

WIRRAL COUNCIL

CABINET

10 OCTOBER 2013

SUBJECT:	COUNCIL TAX SUPPORT SCHEME DISCRETIONARY RELIEF POLICY
WARD/S AFFECTED:	ALL
REPORT OF:	INTERIM DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR ADRIAN JONES
KEY DECISION	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report details the proposed Council Tax Discretionary Relief Policy under Section 13A of the Local Government Finance Act (LGFA) 1992 to be adopted to support individual cases of Hardship. It outlines the criteria, procedure and review process. Cabinet is asked to consider the scheme and agree its use.
- 1.2 The report also recommends that delegated authority be given to the Strategic Director for Transformation and Resources and senior officers to determine individual applications of exceptional hardship.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 Section 13A of Local Government Finance Act 1992 makes provision for the granting of discretionary discounts for Council Tax by Councils which reduces the Council Tax paid by using locally defined discounts. The discount granted can be anything up to 100% and is met from Council resources. The main driving force behind the introduction of these discounts was to allow Councils to react to local circumstances such as flooding or other natural disasters. It is intended only as a short-term assistance and must not be considered as a way of reducing council tax liability indefinitely. The Council has to fund 100% of any relief granted.
- 2.2. The Council has thus far exercised its discretion under Section 13a of the LGFA 1992 to grant discounts to pensioner groups since 2007/08 by determining them as a specific class of case. The Council has also awarded a discount to a Women's Refuge since 2004 both of the discounts are considered on an annual basis. Applications relating to a class of Council Tax case will still be considered by Cabinet upon a submission of a report by the Strategic Director for Transformation and Resources.
- 2.3 The Council Tax Reduction Schemes Regulations 2012 saw Council Tax Benefit was abolished on 31st March 2013 and replaced by a locally defined support scheme for those on low income. This is now in the form of a discount

to the amount payable and is funded by a direct grant which was 10% less than that received under the old scheme. This is £2.6m for Wirral. Due its overall financial situation Wirral was unable to use its remaining budget to fund this shortfall and had to agree a Council Tax Support Scheme that requires payment of 22% of the annual charge from working age charge payers previously in receipt of full benefit.

- 2.4. The introduction of the scheme in April has seen 15,600 working age households have their entitlement to help in paying the Council Tax capped at 78%. Many of these households are paying council tax for the first time with the contribution being for a Band A property £220 pa or £4.20 per week.
- 2.5. The 2012 Regulations set out a prescribed procedure in which an application may be made for discretionary relief and this requires the Council to introduce a policy for considering such applications whereas previous to Council Tax Support a policy was not required. The Local Government Ombudsman considers it is good practice to have such a policy in place.
- 2.6. Wirral's proposed policy is attached as an appendix to this report. It details the criteria the authority will use to guide its decision making process, how the application and notification process will be administered and the review process that will be available. As with other discounts under this legislation it is intended only as a short-term assistance and must not be considered as a way of reducing council tax liability indefinitely. The scheme is cash limited to a set budget.
- 2.7. It is likely that a high number of charge payers will face financial hardship if they have failed to budget accordingly or if they have over-stretched themselves with other financial obligations and they will wish to apply for support, particularly in the first year of the Scheme's introduction.
- 2.8. Through the operation of this Policy, the Council will seek to help:-
 - *Alleviate poverty;*
 - *Encourage and support residents in to employment;*
 - *Keep families together;*
 - *Safeguard residents in their homes;*
 - *Support the vulnerable in the community;*
 - *Claimants experiencing personal crises;*
 - *Support young people in the transition to adult life; and*
 - *Those who are trying to help themselves.*
- 2.9. The award of discretionary local discounts must be through a transparent decision making process which is clear and open to scrutiny. The development of the guidelines set out in the appendix to this report will offer assistance to applicant and help ensure the aims and objectives of the Council are met when making decisions in this regard.

3.0 RELEVANT RISKS

- 3.1 There is potential that a legal challenge could take place if a policy is not in place and the potential for a negative report by the Ombudsman is increased.
- 3.2. It is important that careful consideration be given to any application, including all the criteria, in order that any discretionary discount awarded is fully justified and open to scrutiny. In applications for discounts on the grounds of financial hardship, there must be full disclosure of any information requested, together with supporting evidence. Failure to comply will result in the application being rejected.
- 3.3 The recommended appeals process provides an opportunity for decisions to be scrutinised and reviewed and will ensure that the process is transparent.
- 3.4 Without a framework for considering applications there is a risk of damage to the Council's reputation as there could be inconsistency in decisions. There is also a risk that the costs of operating the scheme, i.e. the amount of local discounts awarded, becomes unaffordable thus the hardship fund is cash limited. Each application will therefore need to be carefully considered to ensure that awards are only made in exceptional and/or justifiable circumstances.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 The option to have no policy is not considered a viable option.

