

Financial Services Division

Council Tax Discretionary Relief Policy

Version: 2.1
Updated: July 2018

Contents

1) Introduction	3
2) Legislative Powers	3
3) Statement of Objectives	3
4) Special Classes.....	4
5) Claiming Discretionary Relief	4
6) Decision Making.....	6
7) Notification of Decision.....	7
8) Review of Decision.....	7
9) Fraudulent Claims and Overpayments.....	8
10) Equalities Statement	8
11) Data Access and Data Sharing	8

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 tax payer 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 (although in certain classes/cases of taxpayer the relief can be of a longer-term nature). 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 tax payers 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 Advice 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 (although in certain classes/cases of taxpayer the relief can be of a longer term nature) 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) Special Classes

4.1. Class 1 - Care Leavers

The Council recognises that young people's transition out of care and into adulthood is extremely difficult. Managing money for the first time, without support from family, leaves care leavers at real risk of falling into debt. The Council has decided to support those individuals leaving care by reducing their net liability for council tax until the persons 25th birthday.

In its role as Corporate Parent and as part of its ongoing support to care leavers, on 19th December 2017, Cabinet agreed to exercise its discretionary powers to award a 100% Discretionary Council Tax Relief to Care Leavers aged between 18 and 25.

To deliver this aim, a 'special class' has been created in this Policy; to be known as 'Care Leavers Relief'. Any individual qualifying as a 'Care Leaver' falling under Class 1, will have their Council Tax liability reduced to zero (after any other national reliefs/discounts and council tax support (where applicable) have been applied).

Details of how applications under this Special Class will be determined are set out in Annex 1.

5) 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.

5.1. 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
- Care Leavers - where they are liable or jointly liable to pay Council Tax

5.2. 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 C¹)

With the exception of an application for relief under a Special Class identified under paragraph 4 of this Policy, 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

¹ Council Tax (Prescribed Class of Dwelling)(Wales) Regulations 1998, as amended

- 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 reductions in council tax liability will be required in writing from the council taxpayer or a recognised third party appointed to act on their behalf.

Unless a different period is defined for a Special Class under paragraph 4 of this Policy, 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 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.

6) 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 Head of Service Pensions, Payroll and Payments with the recommended decision referred to the Director of Financial Services for authorisation.

With the exception of an application for relief under a Special Class identified under paragraph 4 of this Policy, 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.

7) 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.

8) 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).

9) 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.

10) 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.

11) 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.

Annex 1

Special Class: Care Leavers

Contents

1.0 Principles.....	10
2.0 Eligibility Criteria.....	10
3.0 Carer Leavers Relief application process.....	11
4.0 Period of Award.....	11

1.0 Principles

- 1.1 The Council recognises that young people's transition out of care and into adulthood is extremely difficult. Managing money for the first time, without support from family, leaves care leavers at real risk of falling into debt. The Council has decided to support those individuals leaving care by reducing their net liability for council tax to zero until the persons 25th birthday.
- 1.2 The principles of the proposed Care Leavers Relief scheme are as follows:
 - The young person is a 'care leaver' and is between the ages of 18 and 25 and is not exempt on any other basis;
 - Where a 'care leaver' moves out of the Council's area the discount can be reclaimed should they return before their 25th birthday.
 - This policy will apply up to and including the date of the day before the 'care leavers' 25th birthday.
- 1.3 Reducing Council Tax in these circumstances will be known as an award of Care Leavers Relief.

2.0 Eligibility Criteria

- 2.1 When making a decision under this Policy, the following issues will be considered:
 - a) The relief will apply to residents for whom RCT Council held corporate parenting responsibility at the point at which the young person left care (the Council's Children's Services Division having confirmed that the care leaver was in care (being 'looked after')); or is a care leaver for which another Council retains corporate parenting responsibility but is now a resident and liable to pay Council Tax to RCT.
 - b) The 'care leaver' resides and is liable to pay council tax in RCT (subject to paragraph (f) below);
 - c) Whether the care leaver has applied for any national reliefs, discounts or exemptions they would normally be entitled to. These must be assessed before 'Carer Leavers Relief' is awarded.
 - d) Whether the care leaver applied for any Council Tax Reduction Scheme support, they would be entitled to. This should be assessed before Carer Leavers relief is awarded.
 - e) The relief would be awarded against any council tax liability arising from 1st April 2018 and the Council will have discretion to backdate awards to 1st April 2018;
 - f) Where a 'care leaver' is jointly liable, the relief will be applied so as to ensure that the presence of the care leaver does not increase the council tax bill through the loss of existing support or discounts i.e. the care leaver will be disregarded for council tax purposes
 - g) Where a 'care leaver' resides with other council tax payers but is not liable to pay the council tax bill, an application for discretionary relief can be made through the general Council Tax Discretionary Relief Policy.

- h) Where the circumstances in (g) above exist, relief will not be allowed where the owner of the property has been deemed the liable person under Section 8 Local Government Finance Act 1992 i.e. a 'prescribed class of dwellings' such as residential care type settings or Houses in Multiple Occupation
 - i) The relief will not be means tested or responsive to the individual circumstances of the 'care leaver' if they are between the ages of 18 and 25 and are either liable or jointly liable to pay the council tax;
 - j) The date of the day before the care leavers 25th birthday determines the last day of the period of the award;
 - k) Where a 'care leaver' moves out of the Council's area the relief can be reclaimed should they return before their 25th birthday.
- 2.2 If subsequent to an award the charge payer's liability for council tax reduces during the period of the award, any Care Leavers Relief in excess of this reduced liability will be an overpayment of Care Leavers Relief. The Council may recover this overpayment by any legal means at its disposal including offsetting this amount against any future periods of Care Leavers Relief or by adding the excess amount to any further council tax liability demanded for subsequent periods.

3.0 Carer Leavers Relief application process

- 3.1 An application for Care Leavers Relief can be made by:-
- a) the identification and nomination of a care leaver by the Council's Children's Services to the Council Tax Section; or
 - b) through application by the care leaver.
- 3.2 Where a 'care leaver' has been identified/nominated under (a) or (b) above, a formal request for a reduction in council tax liability will be required in writing from the 'care leaver' (or by a recognised 3rd party appointed to act on their behalf) or the council taxpayer for the property where the care leaver resides.
- 3.3 Applications for Care Leavers Relief will be reviewed on an annual basis.

4.0 Period of Award

- 4.1 The award can be made for any period from 1st April 2018 where the care leaver meets the criteria set out in paragraph 2.1 (a) and (f) above.
- 4.2 Any award given to an individual case will end on:
- a) 31st March of the financial year in which the relief was awarded or
 - b) the day before the applicants 25th birthday or
 - c) the day of any change in circumstances which will result in the applicant no longer qualifying for Care Leavers relief
- 4.3 All cases of Care Leavers relief will be reviewed in advance of the next financial year to ensure continuity of entitlement.