Any decision will be made considering any budgetary considerations, although it will not be the only factor. Taxpayers are encouraged to seek independent financial advice, such as from the Citizens Advice. The granting of awards will be balanced against the overall needs of local taxpayers.
6. Awards may be considered in the following circumstances, although this list should not be prescriptive:

a) Financial Hardship

The legislation does not give a definition of hardship. The Council will have regard to the following: -

- The taxpayer is able to satisfy the Council that they are not able to meet all or part of their liability for Council Tax.
- The taxpayer is able to demonstrate that all reasonable steps have been taken to meet their full Council Tax liability including applications for employment or additional employment, alternative lines of credit and benefits, Council Tax Reduction, reliefs, discounts and exemptions.
- The taxpayer has no access to income, assets or capital that could be realised and used to pay the Council Tax.

- the ability of the applicant to meet essential living expenses, including Council Tax.
- That the taxpayer can show that they have sought and obtained independent financial advice.

b) Major incident

- The Council will consider applications for a discretionary reduction in liability from Council Tax payers who, through no fault of their own, have experienced a crisis or event that has made their property uninhabitable, for example, due to fire or flood.
- Applications will only be considered where the applicant remains liable to pay Council Tax and where they have no recourse to compensation or to any statutory exemptions, reliefs, reductions or discounts or where the crisis or event is not covered by any insurance policy.
- The Council will not consider applications from Council Tax payers where government guidance or policy provides for a reduction in liability in the specific circumstances of the application, for example, flood relief schemes.

c) Property undergoing structural repairs where there is exceptional circumstances

- For an extension of a discount in respect of a property that requires, or is undergoing structural repairs, but a decision to award an extension will only be made in extra-ordinary circumstances.
- Qualification for relief under this circumstance is dependent on the Authority being satisfied that a dwelling is unfurnished and unoccupied requiring structural alteration or major repairs to render it habitable (as defined in The Council Tax (Exempt dwellings) order 1992).
- Qualification for relief under this circumstance will be dependent on not only the individual circumstances of the applicant but also on whether the Council's finances allow for a reduction to be made and whether it is reasonable to award relief in light of the impact on other Council Tax payers.

d) Other circumstances

- The Council will consider applications from Council Tax payers for a reduction in their liability based on other circumstances, not specifically mentioned in this policy document. However, the Council must be satisfied that the circumstances relating to the application warrant a reduction in liability for Council Tax having regard to the effect on other Council Tax payers.
- No reduction in liability will be granted where any statutory exemption or reduction or relief or discount or local discount could be granted.
- No reduction in liability will be granted where it would conflict with any resolution, core priority or objective of the Council.

- The Council reserves the right to disregard certain income eg disability income such as Attendance Allowance when calculating entitlement to Exceptional Hardship for Council Tax.

Application process

7. All applications must be made on the relevant form, by the taxpayer, their advocate/appointee, or a recognised third party acting on their behalf and provided the taxpayer has given appropriate authorisation to the Council to discuss their affairs. The preferred form is also available online at <https://www.midsussex.gov.uk/revsandbens/benefits/discretionary-housing-payments/> and taxpayers and advisors are encouraged to use this facility
8. Applications should detail the exact circumstances as to why a reduction in the liability is required and must specify when the situation is expected to be resolved, if known.
9. All applications will be considered on their merits
10. The tax payer will provide the Council with such information as the Council may require to make a decision on the application. Failure to provide such information may render the application invalid.
11. Applications will usually be determined within 21 days of receiving sufficient information.
12. The taxpayer will be informed in writing of the Council's decision, the reasons for the decision and, if appropriate, will receive a revised Council Tax demand.
13. In addition, for claims made on the grounds of financial hardship, the applicant must be prepared to:-
 - Make an application for assistance that is separate from any application for Council Tax Reduction or reliefs or discounts and exemptions;
 - Provide full details of their current income, capital (including assets) and expenditure;
 - Agree that checks such as payment propensity are undertaken on them before any claim is considered;
 - Take reasonable steps to resolve their situation including taking debt advice from the Citizens Advice or other organisations that offers free advice;
 - Maximise their income through the application for state or welfare benefits and the Council's Council Tax Reduction Scheme; and
 - Ensure that the Council is kept informed about the applicant's circumstances (both in relation to household and income).
 - If appropriate give an assurance that they are seeking employment.

