

Waverley Borough Council

Council Tax

Discretionary Relief

**(Under Section 13A of the Local
Government Finance Act 1992)**

Background

Waverley Borough Council has created a Council Tax Support Scheme (CTSS), to award discounts to customers who are on low incomes. In addition to this Section 13A of the Local Government Finance Act 1992 (as amended by section 76 of the Local Government Act 2003) gives power to a billing authority as follows:

- Where a person is liable to pay council tax in respect of any chargeable dwelling and any day, the billing authority for the area in which the dwelling is situated may reduce the amount which he is liable to pay as respect the dwelling and the day to such extent as it thinks fit.
- The power under subsection (1) above includes 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.

This regulation enables Waverley Borough Council to award council tax discretionary relief on a case-by-case basis, or to specify a class of use. A class of case is where several people who pay council tax fall into a group because their circumstances are similar.

Waverley Borough Council recognises that COVID-19 is likely to cause fluctuations in household incomes and recognises that, as a result, some individuals may struggle to meet council tax payments. In response, and to support its residents, Waverley has extended its council tax hardship policy to include as an eligible property class, any resident experiencing financial hardship as a direct result of Coronavirus. Eligibility will depend on other sources of government financial support having been sought first and this is explained later in the policy.

The purpose of this document is to specify how Waverley Borough Council will administer requests for discretionary relief from payment of council tax from customers experiencing severe financial hardship, and to indicate factors that will be consider when deciding if the relief should be granted.

Guidance for considering requests for discretionary relief under section 13A(1)(c):

1. The principles of Waverley's Section 13A policy are that:
 - it is discretionary and is for a one off temporary period;
 - an applicant does not have a statutory right to a payment;
 - the operation of the scheme is for the Council to determine;
 - if the applicant is dissatisfied with any decision taken on a claim that they have made they can make an appeal by providing further supporting information in line this Policy.
2. The Council has to use its judgment in order to reach a decision as to whether the outstanding balance should be reduced. This must be balanced against its overall duty to all of its council taxpayers. What the Council should not do is consider the application only on the basis of the financial cost to Waverley's council taxpayers and/or from a

purely budget-minded perspective. The Council will need to take into account a range of factors, including the following, when considering an application:

- The level of relief being requested (i.e. whether it is a full- or part-year's council tax or a proportion of a charge);
 - The reason for the request (i.e. the applicant's reasons and circumstances);
 - The period of time requested (i.e. a full or part financial year, or another period); and
 - Steps taken by the application to mitigate the council tax liability (i.e. any other reductions, discounts or benefits applied for).
3. Exceptional circumstances for hardship under the Council Tax legislation will usually be circumstances that are outside the control of the household and beyond normal risks faced by a household. The household must demonstrate that it has done all it can to mitigate those risks and is taking action to minimise them.
 4. There is no definition in the legislation for 'hardship', and as the scheme is aimed at covering unforeseen events it is not possible to list precise criteria. Applications will be accepted on the basis that the applicant or household would suffer exceptional hardship if financial assistance were not given.
 5. There must be evidence of hardship or personal circumstance that justifies relief from council tax liability. The council taxpayer must not have access to financial support, access to financial support from other agencies, assets or savings that could be realised and used to pay council tax.
 6. The Council has a means tested Council Tax Support Scheme which provides support, through a discount, to those deemed to be within financial need. The scheme has been designed to take into account the financial and specific circumstances of individuals through the use of applicable amounts, premiums and income disregards.
 7. The Council will consider requests for assistance from council taxpayers who, through no fault of their own, have experienced a crisis or an event that has made their property uninhabitable e.g. due to fire or flooding.
 8. The Council will consider requests from council taxpayers for relief from their liability based on other circumstances, not specifically mentioned within this document. However, the Council must be of the opinion that the circumstances relating to the application warrant relief from their liability for council tax having regard to the effect on other council taxpayers.
 9. Relief will only be granted in exceptional circumstances and after other eligible discounts, reliefs, exemptions, Discretionary Housing Payments, Valuation Office/Valuation Tribunal action or appeals have been considered.
 10. In awarding relief, the Council must give consideration to achieving the following:
 - Protecting the public purse and maintaining financial budgets
 - Helping residents to help themselves
 - Minimise any increase in council tax for other resident taxpayers

11. The Council must consider the likely effect on other council taxpayers, financial or otherwise, and whether it will be likely that the majority of local residents would, on the balance of probabilities, consider the Council's decision to be reasonable.
12. An application for discretionary relief under section 13A(1)(c) will be considered in the first instance by the Revenues and Benefit Team Leaders and Manager.

How to Claim a discretionary relief

13. Requests for relief from council tax liability should be made in writing by the customer claiming the relief, or a party authorised by the applicant. Where an application in writing is not possible the Council will consider alternative forms of application.
14. The request must set out the circumstances upon which the application is based and any hardship or personal circumstances concerning why the relief is required.
15. Details of the applicant's financial circumstances are required. Evidence can include, but is not limited to, household income and expenditure details (using an Income and Expenditure form such as the National Debt Line budget form), utility and household bills.
16. Evidence may be requested that is relevant to the application (e.g. income and expenditure details, evidence of illness). No costs will be borne by the Authority in the provision of this evidence.
17. Where information or evidence requested has not been received within 21 days the Council will determine the application on the basis of the evidence and information on its possession. The Council may refuse to award relief where lack of this information and evidence does not enable the Council to reach an informed decision regarding the applicant's circumstances.

Payment of a Section 13A Award

18. All relief awards will be made by crediting the award value to the council tax account to which it applies.

Notification

19. The Council will notify the applicant in writing of the outcome of their request. Where the request for a Section 13A Relief award is unsuccessful or not met in full the Council will explain the reasons why the decision was made, and explain the applicant's right of appeal.

The Right to Appeal

20. Section 13A relief awards are administered under the Local Government Finance Act 1992. Any appeals against a decision to refuse an award or about the amount of any award made will be administered in accordance with the following process:

- An applicant (or their representative) who wants an explanation of a Section 13A relief application decision may request one in writing within one calendar month of notification of the decision;
- An applicant (or their representative) who disagrees with a decision may appeal the decision;
- Any appeal must be made in writing within one calendar month of the original decision being notified to the applicant or, if requested, within one calendar month of the written reasons being notified to the applicant, whichever is the later;
- Where possible the Council will try to resolve the matter by explaining the reasons for the decision to the applicant or their representative either verbally or in writing;
- Where agreement cannot be reached, the Head of Finance will review the decision. The review will be suspended if more information is needed from the applicant;
- The applicant will have one calendar month to respond to the request for further information, thereafter the review will be undertaken on the information held;

21. Where a council tax payer disagrees with the Council's refusal to abide by its own resolution to award relief regarding a specific class, further appeal may be made to the Valuation Tribunal.

22. The Valuation Tribunal will look at the Authority's policy and the decision against that policy. If the policy is reasonable and the decision follows the policy then the Tribunal will not look into the merits of the decision. In these instances, the Valuation Tribunal's opinion is that the council tax payer should make an application before the High Court for a judicial review.