

## 1. Background

- 1.1 The Leicestershire, Fire and Police authorities have co-operated and shared best practice to develop a shared Council Tax Support Scheme. The group has devised a shared Discretionary Discount Scheme to ensure that the most vulnerable members of the community are protected in line with the requirements of the Government's localisation of Benefits, under which from 1 April 2013, Councils must have in place their own local schemes which will replace the existing Council Tax Benefits system.
- 1.2 This change to local taxation and benefits systems was amongst the first of a very wide range of changes to the national welfare benefits framework which began in April 2013.
- 1.3 In April 2013 the Government ended the Council Tax Benefit Scheme and replaced it with the Local Council Tax Support Scheme. Charnwood has set up a Local Council Tax Discretionary Discount Scheme to offset the most severe impacts of these reforms on vulnerable persons
- 1.4 The Local Council Tax Discretionary Scheme operates along the lines of any existing Housing Benefit Discretionary Housing Payments policy and will permit officers the discretion to provide discounts in council tax under the policy from 0% to 100% of the remaining council tax liable charge.
- 1.5 The scheme is locally funded but will seek a contribution from precepting authorities to offset the full cost of the schemes operation. The scheme will be subject to a budget cap each year set by the Council through its precepting arrangements.

## 2. Legislative Framework

- 2.1 The following legislation and guidelines are relevant to this document:
  - i. The Local Government Act 2012
  - ii. The Local Government Finance Act 1992 Section 13A(2)
  - iii. The Leicestershire & Rutland Local Council Tax Support Scheme 2012
  - iv. Child Poverty Act 2010
  - v. Equality Act 2010 (incorporating the Disabled Persons Act 1986)
  - vi. Housing Act 1996
  - vii. Armed Forces Covenant
  - viii. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012
  - ix. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 Default Scheme
  - x. Social Security Act 1992

## **3. Objectives**

- 3.1 The policy aims to set up a local council tax discount scheme to support local persons who are in receipt of Local Council Tax Support but continue to experience severe financial hardship and who are unable to pay their council tax. The discount will be known as the Discretionary Council Tax Support Scheme.
- 3.2 The Government have prescribed a national pension age scheme that will ensure that pensioners are not worse off under the local council tax support scheme.
- 3.3 The Government have not prescribed any vulnerable groups, having regard to local authorities' defined responsibilities, in relation to, and awareness of the most vulnerable groups and individuals in their areas through an Equality Impact Assessment. The Discretionary Discount Policy specifies those individuals and groups who are eligible to access the fund and explains the claim process.
- 3.5 The Discretionary Discount Policy will be mindful of the directive to incentivise work and in doing so reduce worklessness and dependency on benefits in line with the Governments priorities.
- 3.6 The Discretionary Discount Policy aims to provide a set of rules that are not inflexible therefore, where the council has a discretionary power, each case must be considered on its own merits, determined within the budget provided and administered under the framework set out in this policy.

## **4. Criteria**

- 4.1 Fundamental to the Discretionary Discount Policy is a clear indication of the groups or individuals that can be considered eligible to claim additional council tax support from the Discretionary Council Tax Support Scheme.
- 4.2 The fund has financial limitations and as such awards can only be made based on eligibility and having regard to the level of funding available or remaining within the Discretionary Council Tax Support Scheme each financial year.
- 4.3 Before any award will be considered, the taxpayer must qualify for an amount of Local Council Tax Support, but still require further financial assistance with council tax due to the conditions detailed in section 5.
- 4.4 Unless specified, all criteria and conditions that apply to The Local Council Tax Support Scheme, will also apply to The Discretionary Discount Policy.

## 5. Equalities

- 5.1 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 and equality of access to council services. This incorporates everyone, regardless of their race, gender reassignment, age, disability, pregnancy and maternity, religion or belief, sex or sexual orientation, marital or civil partnership status and/or disability in line with the 9 protected characteristics set out in the Equalities Act 2010.
- 5.2 A number of groups have been defined as being eligible to submit a claim for discretionary discount. The groups are listed in the table below:

