

**Director of Finance and  
Digital Services**

# **Council Tax Discretionary Relief Policy**

**Version: 2.2  
Updated: April 2019**

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## 1) Introduction

This discretionary relief policy has been approved by the Council to assist council taxpayers who may be experiencing financial hardship or distress. This policy is also intended to provide further financial assistance where an applicant is in receipt of a Council Tax Reduction award, where it does not meet their full Council Tax liability.

The discretionary relief policy will be administered by Rhondda Cynon Taf CBC and will be made available to any council taxpayer under the circumstances specified in Sections 4 and 5 of this policy. The purpose of this discretionary relief policy is to provide temporary assistance to Council Tax payers to help reduce their Council Tax liability. The operation of the policy is at the discretion of the Council.

## 2) Legislative Powers

Section 13A(1)(c) of the Local Government Finance Act 1992 (as inserted by Section 76 of the Local Government Act 2003), provides the Council with the discretion to reduce liability for council tax in relation to individual cases or class(es) of cases that it may determine and where national discounts and exemptions cannot be applied.

A summary of Section 13A (1)(c) is set out below :

- Where a person is liable to pay council tax in respect of any chargeable dwelling, the Council for the area in which the dwelling is situated may reduce the amount to such extent as it thinks appropriate.
- The power under subsection 1) includes the power to reduce an amount to nil.
- The power under subsection 1) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.

There are financial implications to awarding any discretionary reliefs other than those currently available under the statutory legislation and the financial burden of Section 13A discretionary relief is borne directly by the Council as a loss of council tax revenue.

## 3) Statement of Objectives

The purpose of this policy is to specify how the Council will operate this discretionary power and to set out the factors that will be considered when making a decision on whether to award council tax discretionary relief (or not).

Principally, the objective of council tax discretionary relief is to offer financial assistance to council taxpayers who are experiencing exceptional circumstances. Each application for discretionary relief will be treated strictly on its own merits and all council taxpayers will be treated fairly and equally. The Council will seek through the operation of this policy to:

- Alleviate social injustice
- Prevent homelessness
- Keep families together
- Support the vulnerable in their homes in the community

- Support those applicants who are unable to work due to a disability, who have been assessed as such by the Department for Work and Pensions
- Help customers through personal crises and difficult events
- Provide advice on long term possible solutions to meet their housing costs
- Improve financial capability by referral to an independent advisor e.g. Money and Pensions Service.

The list is not exhaustive and all factors or exceptional circumstances that may apply will be considered.

Council Tax discretionary relief awarded under this policy is intended as a short-term measure and is generally not intended to cover the shortfall between Council Tax and entitlement to Council Tax Reduction Scheme support or any other reduction on a long-term basis.

#### **4) Claiming Discretionary Relief**

The Council will only consider using its powers to reduce council tax liability for a council taxpayer or class of payer in exceptional circumstances, because the full cost of awarding relief has to be borne by the Council.

Examples of circumstances where a council taxpayer may experience financial hardship can include, but is not limited to the following:

- A sudden change in circumstances, such as loss of employment
- A reduction in income due to illness suffered by the liable person
- Loss of income incurred by the liable person to enable them to care for a dependant
- Sudden increase in other expenses, for example, due to a family member's illness or incapacity.

General hardship can also be incurred from living on a very low income. It is difficult to determine when a person on a low income will qualify for additional support through this policy. However, the following are factors that the Council may take into account:

- Inability to make payments for basic utilities such as water, electricity and heating
- Court proceedings for outstanding debts
- Consistently exceeding overdraft limits without evidence of spending on anything other than necessities such as utilities, food and accommodation
- The threat of homelessness
- Inability to pay for food.

##### **4.1 Who can apply?**

Those persons liable to pay Council Tax to Rhondda Cynon Taf Council who can apply are:-

- Owner occupiers
- Tenants
- Liable residents (but not formally a 'tenant')
- Persons acting on behalf of a liable person i.e. an appointee, solicitor or someone with power of attorney

## **4.2 Who cannot apply?**

Any person *not liable* to pay Council Tax to Rhondda Cynon Taf Council, but also specifically:-

- Landlords of properties where the tenant is liable
- Landlords, if liable
- Estate agents/managing agents on behalf of a landlord
- Friends/relatives of the liable person (unless acting as an appointee or under a power of attorney)
- Lodgers or other residents who are not liable to pay Council Tax
- Support agencies (unless acting as an appointee or under a power of attorney)
- Banks or other holders of a mortgage or other legal charge on a property
- Owners of empty properties (including long-term empty properties designated as Class C<sup>1</sup>)

The Council will treat all applications on their individual merits, however some or all of the following criteria must be met for each case:

- There must be evidence of financial hardship or personal circumstances that justifies a reduction in council tax liability
- The applicant must satisfy the Council that all reasonable steps have been taken to resolve the situation prior to application
- The applicant has applied for council tax support (the Welsh Government's national Council Tax Reduction Scheme exists to ensure that those on low incomes receive financial assistance with their council tax)
- All other appropriate council tax discounts/reliefs have already been awarded
- The applicant does not have access to other assets that could be used to pay council tax
- All other legitimate means of resolving the situation have been investigated and exhausted by the applicant.
- The situation and reason for the application must be outside of the applicant's control
- The amount outstanding must not be the result of deliberate non-payment or failure to make payments as required through neglect.

