

Discretionary Council Tax reductions for individual Council Tax payers

Policy document February 2016

1.0 Introduction

- 1.1 Subsection 13A(1)(c) of the LGFA 1992 is a discretionary power to reduce Council Tax liability. Reductions can be made in addition to or as well as any other Council Tax discount or reduction, including a reduction under the billing authority's Council Tax Reduction scheme.
- 1.2 The power under subsection 13A(1)(c) may be exercised in relation to individual cases or by determining classes of case.
- 1.3 The power in subsection 13A(1)(c) enables the billing authority (ie Newham council) to reduce Council Tax liability to such extent as it sees fit, including reducing liability to nil.
- 1.4 Awards are financed entirely from the billing authority's general fund. Unlike Council Tax Reduction, there's no Government subsidy.
- 1.5 This policy document contains guidelines for administering and deciding discretionary reductions in individual cases.

2.0 General principles

- 2.1 Decision makers will consider all applications on their individual merits, taking into account these general principles and relevant circumstances such as those outlined in the Appendix.
- 2.2 Reduction decisions will be considered against the needs of other taxpayers and the general financial constraints of the billing authority.
- 2.3 The need for an individual discretionary reduction will normally arise from exceptional financial hardship that cannot be alleviated by other means.
- 2.5 Alternative assistance will be offered or referral made to other council departments or external agencies if it is decided this would be a more appropriate solution.
- 2.6 The hardship must be beyond the person's control. In particular, an outstanding Council Tax debt would not normally attract a discretionary reduction if considered to be unpaid as the result of the person's wilful refusal or culpable neglect.
- 2.7 An individual discretionary reduction may also be awarded in order to redress any inequality or unfairness the individual would otherwise suffer under the current

system of benefits, credits, reductions and discounts.

- 2.8 Information and evidence will be required where necessary to support an application for a discretionary reduction. Failure to provide it within a specified time limit, or within an extension to the time limit agreed in advance, will normally result in a decision not to award a discretionary reduction.
- 2.9 Awards will comprise one-off reductions or will be time-limited, duration depending on the nature of the award.
- 2.10 Individual discretionary reductions will be available to individual council tax payers, not to corporate or commercial payers.

3.0 Applications for an individual discretionary reduction

- 3.1 Applications should be in writing and be signed by the applicant.
- 3.2 Applications that can't be made personally can be made by an advocate, appointee or from a recognised organisation acting on behalf of the liable person.
- 3.3 Applications must be delivered to the billing authority's named building.
- 3.2 Applications must include the following information:
- ~ The name, address and Council Tax account number of the liable person
 - ~ Contact details for the liable person, such as a telephone number and/or email address
 - ~ A full explanation of why discretionary relief is claimed, the period for which it is to be paid and why there are no resources available to meet the taxpayer's liability
 - ~ Someone applying on the liable person's behalf should add their name, address and contact details. They should also include the status of the person making the application and their authority for making the application.
- 3.3 The billing authority may require and request any further information and evidence it considers necessary to support the application.
- 3.4 Applications for an individual discretionary reduction will be treated in confidence and in accordance with the provisions of the Data Protection Act 1998 and Newham Council's Data Protection policy.
- 3.5 Failure to provide supporting information and evidence that is requested may lead to a refusal

4.0 Decisions

- 4.1 Individual discretionary reduction decisions will be made in writing. The request to grant the reduction will be made by a Council Tax and Benefits Officer and sent to the Director of Finance via the Council Tax and Benefits manager. They will be rejected or authorised in accordance with the original Section 13A policy agreed by Cabinet in 2007
- 4.2 The Council will provide to the liable person and any representative a written notice of its decision. The notice will set out:
- ~ the amount of the award, if anything

- ~ the period covered by the award
- ~ details of the grievance and appeals process
- ~ a summary of the reasons for making the decision

4.3 A decision notice will be sent as soon as practicable following receipt of all the information and evidence required in support of the application. If required information or evidence has not been provided within the specified time limit, the decision notice will be sent as soon as practicable following expiry of the time limit.