<b>Types of vulnerable people</b>
The applicant or household or a dependent child in receipt of the middle or higher rate of Disability Living Allowance (DLA) or the enhanced daily rate of Personal Independence Payment.
The applicant or household is a disabled adult living in supported living accommodation who have carers and are unable to work due to their health
The applicant or household is in receipt of Employment Support Allowance (ESA) with support component
The applicant or household is a care leaver up to the age of 22 years
The applicant or household is deemed vulnerable through drug or alcohol dependency who are attending a rehabilitation programme
The applicant or household has suffered domestic violence and is being supported by accredited local schemes to move into permanent accommodation, inclusive of forced marriages
The applicant or household is a foster carer and has current foster child placements
The applicant or household has dependent children under the age of 5 and is living on income support
Applicant or households who provide care who are single or a couple, and have no other income (other than income support) where they are in receipt of carers allowance
The applicant or household is a foster carer (child or adult) and is in between foster care placements
The applicant or household has parental care responsibility for non-resident children
The applicant or household is a hostel leaver where they were resident in a hostel engaging with support while resident. Minimum period of hostel residency is 3 months

- 5.3 There also may be a number of vulnerable individuals who do not fall into any of the above categories. In this event awards may be considered due to severe financial hardship, please refer to section 6 below.

## **6. Severe Financial Hardship**

- 6.1 Claims will be accepted on the basis that the applicant or household would suffer severe financial hardship if financial assistance were not given.
- 6.2 Individuals in this group will not be defined but need to be able to demonstrate their circumstances and have exhausted other sources of income that are available to them.
- 6.3 Each case will be considered on its own merits.
- 6.4 Care will be taken to ensure the applicant or household has access to independent financial advice and support.
- 6.5 Examples of applicants or households who may potentially be awarded a Discretionary Discount are:
- i. Recently bereaved and as a consequence other benefits have been suspended and therefore caused a disruption to income
  - ii. Terminally ill and unable to contribute to the household income
  - iii. Recovering from a serious illness and unable to contribute to the household income
  - iv. Recently released from prison and under probation
- 6.6 Applicants will be expected to have explored and secured any lawful entitlement to other benefits, incomes and reductions in preference to claiming DCTS. Applicants will need to ensure they are able to satisfy the Council that they have taken all reasonable steps to resolve their own situation prior to application.
- 6.7 Claims will be considered if the above apply and:
- i. There is evidence of financial hardship or personal circumstances that justify an award.
  - ii. The applicant or household has supplied all evidence requested by the Local Authority in respect of their claim for the Discretionary Council Tax Support.
  - iii. The applicant or household must have applied for any appropriate discount or exemption and supplied any evidence requested by the Local Authority in respect of that application.
  - iv. The applicant or household does not have access to any other financial assets that could be realised to pay the council tax.
  - v. The applicant or household must not be avoiding outstanding council tax due to wilful refusal or culpable neglect.
  - vi. The Council's finances must allow for an award to be made.

## **7. How to claim**

- 7.1 A claim should be made in writing or on line using the approved claim form together with supporting evidence as required.
- 7.2 Claims can also be made by a referral process. Please see Section 10, Referrals from other sectors.
- 7.3 The applicant must be the person named as liable to pay the council tax, be resident in the property and in receipt of Local Council Tax Support or be their representative with authority to act on their behalf i.e. Power of Attorney
- 7.4 Claims can only be made to and accepted by the billing authority who issues the taxpayer their Council Tax Demand Notice.
- 7.5 If an applicant or household needs advice and support to complete a claim form, the applicant or household will be signposted to an appropriate service that offers support relevant to the needs of the applicant or household.
- 7.6 The applicant must set out the reasons for applying including explaining any special circumstances or hardship being experienced.

## **8. Information required to support a claim**

- 8.1 Evidence will be required to substantiate a claim for a Discretionary Discount.

Evidence can include, but is not limited to:

- A household income statement; using a prescribed form.
- A household expenditure statement; using a prescribed form.
- Supporting evidence may be requested such as utility bills.
- Evidence of seeking debt advice, if appropriate.

- 8.2 Evidence may be requested that is relevant to the nature of the Claim i.e. evidence of illness. It should be noted that no costs will be borne by the Authority in circumstances of this nature.
- 8.3 Failure to provide supporting information and evidence that is requested may lead to a refusal.
- 8.4 Care will be taken by staff to ensure that the applicant or household is treated fairly and respectfully and that only relevant information and evidence is requested.
- 8.5 All information and evidence provided will be treated in confidence and in accordance with the Data Protection Act 1998.

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- 8.6 Where the council requires additional information or evidence it will write to the applicant and/or representative requesting the information is supplied within one calendar month.
- 8.7 The applicant and/or representative is required to report any changes in their circumstances or of the circumstances of household members immediately in writing to the Council. A failure to report changes may lead to a loss of DCTS, result in an overpayment which will be recoverable from the Council Tax account and lead to prosecution where appropriate.