5.0 CONSULTATION

- 5.1 There is no consultation formally required on the adoption of a policy and it will be subject to review. Consultation will be undertaken to see how the policy can be developed in future within the financial constraints of the authority.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 6.1 The likelihood is that a significant number of charge payers, who see their Council Tax charges increase, will look to access this policy via support from this sector's groups and organisations. Charge payers who apply to the authority will be signposted to these organisations as we do now for additional support and advice.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 7.1 Financial – The level of awards that may be given is not yet known and is dependant on individual decisions and their relative circumstances. Any award under Section 13a falls entirely on the Council, there is no cost to any preceptor. These awards of relief have to be funded and managed from current Council budgets. It is proposed that for this year a cash limited budget of £50,000 is set. To fund this in year one will be by use an element of the

Local Welfare Assistance Grant (£1,345,925 in 2013/14) which is a non ring fenced grant. Local Welfare Assistance take up is now increasing but was lower than expected in the initial first five months and this sum does not then impact on the ongoing available assistance. The grant is used to support people facing financial hardship which will also be the purpose of this relief. Officers will closely monitor the position of both areas given their cash limited nature. Depending on decisions for 2014/15 alternatives will need to be sought for future year's relief as well as having a more accurate assessment of the actual call on such relief.

- 7.2. Staffing – The scale of applications is unknown and may affect ongoing staff resources. Initially these will have to be dealt with within current resources and officer will monitor its impact on the overall service.
- 7.3. IT – The current Capita Benefits and Revenues system already in use at Wirral is able to action and record awards onto each account. However, at least for year one, recording and administering the application and decision-making process will be via a spreadsheet system or access database. In our drive to maximise use of self access for contacts there will be a web form available for applications.
- 7.4. Assets – There are none arising from this report.

8.0 LEGAL IMPLICATIONS

- 8.1 The policy meets the legislative requirements for Council Tax Support and will be kept under review with the Head of Legal and Member Services.

9.0 EQUALITIES IMPLICATIONS

- 9.1 The Equality Impact Assessment is attached.

10.0 CARBON REDUCTION IMPLICATIONS

- 10.1 There are none arising directly from this report.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 11.1 There are none arising directly from this report.

12.0 RECOMMENDATIONS

- 12.1 The policy, guidance and scheme of delegation, as set out in the Appendix of this report, relating to Section 13a of Local Government Finance Act 1992, in respect of Discretionary Relief for Council Tax is adopted. The is policy to be reviewed and reported back later in the new financial year to agree its ongoing adoption for future years
- 12.2. The sum of £50,000 be set as the Hardship Relief for this purpose.

13.0 REASON FOR RECOMMENDATIONS

- 13.1 To ensure Members are aware of the need to introduce the policy, it's content, administration and funding, all of which are viewed as essential in meeting the full legislative requirements of the Council Tax Support Scheme.

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REFERENCE MATERIAL

Local Government Finance Act 1992
Local Government Act 2003 Sections 11a and 13a
Local Government Finance Act 2012.

SUBJECT HISTORY

Council Meeting	Dates
Cabinet	18 February 2013
Cabinet	9 December 2011
Cabinet	3 February 2011

Wirral Borough Council

Council Tax Discretionary Relief Policy 2013/14

1. General Provisions

- 1.1 The Council has power under S13A of the Local Government and Finance Act (LGFA) 1992 to reduce the council tax charge on any chargeable property in the borough for any day. This power can be exercised in relation to any individual case or by determining a class of case for which the charge should be reduced.
- 1.2 The amount of any successful award may reduce a council tax charge to nil, including reducing any balance left payable after any council tax support, discounts and exemptions have previously been granted to the applicant. The discretionary relief awarded will be from a cash limited fund set by the authority.
- 1.3 Any application made under S13A provisions must be a last resort following the exploration of any other entitlement such as council tax support, discounts and exemptions.
- 1.4 There must be exceptional circumstances to justify any request for a reduction and the Council will only consider granting short term assistance, and not reduce council tax liability indefinitely.
- 1.5 Each case will be considered on its own merits. Applications potentially relating to the determination of a class of property will be given to Members for consideration.
- 1.6 These guidelines set out the manner in which the Council will receive and consider applications for discretionary council tax relief.

2. Application Process

2.1 An application for a discretionary award can be made in writing, or by electronic communication.

2.2 Where:

- the Council has made a determination under s13A (1) (c) in relation to a class of case in which the liability for council tax has been reduced, and
- a person in that class would otherwise be entitled to a reduction under its scheme,

that person's application for a reduction under the Council's local council tax scheme will also be treated as an application under S13A (1) (c).

2.3 Applications that cannot be made personally by an applicant can be made by their advocate, appointee or a recognised third party acting on their behalf.