Requests for council tax relief will be required in writing from the council taxpayer or a recognised third party appointed to act on their behalf.

The application should relate to the current council tax year, unless the applicant has received a bill following a delayed council tax valuation for a previous year(s) or a late determination of liability to the council tax (provided the late determination is not the fault of the applicant).

The Council reserves the right to request any additional evidence in support of the discretionary relief application and will act consistently and reasonably in doing so. Where the applicant is unable to, or does not supply the required evidence, the Council will still consider the application and will take into account any other

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<sup>1</sup> Council Tax (Prescribed Class of Dwelling)(Wales) Regulations 1998, as amended

evidence available, including documentation held on the housing benefit/council tax reduction case file.

The Council will consider the household's overall financial capability when determining an award for discretionary relief.

## **5) Decision Making**

Whilst the discretionary relief policy is by definition 'discretionary', the Council has a duty to make decisions in accordance with recognised principles about good decision-making, i.e. administrative law, and in particular, to act fairly, reasonably and consistently.

The Head of Service (Revenues and Benefits) will assess all Section 13A applications in consultation with the Service Director - Pensions, Procurement and Transactional Services with the recommended decision referred to the Director of Finance and Digital Services for authorisation.

In deciding whether to award discretionary relief, the Council will take into account the following:

- The shortfall between income and expenditure
- Any steps taken by the applicant to reduce their rental or council tax liability
- The household, financial and medical circumstances of the applicant, their partner and any other persons in the household
- Any savings or capital held by the applicant's household
- The applicant's level of debt
- Any special reasons which make it necessary or particularly desirable for the applicant(s) to occupy the dwelling in respect of which the liability arises
- The possible consequences of council tax arrears for the applicant or family members, especially if any of them are vulnerable by reason of age, sickness or disability
- Whether the applicant can change their spending pattern on non-essential items
- The possible impact of not making a payment i.e. the pressure on priority homeless accommodation
- The actions being taken by the applicant to improve or change their domestic, financial or personal situation to reduce or limit the amount of support that they will require in the future i.e. helping those that are trying to help themselves
- Any other special circumstances brought to the attention of the Council.

Any successful application will be granted for the remainder of the financial year in which the application is made, but will cease at the end of that financial year and a re-application will be required for consideration of any ongoing assistance.

Awards will generally be made from the date that the Council received the application form, but the Council may backdate awards under this policy, if it is considered reasonable.

## 6) Notification of Decision

The Council will notify an applicant in writing within 14 days of receiving sufficient information to make a decision or within a reasonable period afterwards.

Where an application for discretionary relief is successful, the applicant (and any other affected party) will receive notification of:

- The amount of the award
- The circumstances of the award, any steps that the applicant should take and any conditionality attached to the award
- The start and end date of the award
- Their duty to report any change of circumstances that may affect the award
- The recoverability of any award
- The procedure to follow should the applicant disagree with the decision.

## 7) Review of Decision

Under the Local Government Finance Act 1992, there is no right of appeal against the Council's use of discretionary powers. However, the Council will accept an applicants written request for a further review of its decision, if it is made within one month of the date of notification of the decision.

A person other than the person who made the original decision will consider the request for a review. He/she will consider whether the applicant has provided any additional information against the required criteria that will justify a change to the original decision.

If the review concludes not to revise the original decision, this decision is final and may only be challenged by way of an appeal to the Valuation Tribunal for Wales, judicial review or by a complaint to the Local Government Ombudsman (where there is an allegation of maladministration).

## 8) Fraudulent Claims and Overpayments

The Council reserves the right to recover any overpayment of discretionary relief where the award was made as a result of misrepresentation or failure to disclose a material fact, fraudulently (or otherwise), or due to an administrative error by the Council (where it is reasonable to assume that the taxpayer would have been aware).

The Council is committed to tackling fraud and abuse of public funds in all forms. Where there is suspicion that a fraud may have occurred, the matter will be investigated and this may lead to criminal proceedings being initiated. The Council will consider prosecuting any applicant who makes a false statement or provides fraudulent evidence in support of an application.

An application for a discretionary relief will not be considered to offset any council taxes that have become payable as a result of the taxpayer being prosecuted and convicted for Housing & Council Tax Benefit/Council Tax Reduction Scheme fraud, or in cases where an Administrative Penalty or a Sanction has been given in the last 6 years.

## **9) Equalities Statement**

The Council is committed to equality and fairness. Equality is about ensuring people are treated fairly and given fair chances. It is also about ensuring that people receive fair outcomes in the standard of service they receive from the Council. This incorporates everyone, regardless of their race, gender, age, religion or belief, sexual orientation and/or disability.

## **10) Data Access and Data Sharing**

The Council is allowed to collect data to support, evidence and to determine discretionary payments. The scheme will operate to support principles for fair, reasonable and confidential data access and sharing at all times. This is to ensure that customers receive the correct payments at all times and that public funds and the wider interest of local council taxpayers are protected.

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