### **9. Notice of Decision**

- 9.1 The Council will provide a written notice of its decision to the applicant or their representative. The decision notice will set out:
- i) The amount of the award (if any).
  - ii) The period of the award (if any).
  - iii) Provide details of how to appeal or obtain more information about the decision.
  - iv) Provide details of how the award (if any) will be made.
  - v) Provide a summary of the factors considered in reaching the decision and any expectations on the part of the customers

- 9.2 On the provision of all satisfactory requested information, a decision will be made where practicable within 14 working days.

### **10. Applications from other sectors**

- 10.1 The billing authority will accept applications from:

- I. Leicester, Leicestershire & Rutland Combined Fire Authority.
- II. Leicestershire Police Authority.
- III. Third sector organisations i.e. Citizens Advice Bureau, welfare rights.

- 10.2 The approved application form should be completed and returned to the relevant billing authority.

- 10.3 The Leicestershire billing authorities and the organisations above have a Service Level Agreement (SLA) in place to ensure the agreed process is adhered to.

- 10.4 Applications will be monitored and reviewed in accordance with the SLA.

## **11. Alternative sources of financial assistance**

11.1 Various alternative sources of support exist within the public, private and voluntary sectors. Applicants or households will be signposted to alternative sources of assistance/support.

## **12. Debt Advice**

12.1 It is recognised that debt and poverty are linked. In most cases the billing authority will expect the applicant or household to seek debt/money management advice as a long term solution to financial problems.

12.2 Working age applicants or households are also expected to move into work if they are able to reduce their dependency on support. With this in mind applicants or households should receive more income from working than being out of work. Work incentives will be a factor when determining awards for discretionary discount.

12.3 Billing Authorities will signpost applicants or households to debt advice services in their area, evidence of taking and adhering to advice may be requested from the applicant or household when making an application for discretionary discount.

## **13. Backdating**

13.1 Any reasonable request for backdating of a Discretionary Discount payment/award will be considered. Backdating will not usually extend beyond the start of the financial year in which the claim is made. The further the backdating is required, the more compelling the reason for the request should be. and continuous good cause exists throughout the period for the delay in making the application

## **14. Determining awards**

14.1 The council will consider each claim on its own merits. This will ensure that each application is treated in an open and consistent manner, whilst considering individual circumstances.

14.2 The council will be under no duty to assess claims not made in the approved manner.

14.3 Where information or evidence requested has not been received within one calendar month, the council will determine the application on the basis of the evidence and information in its possession. The council will make an adverse inference in respect of any information or evidence not supplied by the applicant within the one calendar month time limit.

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- 14.4 Nothing in this policy shall permit the council to reduce the council tax charge for any day to less than NIL.
- 14.5 DCTS may only be awarded in respect of council tax liability.
- 14.6 The order of discounts will be maintained in line with the Local Government Finance Act; therefore the maximum amount of DCTS that can be claimed for any day will be net of other discounts and reductions already awarded.
- 14.7 Awards will have a defined start and end date. This information will be provided to the applicant or household when the decision is made.
- 14.8 Awards may be a one off payment, an award for a short period of time or until the applicant or households circumstances change or for a full financial year. This will be detailed when a decision is made.
- 14.9 Awards will stop immediately if the applicant or household or their representative has misrepresented or failed to disclose a material fact, fraudulent or otherwise. The authority may look to recover any overpayment of award but instances of proven fraudulent activity the council will always seek to recover any overpayment in all cases.

## **15. Method of payment**

- 15.1 Awards will be credited directly to the liable persons' council tax account. This will have the effect of reducing the council tax liability.
- 15.2 Council taxpayers may find that the award does not reduce their council tax to zero. If council taxpayers have council tax to pay, they should contact the council to discuss a payment plan if required as soon as possible to make arrangements to pay the sum due.

## **16. Appeals**

16.1 Applicants may appeal against a decision within one calendar month of the decision notice where:

- i. They have not been awarded DCTS; or
- ii. Where they feel the award should be increased.

16.2 Appeals must be:

- i. submitted in writing;
- ii. Received at the Council offices within one calendar month of the date of the decision notice;
- iii. Signed by the applicant or representative;

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- iv. Outline the grounds for appeal;

16.3 Applicants will not have the right of appeal:

- i. Where their appeal is received by the council more than one calendar month after the date of the decision notice;
- ii. Where the council has already made a determination of a previous appeal in respect of the matter;
- iii. For any day on which they have received 100% discount or exemption;
- iv. For any request to backdate the award for more than one calendar month from the date of application;
- v. Where the council has no remaining budget provision;
- vi. Where the council has made an adverse inference decision;
- vii. In any case where the council was under no duty to make a decision;
- viii. Discretionary Council Tax Support suspensions where there is doubt about entitlement;
- ix. Shortfalls caused by the recovery of retrospective overpaid Local Council Tax Support.

