MALDON DISTRICT COUNCIL

Maldon District Council
Council Tax
S13A (1) (c) Local Government Act 1992 Policy

Document Control Sheet

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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 the reduce 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 two main areas namely:

(a) **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;
(b) **Care Leavers** - this part of the policy covers the situations where Care Leavers have their sole or main residence in a dwelling are liable for Council Tax; 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) 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)in the case of a dwelling situated in the area of a billing authority in Wales, ……

(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 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 Flood Recovery Framework

4.1 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.

4.2 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.

4.3 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?

4.4 Where the Council Tax Discount 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.

4.5 Second homes and empty homes will **not** be eligible.

4.6 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.

4.7 It will be for the Council to determine eligibility under the scheme.

Properties affected by multiple instances of flooding

4.8 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.

4.9 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

4.10 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

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

5.0 Care Leavers

5.1 The purpose of this part of the policy is to ensure that a care leaver living alone or solely with other care leavers will pay no Council Tax (in much the same way as the exemption which is applied to students).

5.2 A care leaver who joins a household which already pays Council Tax will be granted as much relief as is required to ensure that the existing council tax

liability does not increase as a result of their presence in the household.

5.3 This policy utilises the discretionary power available to billing authorities arising from S13A(1)(c) of the Local Government Finance Act 1992 to reduce, or further reduce, the amount of Council Tax a care leaver is liable to pay with effect from 1 April 2020. The level of discount will be decided by the council.

5.3 For the purpose of this policy, a 'care leaver' is defined as:

A person aged up to 21, who has either:

(a) been looked after by Essex County Council for at least 13 weeks since the age of 14; and who was looked after by the local authority at school-leaving age or after that date; or
(b) who is entitled to leaving care support from Essex County Council

The Children Act 1989 defines the categories of children entitled to leaving care support as:
'Eligible children' are those young people aged 16-17 who are still in care and have been 'looked after' for a total of 13 weeks from the age of 14 and including their 16th birthday;
'Relevant children' are those young people aged 16 and 17 who have already left care, and who were 'looked after' for at least 13 weeks from the age of 14 and have been 'looked after' at some time while they were 16 or 17;
'Former relevant children' are those young people aged 18, 19 or 20 who have been eligible and/or relevant.

5.4 For the purpose of calculating the amount of discretionary council tax reduction to apply, care leavers and those in their household are required to take steps to minimise their liability for Council Tax by claiming discounts, exemptions and Council Tax reduction.

5.5 After all discounts, exemptions and council tax reduction have been claimed the Council will reduce the Council Tax liability so that the liability of the household is the same that it would have been had the care leaver been a 'disregarded persons' (such as students) as detailed in s11 and Schedule 1 of the Local Government Finance Act 1992
For example:
A care leaver joining an existing household with a single person discount in place will be given sufficient discretionary relief to ensure that the Council Tax liability does not increase as a result of their presence.

5.6 A household where only care leavers are liable to pay Council Tax will be given sufficient discretionary relief to extinguish the Council Tax liability completely.

5.7 A care leaver in a property, which would otherwise be exempt from Council Tax, will be given sufficient discretionary relief to ensure that no council tax continues to be payable.

5.8 The care leaver will be required to provide adequate information to enable the Council to determine eligibility.

5.9 The discount will be applied from the date that the liability commences and will continues until the liability ends or the care leaver reaches the age of 21. Bills will be sent to confirm any reduction applied.

5.10 The policy will take effect from 1 April 2020 and the cost will be monitored throughout each financial year. Reimbursement of ECC's share of the cost will take place in arrears as agreed by an amendment to the existing Council Tax Sharing agreement, which has been in place since 2013-14.

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 within the Central Government sponsored scheme specified 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 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 Service, Revenues and Benefits 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, 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 A member of the Service Leadership Team 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.