4.4 Decisions will be recorded electronically

5.0 Review of decisions

5.1 Subject to the provisions of the Limitation Act 1980, the billing authority will review its decision any time if it considers the decision was based on an error or made in ignorance of a material fact and substitute any revised decision for the original decision.

6.0 Appeals

6.1 The right to appeal an individual discretionary reduction is prescribed in section 16 of the Local Government Finance Act 1992.

6.2 A person can appeal to the Valuation Tribunal if either of these conditions is fulfilled:

- ~ they have served written notice on the billing authority giving details of their grievance and they are not satisfied with the billing authority's written reply; or
- ~ they have not received a reply from the billing authority within two months of their written notice.

6.3 On receiving written notice of a grievance the billing authority must consider the matter. Its written reply must set out any steps it has taken to remedy the situation or the reasons why it believes the grievance is not well founded.

6.4 Any appeal to the Valuation Tribunal is initiated by serving a written notice on the Tribunal containing:

- ~ the grounds on which the appeal is made
- ~ the date on which the appellant served their notice of grievance to the billing authority
- ~ the date of the billing authority's reply, if any.

6.5 An appeal must be made within two months of the billing authority's written notice, or within four months if the billing authority has failed to reply.

7.0 Changes of circumstances

7.1 Applicants must report changes in their circumstances within 21 days of the change occurring.

7.2 The liable person and their representative are required to notify in writing:

- ~ any changes to the circumstances presented in connection with the application for a reduction
- ~ any other changes they might reasonably be expected to know would affect the award.
- ~ awards will be amended or terminated on the basis of any relevant change from the date the change occurred.
- ~ Amended reductions will result in an increase or decrease in Council Tax liability.

7.3 Failure to notify a change within the time limit may lead to a fine and, in some case, prosecution.

8.0 Fraud

8.1 Newham Council takes the threat of fraud seriously. Anyone who tries to claim a discretionary discount under this policy by falsely declaring their circumstance or providing a false statement or evidence may have committed an offence under the Theft Act 1968 or the Fraud Act 2006. The Council will investigate all cases where fraud may have been committed. Criminal proceedings or other sanctions may be applied in appropriate circumstances.

Appendix 1 - Guidelines

General

Each case must be considered on its own merits and the applicant's particular circumstances, although a consistent approach will need to be taken to ensure fairness.

The need for an individual discretionary reduction will normally arise from exceptional financial hardship that:

- is not already catered for by the social security and tax credits systems or by the usual Council Tax reductions, discounts and exemptions; and
- cannot realistically be alleviated by other means.

Exceptional hardship is most likely to arise from a mixture of circumstances, particularly costs that have not been budgeted for that the applicant is temporarily or permanently unable to pay.

Exceptional hardship may also result where the social security, tax credits or Council Tax Reduction arrangements are unfair or inequitable in relation to people with particular needs. In these circumstances, a discretionary reduction may be appropriate to alleviate unfair or unequal treatment of individuals.

Unforeseen additional costs

Costs for which the applicant hadn't budgeted might include:

- late billing of Council Tax
- retrospective withdrawal of a Council Tax reduction or discount the applicant couldn't be expected to have anticipated
- costs or problems associated with illness, an accident, assault or bereavement

- fundamental damage to the home

Debts arising from the wilful refusal to make payment or culpable neglect of the applicant should not normally attract a discretionary reduction.

Alleviating the hardship

An application made under S13A(1)(c) provisions must be a last resort, after the applicant has taken reasonable steps to find alternative solutions.

The applicant:

- would be expected to claim any other possible sources of financial help, including:
 - ~ social security benefits, advances or loans
 - ~ tax credits
 - ~ discretionary housing payments
 - ~ Council Tax reduction, discounts or exemptions
- might be expected to use some or all of their savings or other capital assets in offsetting their additional costs
- should be assessed, along with members of the household, to establish whether they could find work or increase earnings and how soon. The assessment should take into account things like age, state of health, disability and child care needs.
- should have explored options for:
 - ~ debt and budgeting advice
 - ~ debt reprioritisation and rescheduling payments
 - ~ any other relevant sources of support and advice.