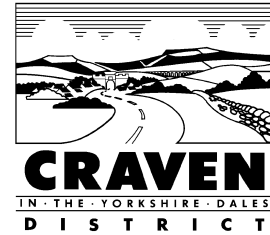


Policy Committee – 3rd November 2015

Council Tax Liability Discretionary Powers Policy



Report of the Corporate Head – Business Support

Presenting Officer – Revenues and Benefits Manager

Ward(s) affected: All

- 1 Purpose of Report** – To introduce a discretionary scheme to reduce the amount of Council Tax a person is liable to pay if the qualifying criteria of the scheme are met.
- 2. Recommendations** – Members are recommended to:-
 - 2.1 Approve the introduction of a scheme permitting discretionary reductions Of Council Tax under 13A (1)(c) of the Local Government Finance Act (LGFA), with immediate effect.
 - 2.2 Give delegated authority to the Corporate Head – Business Support to make ongoing adjustments to the scheme in future years.
 - 2.3 Approve financial provision within the contingency fund amounting to £2,000.
- 3 Background**
 - 3.1 Support for Council Tax became a local authority responsibility from April 2013 and the authority has its own means tested Council Tax Reduction Scheme (CTRS) which is approved by members.
 - 3.2 There are a small number of unusual or exception circumstances where the CTRS does not, on its own, provide an appropriate level of financial assistance. The LGFA, under section 13A (1) (c), gives an authority the discretion to reduce a person's Council Tax liability. This discretion is in addition to the permitted exemptions and discounts including CTRS.
 - 3.3 Relevant case law is SC and CW v East Riding of Yorkshire Council which was heard in 2014. In this decision the President of the Valuation Tribunal confirms that authorities should have a scheme /policy under section 13A (1) (c) and although each case is judged on its individual merits a Tribunal should be slow to interfere if decisions made comply with the scheme. If no scheme exists the Tribunal may effectively introduce and apply its own discretion to make a reduction in Council Tax.

- 3.4 It is envisaged that the number of awards made under this scheme will be few in number and normally of relatively small amounts. The provision of a fund of £2,000 should be sufficient.

4 Caseload and expenditure

- 4.1 In year 2014/15 only 1 award amounting to £285.46 was made under section 13A(1)(c).
- 4.2 As welfare reform continues it is anticipated that there will be an increase in requests for reductions under section 13A(1)(c). A modest provision for funding should cater for any increased demand and protect the authority against the potential for appeals to and awards made by the Valuation Tribunal.

5 Impact of the changes

Minimal financial impact for the authority however it ensures further protections for the most financially vulnerable in the Craven District.

6 Future changes beyond 2016/17

It is anticipated that only minor changes to the scheme will be required.

7 Financial and Value for Money (vfm) Implications

A modest provision for funding should cater for any increased demand to protect the authority against the potential for appeals and awards made by the Valuation Tribunal. The authorisation of use of this discretion is a much cheaper option than having the matter appealed to a Tribunal.

8 Legal Implications

Ensures compliance with existing caselaw and reduces the potential for future legal challenges.

8 Contribution to Council Priorities

Contributes to to achieving the Councils Financial Resilience priority.

10 Risk Management – Highlighted within the report.

11 Equality Analysis – Completed, there are no equality issues.

12 Consultations with Others – Strategic Manager- Financial Services & Solicitor to the Council & Monitoring Officer.

**13. Author of the Report – David Carré – Revenues and Benefits Manager
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14. **Appendix 1 – Discretionary Powers Policy**

Note : Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

Applications For Discretionary Reductions Of Council Tax under 13A(1)(c)

The Billing Authority has discretion under section 13A Local Government Finance Act 1992 (as amended) which states:

13A 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 (see subsection (2));

(b)in the case of a dwelling situated in the area of a billing authority in Wales, is to be reduced to the extent, if any, required by any council tax reduction scheme made under regulations under subsection (4) that applies to that dwelling;

(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.