2.4 Applications must be accompanied by:

- the name, address and payment reference number of the applicant;
- a full explanation as to why the relief is claimed;
- details of any hardship, including a full financial statement of income and expenditure, or personal and household circumstances relating to the application;
- the period for which relief is requested.

3. Criteria for Considering Relief

3.1 The Council may consider in determining whether to grant relief:

- whether an application has been made for council tax support or a council tax discount or exemption, and if so all evidence has been received in order to determine those claims;
- whether, in the case of a corresponding claim for Housing Benefit, consideration has been given to a discretionary housing payment where applicable;
- the circumstances on which the application is based including evidence of the financial hardship incurred by the applicant, details how this is affecting their personal circumstances and this would justify a reduction in their council tax charge;

- whether the hardship experienced by the applicant is outside their control, for example due to a flood, storm damage, explosion or ‘major incident’ which forces them out of their property;

A major incident is defined as: “Any event or circumstances (happening with or without warning) that causes or threatens death or injury, disruption to the community, damage to property or to the environment, on such a scale that the effects cannot be dealt with by emergency services, local authorities and other organisations as part of their normal day to day activities” (Dealing with Disasters Cabinet Office booklet).

- what reasonable steps have been taken by the applicant or household member to resolve their situation prior to the application;
- the likelihood of the circumstances of the applicant or household member improving;
- whether in the case of an apparent incident of isolated hardship, to sign post the applicant to other sources of support which may be more appropriate as an alternative or to supplement the consideration of relief;
- whether the applicant or household member has access to other assets which could be accessed to help pay council tax;
- whether any outstanding debt is unpaid as a result of the wilful refusal or culpable neglect of the applicant to make payment;
- if there are sufficient resources available to make a reduction in council tax;
- whether any award would be reasonable having regard to the interests of other council tax payers;

3.2 Alternative available assistance may be provided to applicants where it is considered appropriate.

3.3 Failure to provide information requested to support an application without sufficient reason, within any timescale set, will result in it being considered without that information;

3.3 Only in exceptional circumstances, for example where an applicant has just received an account due to late billing beyond their control, will consideration be given to granting relief for a financial year prior to that in which the application is made.

4. Delegated Decision Making Process for applications

- 4.1 The Strategic Director of Transformation and Resources is authorised to make a determination on discretionary relief applications in individual cases of exceptional financial hardship. This will be done by consideration of applications under £1,000 delegated to the Revenues Senior Manager or the Benefits Senior Manager, those over £1,000 will be delegated to the Head of Service;
- 4.2 Appeals against these decisions will be considered by the Head of Service, up to £1,000, or by the Strategic Director of Transformation and Resources for those over £1,000.
- 4.3 Applications for Council Tax Discretionary Relief relating to a wider determination of class of case will continue be submitted to Cabinet by the Strategic Director of Transformation and Resources.

5. Period of Relief

- 5.1 Relief will normally be granted for a specific determined period, depending on the circumstances of the application, but not for more than 12 months.
- 5.2 This relief is intended only as a short-term assistance and must not be considered as a way of reducing council tax liability indefinitely.
- 5.3 Only in exceptional circumstances, for example where an applicant has just received an account due to late billing beyond their control, will relief be considered in respect of a financial year prior to which the application is made.

6. Notification of Decision

- 6.1 The Council will aim to notify the applicant of its decision within 14 days of receiving sufficient information to make a decision.
- 6.2 Any change of circumstances relating to the application must be notified to the Council within 14 days.

- 6.3 The council reserves the right to cancel an award where it deems it appropriate upon the receipt of additional information.

7. Review of Decisions

- 7.1 The Local Government Finance Act 1992 provides no right of appeal against the Council's use of discretionary powers. However, in the interests of transparency, the Council will provide a process for reviewing decisions where discretionary relief has not been granted. However a review will only be conducted if the applicant's circumstances have changed and they can provide sufficient new evidence to support their application.
- 7.2 The applicant must put their case in writing, giving the reason(s) why they consider the original decision should be overturned, to The Strategic Head of Transformation and Resources Services, requesting a review of the decision. They must do this within 28 days of the date of the original decision, and provide additional evidence to support their request.
- 7.3 Each application review will be considered on its own merits.
- 7.4 The Council will then decide whether the applicant has provided any additional information against the required criteria that could justify a change to its decision.
- 7.5 Any subsequent legal decision to allow discretionary decisions to be subject to appeal to the Valuation Tribunal Service will be addressed in accordance with procedures laid down.

8. Notification of Decisions on Reviews

- 8.1 The Council will aim to notify an applicant, setting out the reason for its decision, within eight weeks of receiving the appeal.

9. Fraudulent Claims

- 9.1. The Council reserves the right to withdraw any award for relief where, following a decision, it becomes aware that this has been made as a result of a false or fraudulent claim.