16.4 A single appeal under this scheme will be determined within one calendar month of receipt of the appeal or as soon as reasonably practicable.

16.5 The appeal decision is final and may not be further challenged except where legislation permits. The council will write to the applicant once their appeal has been considered and will explain:

- i) The amount of the revised award (if any);
- ii) The period of the revised award (if any);
- iii) Provide details of how the revised award (if any) will be made;
- iv) Provide a summary of the factors considered in reaching the decision.

## **17. Recovery of an overpaid Discretionary Discount award**

17.1 The Council may recover any overpayment of discretionary discount that has been paid by removing the discount from the account.

## **18. Fraud and error**

18.1 The council will always correct any award made under this scheme where fraud or error has occurred.

18.2 Where a customer has failed to provide information or has knowingly supplied false or misleading information the council reserves the right to withdraw any award made under this scheme.

18.3 Furthermore, the council reserves the right to investigate any alleged offences, to levy penalties in accordance with the law and to prosecute anyone who has committed a criminal offence.

## **19. Data Sharing and Fair Processing**

19.1 The council may use any evidence and information supplied to it in respect of DCTS to check the eligibility of the applicant in respect of this scheme or any other welfare benefit, discounts or exemptions.

19.2 The council take parts in data matching exercises as part of work to assist in the prevention and detection of fraud. Data matching involves comparing sets of our data, such as council tax or benefit records against other records held by the council or other bodies to see how far they match. Data matching allows potentially fraudulent claims, reductions and payments to be identified. Where a match is found it indicates that there is an inconsistency that requires further investigation. No assumption can be made as to whether there is fraud, error or other explanation until an investigation is carried out. The processing of personal information by the council for data matching exercises is carried out in accordance with the Data Protection Act 1998; specifically under section 29 of that act. This means the Council does not require the consent of the individuals concerned.

## **20. Publicity**

20.1 The Leicestershire Council Tax Support Discretionary Discount will be publicised across the region.

20.2 The following methods of communication may be used:

- Leaflets and posters.
- Information with decision notices for the Discretionary Council Tax Support where there is a shortfall.
- Face to face and verbal when visiting or telephoning the council offices.
- Information on billing authority websites.
- Information for 3<sup>rd</sup> sector organisations and those permitted to make referrals.
- Claim forms available to download or complete online.
- Information with council tax reminders notices where the taxpayer is in receipt of Local Council Tax Support.

## **21. Administration**

21.1 Applications will be subject to the billing authority's usual quality control procedures and audit.

21.2 Home visits may be available to applicants or households who are unable to attend the council offices and have no-one else to assist them.

21.3 Awards will be recorded and reported on a regular basis.

21.4 Reports can include the following: for both successful and unsuccessful claims per financial year:

- Name of applicant or household.
- Address of applicant or household.
- Ward of applicant or household (if relevant).
- The start/end date of the award.
- The amount of the award.
- The reason for the award/refusal/eligibility criteria.
- Equality data to monitor the effectiveness of the EIA.

21.5 Billing authorities may from time to time conduct a survey of all applicants to seek opinions, satisfaction levels and to shape the scheme for future years.

## **22. Scheme Review**

22.1 Discretionary Council Tax Support Scheme will be reviewed annually.

22.2 Any major changes will be subject to consultation in accordance with best practice.

22.3 The Discretionary Council Tax Support Scheme will be published and available to view on billing authorities' websites.

23.1 The Discretionary Council Tax Support Scheme will have a budget set each financial year for each local authority. This will be set in agreement and consultation with and contribution from major precepting authorities.

23.2 The Discretionary Council Tax Support budget will be regularly monitored and reported as appropriate to Members. Any pressures on the budget will be reported to Members.

## **23. Legislation**

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23.1 Awards under this scheme are made in line with the Local Government Finance Act as outlined below:

- i) Section 13A and 76 Local Government Finance Act 1992 – The award of discretionary discounts.
- ii) Section 4 Local Government Finance Act 1992 - Dwellings may be exempt from Council Tax if they fall within one of the specified classes.
- iii) Section 11 Local Government Finance Act 1992 - The amount of Council Tax payable may be subject to a discount where there is no resident, or all but one of them falls to be disregarded.
- iv) Section 13 Local Government Finance Act 1992 - The amount may be reduced where it is occupied by a disabled person(s).