



# **West Lancashire Borough Council Council Tax S13A(1)(C) Local Government Finance Act 1992 Policy 2022/23**

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## 1.0 Introduction

- 1.1 The following policy outlines the Council's approach to granting discretionary reductions in liability for Council Tax under S13A(1)(c) of the Local Government Finance Act 1992 (as amended). The Council has the ability to reduce the liability for Council Tax in relation to individual cases or class(es) of cases that it may determine where national discounts and exemptions cannot be applied.
- 1.2 This policy is basically divided into three main areas namely:
- (a) **The Council Tax Discretionary Support Payment** – this part of the policy covers the decision of the Council to assist taxpayers who are experiencing ongoing financial hardship during the 2022/23 financial year only;
  - (b) **The Flood Recovery Framework** – this part of the policy covers situations outlined by Central Government where any parts of the Council's area were to be designated as a designated flood area; and
  - (c) **Granting of reductions in Council Tax liability in all other circumstances** - this part of the policy applies to all other circumstances where an application is made to the Council for a reduction in Council Tax liability under S13A(1)(c) of the Local Government Finance Act 1992 other than in respect of (a) and (b) above.

## 2.0 Legislation

- 2.1 The relevant legislation (S13 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012), states the following:

### **Reductions by billing authority**

(1) The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13);

- (a) In the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority's council tax reduction scheme;
- (b) *Not applicable*
- (c) **in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.**

- 2.2 The provisions stated in (c) above, allows the Council to reduce the Council Tax liability for any taxpayer in addition to any application for Council Tax Reduction under the Council's scheme. This is a general power that has always been available to the Council.

### 3.0 Finance

- 3.1 Any amounts granted under S13A(1)(c) are normally financed through the Council's general fund and do not form part of the collection fund. In certain circumstances, Central Government provides funding directly to the Council to compensate for specific events and in the case of severe flooding. Where this is available, the Council will look to use **all** funding provided.
- 3.2 Any additional assistance, outside of the funding, would fall to be paid by the Council itself.

### 4.0 The Council Tax Discretionary Relief Scheme

- 4.1 The Council has allocated a budget of £260k for the financial year 2022-23 to assist all Council Taxpayers who are experiencing severe financial difficulties due to the on-going costs of living.
- 4.2 All households who are liable for Council Tax may receive a reduction of up to £150 (subject to the overall level of their liability), where they can prove to the Council that they are experiencing severe financial difficulties due to the ongoing costs of living and / or due to the increases in energy costs.
- 4.3 Only one amount shall be granted per eligible taxpayer irrespective of the number of persons in the household.
- 4.4 The effective date of this scheme shall be 1<sup>st</sup> April 2022. To receive a reduction, the eligibility criteria stated below must be met in full on that date.
- 4.5 It has been decided that an application will be required in each case and the following criteria will need to be met in full:
- (a) The premises must be shown as a chargeable dwelling on the Borough Council's Council Tax Valuation list at 1<sup>st</sup> April 2022;
  - (b) The chargeable dwelling must be considered the taxpayer's sole or main residence;
  - (c) The taxpayer must be the liable person as defined by section 6 of the Local Government Finance Act 1992;
  - (d) The dwelling must not be exempt from Council Tax;
  - (e) The dwelling must not be unoccupied or deemed by the Council to be a second home;
  - (f) The taxpayer must be liable for an amount of Council Tax on that date;
  - (g) The Council Tax liable person will be required to make an application for discretionary relief and will need to provide evidence that they are:
    - (i) in receipt of a means tested benefit including Income Support; Income Based Jobseeker's Allowance; Income Related

- Employment and Support Allowance; Universal Credit; Housing Benefit; Council Tax Support; or Working Tax Credit; **or**
- (ii) on a low income and have capital of no more than £16,000; and / or
- (iii) The household is experiencing severe financial hardship.

- 4.6 As the funding available to the Council is limited, the Council reserves the right to amend or terminate the scheme where funding is exhausted.
- 4.7 In all cases, where an application is made, the Council may require evidence from the liable person to establish that the criteria is met in full. Application forms will be available on the Council's website.
- 4.8 Any changes to the Valuation List (in terms of either the Council Tax band or the inclusion of a chargeable dwelling) after the effective date, including changes backdated to this date, will be ignored for the purposes of eligibility.
- 4.9 Where a reduction has been awarded to the 2022-23 financial year and the Council is made aware that Council Tax liability ceased either on or before 31st March 2022, the reduction shall be reclaimed.
- 4.10 Where a reduction has been awarded under this scheme for the 2022-23 financial year, there shall be no reduction or increase in the amount awarded if the Council Tax liability increases or decreases on or after 1<sup>st</sup> April 2022, except where the liability is reduced to nil for the financial year, at which time the reduction shall be reclaimed.
- 4.11 The reduction shall be credited directly to the taxpayer's Council Tax account and will be used to reduce the Council Tax liability for the financial year 2022-23 only. Where there is no Council Tax liability for 2022-23 no reduction shall be made.
- 4.12 In the case of persons who are jointly and severally liable for Council Tax on a chargeable dwelling, only one reduction shall be awarded.

## **5.0 The Flood Recovery Framework**

- 5.1 In a severe weather event with significant wide area impacts, local authorities may need central support to help their communities and businesses return to normal. Building on these principles, a core package of business and community recovery support has been developed by Central Government to serve as a framework for flood recovery funding when needed.
- 5.2 It will be for Government Ministers to determine when this support will be made available. Weather incidents with localised impacts will not usually trigger a recovery support package.

- 5.3 In relation to Council Tax, Central Government have developed a Council Tax discount package that is available under S13A (1) (c).