1) Qualification criteria.

a) Applications for reductions made purely on financial grounds must first be made and administered under the Council Tax Reduction Scheme (as permitted under 13A(1)(a)).

b) The Billing Authority does not accept that the provision of the Council Tax Reduction Scheme and the liability for payment of council tax that arises as a consequence of this is of itself a justification for a further reduction under 13A(1)(c).

c) Applications will only be considered in cases where a set of circumstances exist that have arisen through no fault of the council tax payer(s), whether through their actions or inactions. Additionally the council tax payer(s) must have exhausted all other available avenues that are open to them to avoid or mitigate the situation.

d) A reduction will not be granted where any amount is outstanding as a result of wilful refusal or culpable neglect on the part of the council tax payer.

e) Applications will not be accepted from any person(s) who are excluded from applying for or do not qualify for a Council Tax Reduction as specified in the current Council Tax Reduction Scheme operated by Craven District.

2) Application process.

Applications must be made in writing to the Revenues and Benefits Service and must provide adequate reasons for making the application. The application must be signed by all liable parties and provide all relevant evidence.

The Billing Authority reserves the right to request any evidence that is relevant to the application. Such evidence must be supplied within 21 days of a written request being made. Failure to return the evidence within the required time period will result in the refusal of the application.

Individual council tax payers or multiple council tax payers may make multiple applications relating to different council tax liabilities which will be determined in accordance with this policy. The Billing Authority will however make determinations on a case by case basis and does not accept that determinations made in other cases set a precedent which will then apply to different or subsequent applications.

Multiple requests for determinations in respect of the same council tax liability may not be made where a previous application has been refused unless there has been a substantial change to the council tax payers' circumstances. A further application may be made in respect of council tax liabilities arising from that date forward.

3) Time Limitations

Applications will only be considered in respect of charges arising for the financial year in which the application has been made, other than where a liability to pay in previous years has arisen within the three months prior to the application being made. In such cases the full period of the new charges may be considered in the application. Any assistance granted to applicants under 13A1(c) will be for a period that does not exceed the financial year within which it is requested but can be for a shorter period. A new application must be submitted for charges arising in each subsequent year.

4) Determination process and limitations

In determining requests for reductions under this policy the Billing Authority will consider all of the circumstances that gave rise to the balance(s).

As part of the process an income, capital and essential expenditure analysis will take place. If there is capacity to pay the outstanding amount the request will be refused. No capacity to make payment does not guarantee an award, this is because it is one of several factors to consider. Awards of Disability Living Allowance and Attendance Allowance are disregarded as income and capital.

Cases where the charge has arisen as a result of the Billing Authority correcting assumptions that have arisen as a result of the council tax payer supplying misleading or fraudulent information will be refused. Where a reduction has been allowed under this policy and it is later found that false or misleading statements have been made, then the Billing Authority reserves the right to remove the allowance either in part or whole.

Where the Billing Authority suggests an alternative recourse to the council tax payer(s) the determination may be held pending the outcome of such enquiries upon the part of the council tax payer. Where such a course of action means that the final determination is made in a different financial year to the application being made, then the Billing Authority will in such cases consider the application as being validly made for both financial years, but reserves the right to make differing determinations in respect of each year dependant upon whether the time spans involved could have allowed the council tax payer to make alternative arrangements to discharge their council tax liability.

The Billing Authority reserves the right to create a class of case for which the liability will be reduced only at the Council's behest; as such this policy does not cover requests in such cases as they will be refused.

It is the intention that this discretion will be used to provide a temporary relief and therefore applications made in subsequent years based upon the same circumstances may be refused.

Determinations made under this policy can only be made by the Revenues and Benefits Manager and Team Leader.

5) Notification of Determinations

All determinations will be notified in writing and provide an explanation of why the determination has been made.

6) Disputes

If a council tax payer feels that the Billing Authority's decision is incorrect they can request a review of the decision. This must be requested within 1 month of the determination being notified. Such reviews will be carried out by the Revenues and Benefits Manager or Team Leader and will be a different officer to the one who made the decision.

The Valuation Tribunal England (VTE) will accept Appeals against 13A(1)(c) decisions and apply judicial review principles to the dispute (VTE/PSA11:22 May