Changes in circumstances

14. The tax payer must notify the Council immediately by phone, email or in writing about any changes in their circumstances which might affect their claim for a

discretionary reduction. All changes in circumstances must be notified within one month of the date of change.

15. Failure to notify a change in circumstance may result in the withdrawal of the reduction granted. The council tax payer will be required to repay any outstanding amount to the Council.

The award and duration of a reduction in liability

16. The amount and the duration of the award will be determined at the discretion of the Council and will be based on the evidence supplied and the circumstances of the claim.
17. Any award must be approved by the Director of Corporate Resources.
18. The start date of any award will be determined by the Council. The maximum length of any award will not exceed the end of the financial year in which the award is made.
19. Awards made on the grounds of financial hardship will be to the extent the Council sees fit and will end the sooner of:
 - The end of the given relief period
 - The end of the financial year;
 - The tax payer moves, or there is a change to the liable person;;
 - The tax payer enters into any form of insolvency arrangement;
 - The tax payer's financial circumstances change and financial hardship relief is no longer appropriate.
20. An award on the grounds of exceptional hardship will be considered on receipt of an application from the Council Tax payer or their agent, each case being considered on its merit. Among the factors and evidence considered will be that:-
 - there must be evidence of financial hardship and personal circumstances (normally due to an occurrence that could not reasonably have been foreseen) that justifies a reduction in Council Tax; this will ordinarily be for a short period of time and not on an ongoing basis.
 - the taxpayer must satisfy the Council that all reasonable steps have been taken to resolve their situation prior to application
 - the taxpayer must have applied for Council Tax Support, where it appears they may qualify
 - all other eligible discounts/reliefs have been awarded
 - the taxpayer does not have access to other assets that could be used to pay the Council Tax
 - In the case of an unoccupied property it must not be the sole or main residence of a taxpayer
 - the Council's finances allow for a reduction to be made and it is reasonable to do so in light of the impact on other Council Tax payers
 - reduced liability will only be agreed and awarded in extra-ordinary circumstances.

Payment

21. Any award granted shall reduce the amount of Council Tax liability. The award will be credited to the Council Tax payer's account. No cash payments will be made.

Reviews

22. The council will monitor Section 13A Discount awards to ensure that this policy has been applied fairly and consistently. This monitoring will be conducted by the Business Unit Leader Revenues and Benefits.
23. The Council will consider requests to review decisions where discretionary relief has not been awarded or where the applicant challenges the level of the award.
24. Requests for review must be made in writing or by email within one calendar month of the original decision. The request must state the reasons why a review is thought appropriate. Additional evidence may be required to support a review.
25. Reviews will be carried out by the Business Unit Leader for Revenues and Benefits or, if necessary, an independent Head of Service.
26. The applicant will be notified of the outcome of the review within one calendar month of the date the request was received.
27. If the applicant remains dissatisfied with the outcome of any review, certain appeals against the Council's decision can be made to the Independent Valuation Tribunal Service. Further information about how to make an appeal can be found on the Council's website. An applicant can also seek a judicial review of any decision.

Fraud

28. The Council is committed to protecting public funds and ensuring funds are awarded to the people who are entitled to them. The tax payer agrees, on making a claim, that any and all information given may be shared with other public authorities for the purpose of detecting fraud.
29. Any claim for a reduction in Council Tax liability based on falsely stated circumstances or false evidence will be investigated and may lead to criminal proceedings.