### **Who is eligible for a council tax discount?**

- 5.4 Where the scheme is activated following severe weather, MHCLG will refund eligible local authorities for granting discounts in the following circumstances:
- (a) 100% discount for a minimum of 3 months, or while anyone is unable to return home if longer, for **primary residences** whereas a result of the relevant weather event:
    - Flood water entered into the habitable areas; or,
    - Flood water did not enter into the habitable areas, but the local authority regards that the residence was otherwise considered **unliveable** for any period of time. **AND**
  - (b) 100% council tax discount on temporary accommodation for anyone unable to return to their home, in parallel with the discount on their primary residence where applicable.
- 5.5 Second homes and empty homes will **not** be eligible.
- 5.6 Instances where households might be considered **unliveable** could include:
- where access to the property is severely restricted (e.g. upper floor flats with no access);
  - key services such as sewerage, draining, and electricity are severely affected;
  - the adverse weather has resulted in other significant damage to the property such that it would be, or would have been, advisable for residents to vacate the premises for any period of time, regardless of whether they do vacate or not;
  - flooded gardens or garages will **not** usually render a household eligible but there may be exceptions where it could be demonstrated that such instances mean effectively that the property is unliveable.
- 5.7 It will be for the Council to determine eligibility under the scheme.

### **Properties affected by multiple instances of flooding**

- 5.8 Residences impacted in multiple flood events will not be precluded from repeat support where this is made available by Government in respect of separate weather events.
- 5.9 Where the scheme is activated for two separate instances of flooding within 3 months of each other, the two discount periods will run concurrently. For example, if the second flood event occurred after 2 months, flooded

properties already receiving support could be eligible for another 3 months' discount, making the total period of reimbursement 5 months.

## **Funding**

- 5.10 In such cases, Central Government will make payment to the Council via a Section 31 grant.

## **The Council's Policy in respect of the Flood Recovery Framework**

- 5.11 The Council shall operate the scheme strictly in accordance with Central Government guidelines.

## **6.0 Applications for S13A (1) (c) in other cases**

- 6.1 Where the Council receives an application for a reduction in liability in any other case (other than listed above), all applications will be treated on their individual merits.
- 6.2 In such cases, the Council will require the applicant (where appropriate) to:
- Make a formal application for Council Tax Reduction in an appropriate format;
  - Consider potential changes in payment methods and payment arrangements;
  - Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted;
  - Maximise their income through the application for other welfare benefits;
  - Have taken all reasonable steps to resolve their situation prior to application;
  - Provide evidence of exceptional financial hardship or exceptional personal circumstance that would merit a reduction in the Council Tax liability; and
  - Not have access to assets, capital or other financial remedy that could be used to meet the Council Tax liability;
- 6.3 Non-essential outgoings, determined by the Council, will not be taken into account when determining their application.
- 6.4 The circumstances affecting the ability to meet Council Tax liability must not be intentional by the applicant and must be deemed to be out of the applicant's individual control.

## **7.0 Delegated Powers**

- 7.1 This S13A(1)(c) policy has been approved by the Council. However, the Head of Corporate and Customer Services is authorised to make technical scheme

amendments to ensure it meets the criteria set by the Council and, for certain defined schemes, Central Government guidance.

## **8.0 Notification**

- 8.1 In all cases of the Council Tax Discretionary Relief scheme for 2022-23, all eligible taxpayers will be notified of the decision to apply any reduction as soon as possible after it has been made and any award will be by means of a reduction being applied to the relevant Council Tax account.
- 8.2 In all other cases, the Council will issue a written decision letter to the applicant within one month of the request or as soon as practicable thereafter. This will include:
- the level of the award, if relevant;
  - full reasons for the decision;
  - how it will be paid; and
  - information about how to ask for a review of the decision.

## **9.0 Review of Decisions**

- 9.1 Notwithstanding any reductions applied automatically to the Council Tax account, where any application is refused, the applicant will be notified that they can ask for the decision to be reviewed. Any request for a review must be made, in writing or by email, within one month of the decision letter.
- 9.2 The Exchequer Services Manager shall undertake the review and shall respond within two months and will have regard to any further evidence supplied.
- 9.3 If the applicant is dissatisfied with the outcome of the review, they can, within two months of the Council's reply, appeal to the independent Valuation Tribunal Service to consider their case.

## **10.0 Duration of Reduction**

- 10.1 The duration of any award will depend of the circumstances of each case. However, in all cases the following principles will apply:
- (a) Where the reduction is applied under a Central Government Scheme, the reduction shall be applied to the Council Tax account for the period specified in Government guidance;
  - (b) In all other cases,
    - (i) the application for the reduction can only relate to the current Council Tax financial year in which the application is made unless the delay was due to an exceptional circumstance; and
    - (ii) If an application is successful, the award period will be specific to the applicant's circumstances, but it cannot exceed a period greater than



the financial year it has been awarded in or exceed the total Council Tax charge for that period.

## **11.0 Changes in circumstances and misrepresentation**

- 11.1 A reduction in liability under S13A(1)(c) can be recovered if it has been made as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise. It can also be recovered as a result of the subsequent application of a national discount or adjustment in banding by the Valuation Office Agency
- 11.2 Changes of circumstances that subsequently negate the need for a reduction in liability under this policy will be recovered by the Council. Where this occurs, the Council shall notify the taxpayer accordingly.
- 11.3 Reductions in liability are not transferable following a change in address.
- 11.4 The Council reserves the right to recover any reductions in liability as a result of a change in legislation or regulation.
- 11.5 The Council is mindful that it is important to protect public funds and, as such, will take action to prosecute any case where the applicant acts fraudulently in applying for a reduction in Council Tax liability.