

**10 December 2014**

**Ordinary Council**

**Discretionary reduction in Council Tax liability policy**

**Report of:** *Rick Steels Revenues & Benefits Manager*

**Wards Affected:** *All*

**This report is:** *Public*

## **1. Executive Summary**

- 1.1 Section 13A 1c of the Local Government Finance Act 1992, provided the Council with additional discretionary powers to enable it to reduce or further reduce the Council Tax liability where statutory discounts, exemptions and reductions are not sufficient.
- 1.2 A recent Valuation Tribunal appeal was upheld on the grounds that the local authority in question did not have a policy in place for dealing with such requests for a discretionary reduction in exceptional circumstances.
- 1.3 The adoption of a discretionary reduction in Council Tax liability policy ensures the Council will also consider requests for assistance from Council Taxpayers who, through no fault of their own, have experienced a crisis or event that has made their property uninhabitable e.g. due to fire or flooding, where they remain liable to pay Council Tax and for which they have no recourse for compensation nor have recourse to any statutory exemptions or discounts.
- 1.4 The adoption of a discretionary reduction in Council Tax liability policy will also protect the Council against potential legal challenge.

## **2. Recommendation(s)**

**For the Council to adopt a discretionary reduction in Council Tax liability policy.**

## **3. Introduction and Background**

- 3.1 Section 13A 1c of the Local Government Finance Act 1992, provides the Council with additional discretionary powers to enable it to reduce the Council Tax liability where statutory discounts, exemptions and reductions do not apply.

- 3.2 These discretionary awards can be given to:
- Individual Council Taxpayers;
  - Groups of Council Taxpayers defined by a common set of circumstances;
  - Council Taxpayers within a defined area: or
  - To all Council Taxpayers within the Council's area.
- 3.3 This policy is to apply to individual taxpayers that have circumstances that for whatever reason means they fall outside of the normal rules for Council Tax reductions, discounts or exemptions. Council Tax legislation provides a wide range of discounts, exemptions and reductions which have the effect of reducing the level of council tax due. Applicants will therefore be expected to have exhausted all other options before making an application under this policy.
- 3.4 Officers will similarly consider whether alternative actions could or should be applied before instigating a reduction under this policy. Without fettering the discretion of the Council or its Officers, this policy is designed to consider only exceptional circumstances, where it is appropriate and fair to provide a discretionary reduction in liability.
- 3.5 When deciding on whether to grant a discretionary reduction, the Council will consider each application on its merits. Principles of reasonableness will apply in all cases with the authority deciding each case on individual merits.
- 3.6 Any decision made will be without reference to any budgetary considerations, notwithstanding the fact that any awards must be balanced against the needs of local taxpayers, who will ultimately pay for a reduction in Council Tax income. Additionally the period of any reduced liability will be considered in conjunction with the circumstances of the Council Taxpayer.
- 3.7 The cost of this policy is borne by the Council and the decision to provide a discount will be considered against the needs of other local taxpayers and the financial constraints of the Council.

### **Exceptional circumstances**

- 3.8 The Council has already adopted a Discretionary Hardship fund within its Local Council Tax Support scheme which in exceptional circumstances allows for a top up of support to be awarded to claimants in need of additional financial assistance.

- 3.9 The adoption of this policy ensures that the Council will also consider requests for assistance from Council Taxpayers who, through no fault of their own, have experienced a crisis or event that has made their property uninhabitable e.g. due to fire or flooding, where they remain liable to pay Council Tax and for which they have no recourse for compensation nor have recourse to any statutory exemptions or discounts.
- 3.10 The Council will consider applications on a case-by-case basis in consultation with other organisations as appropriate. Any reduction will be applied where they remain liable to pay Council Tax and for which they have no recourse for compensation or to any statutory exemptions or discounts or where the crisis or event is not covered by any insurance policy. The Council will not consider requests from taxpayers where government guidance or policy provides for a reduction in liability in specific circumstances for example, flood relief schemes. In such cases Officers will seek to assist or direct the taxpayer with support towards obtaining the appropriate discount or exemption wherever possible
- 3.11 The Council will also consider requests from Council Taxpayers for a reduction in their liability based on other circumstances, not specifically mentioned within the policy. This is to ensure that under no circumstances is this policy designed to be a limit on discretion. However the Council must be of the opinion that the circumstances relating to the application warrant further reduction in their liability for Council Tax having regard to the effect on other Council Taxpayers.

#### **4. Issue, Options and Analysis of Options**

- 4.1 Until recently, section 13A was little used, since Council Tax payers in financial difficulties could apply for Council Tax Benefit (CTB) which often reduced their liability to zero. CTB was replaced from April 2013 by Local Council Tax Support (LCTS) under the Local Government Finance Act 2012 which requires every billing authority to have its own Council Tax Support scheme. This Council adopted an LCTS scheme for 2013/14, since amended for 2014/15, which provides for a Council Tax reduction for those in financial need but rarely to nil, except in the case of pensioners or vulnerable claimants.
- 4.2 At a recent Valuation Tribunal, a resident of the East Riding of Yorkshire successfully appealed against a decision by that Council to make an award of discretionary reduction to the Council Tax account, on the grounds that 'although a local authority policy is not required by statute, it is difficult to see how such an open-ended discretion can be satisfactorily exercised in the absence of one.'

#### **5. Reasons for Recommendation**

- 5.1 To ensure this Council operates its legal duties as a billing authority within the law.

## **6. Consultation**

6.1 None

## **7. References to Corporate Plan**

7.1 A Prosperous Borough

## **8. Implications**

### **Financial Implications**

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8.1 The Collection Fund (Council Tax Reductions) (England) Directions 2013 means that from 1 April 2013, on discretionary discounts under section 13A (1) (c), the cost of any award will be wholly met by Brentwood Borough Council.

8.2 To ensure the Council does not fetter its discretion, any decision to provide a discount will be considered against the needs of other local taxpayers and the financial constraints of the Council.

### **Legal Implications**

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8.1 Failure to adopt a discretionary reduction in Council Tax liability policy will leave the Council vulnerable to legal challenge.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

8.2 None

## **9. Background Papers** (include their location and identify whether any are exempt or protected by copyright)

9.1 Background papers are held by the Revenues & Benefits service

## **10. Appendices to this report**

10.1 Appendix A - Discretionary reduction in Council Tax liability policy.

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