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|   | Title: Torbay Council |

Torbay Council

Council Tax

Exceptional Hardship & Discretionary Reductions Policy

S13A(1)(c) Local Government Finance Act 1992

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| 0.1 | February 2024 |  1st Draft - Full review |

**1. Introduction**

Section 13A(1)(c) of the Local Government Finance Act 1992 (amended), provides the Council with additional discretionary powers to reduce the Council Tax liability where national discounts and exemptions cannot be applied.

This policy sets out guidelines for the factors to be considered in determining an application, the criteria that needs to be met and the type of information to be provided when a Council Taxpayer applies for a reduction in their Council Tax.

Council Tax legislation provides a wide range of discounts, exemptions and reductions that have the effect of reducing the level of Council Tax due. Applicants will be expected to have exhausted all other options before making an application under this policy. Similarly, it will also be considered whether alternative actions could have been undertaken when applying this policy.

The Council recognises the importance of protecting our most vulnerable customers from the impact of changes to our Council Tax Reduction Scheme. This policy has been created to ensure that a level of protection and support is available to those applicants most in need. It is available to council tax payers who are in receipt of Council Tax Reduction, or who would be but for changes made to the qualifying criteria for Council Tax Reduction and are experiencing exceptional financial hardship.

This policy is divided into the following categories:

1. **Council Tax Exceptional Hardship Fund** - available to Council Tax payers receiving Council Tax reduction who are facing severe financial hardship, and the level of support does not meet their full Council Tax liability. It is available to cover all or part of any shortfall between Council Tax liability and entitlement under Torbay Councils Council Tax Reduction Scheme.

Households receiving less support in 2024/25 due to the implementation of the banded Council Tax discount scheme are eligible to apply for the Council Tax Exceptional Hardship Fund.

1. **Discretionary Reduction** - available to Council Tax payers not receiving Council Tax Reduction where exceptional circumstances or a crisis applies and justifies a reduction in their Council Tax liability for a temporary period.

In 2024/25 this will include households that were eligible for Council Tax Support on the 31 March 2024, but, due to the household income and circumstances no longer qualify for the working age Council Tax reduction scheme.

1. **Other** **Government Initiatives** - currently applies to the Flood Recovery Framework.

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

The order of discounts will be maintained in line with the Local Government Finance Act; therefore, the maximum Exceptional Hardship or Discretionary Reduction that can be claimed for will be net of other discounts and reductions already awarded.

Awards will have a defined start and end date. This information will be provided to the applicant or household when the decision is made.

Awards will be a one-off payment that will be credited directly to the applicant or households/liable persons’ Council Tax account to reduce the outstanding balance. This will be detailed when a decision is made.

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 seek to recover any overpayment of award. In instances of proven fraudulent activity, the authority will seek to recover in all cases.

**2. Objectives**

This policy supports the Torbay Councils mission to turn the tide on poverty.

It supports residents’ health and wellbeing by delivering the following outcomes:

* A safety net to protect our most vulnerable Council Taxpayers who need additional financial assistance.
* Enables support to be given to Council Taxpayers who are in financial or other crisis where no other legislative discounts or reliefs exist.
* Helps Council Taxpayers through personal crisis, difficult events, or where there are exceptional circumstances which impacts on their ability to pay.
* Helps prevent exceptional hardship
* Helps alleviate poverty

**3. Vulnerable Groups**

Although all applications will be considered on its own merits, the following have been deemed as vulnerable groups-

* A household with a claimant, partner or dependent child in receipt of any component of Disability Living Allowance (DLA), or Personal Independence Payments (PIP)
* A household where a disabled adult is living in supported living accommodation, who have carers and are who unable to work due to their health.
* Where the applicant, or applicant’s partner, is in receipt of Employment Support Allowance (ESA) with a Limited capability for work component or the equivalent component in Universal Credit
* Where the applicant, or applicant’s partner, is a care leaver up to the age of 25 years (care leavers previously looked after by Torbay are exempt from Council Tax)
* Where the applicant, or applicant’s partner, is deemed vulnerable through drug or alcohol dependency who are attending a rehabilitation program.
* The applicant or household has suffered domestic violence and is being supported by accredited local schemes to move into permanent accommodation.
* Where the applicant or household is a foster carer and has current foster child placements or is in between placements.
* Where the applicant or household has dependent children under the age of 5 and is in receipt of Income Support or Universal Credit
* Applicants or households who provide care who are single or a couple, and have no other income (other than Income Support or the equivalent Universal Credit), where they are in receipt of Carer’s Allowance
* Where the applicant or household has parental care responsibility for non-resident children.
* Where 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.

**4. Council Tax Exceptional Hardship**

The Exceptional Hardship scheme gives the Council the discretion to provide reductions in Council Tax under the policy, of up to 100% of the remaining Council Tax liability after Council Tax Reduction has been granted.

Exceptional Hardship applications will also be considered for households who would, but for the Minimum Income Floor for self-employed persons, be entitled to Council Tax Reduction.

The fund has financial limitations and, as such, awards can only be made based on eligibility, whilst having regard to the level of funding available or remaining within the Exceptional Hardship Scheme each financial year.

In 2024/2025 the value of the fund will be £100,000. This is an increase of £20,000 from 2023/2024 to reflect the potential additional demand for financial support due to the implementation of the Working Age Council Tax Reduction Scheme and ongoing cost of living crisis. Once available funds have been exhausted from the fund, no further awards will be made until the next financial year.

**5. Council Tax Discretionary Reduction**

The Council will consider requests for a Discretionary Reduction from Council Tax payers who are not in receipt of Council Tax Reduction and have experienced a personal crisis that justifies a reduction in the Council Tax liability. This reduction will only be awarded for a temporary period.

All eligible exemptions/discounts/reductions should have been obtained before making an application for a Discretionary Reduction.

Applications must be made in writing or online detailing the circumstances of why a Discretionary Reduction is required, and specifying when the situation is expected to be resolved.

The financial status of the applicant will be assessed and where necessary the Council Tax payer will be signposted to a debt advisory group to re-prioritise other debts. Council Tax is a priority debt and when considering financial circumstances, the Council may not take into account non-priority debts.

**6. How to Apply**

The applicant must be the person liable to pay the Council Tax or be their representative with authority to act on their behalf e.g. Power of Attorney.

Applications should be made in writing or online using the application form.

Details of how to apply, the application form and other information is available on our website - [www.torbay.gov.uk/benefits/other-help/ctdr/](http://www.torbay.gov.uk/benefits/other-help/ctdr/)

If an applicant or household needs advice and support to complete a claim form, you will be signposted to an appropriate service that offers support relevant to the needs of the applicant or household. Where this is not possible, we can arrange for someone to visit you to complete an application.

The applicant must set out the reasons for applying, including explaining any special circumstances or hardship being experienced.

Claims can also be made by a referral process – see section 10 - Referrals from other organisations.

**7. Information Required**

Evidence will be required to support an application for Exceptional Hardship or Discretionary Reduction.

Evidence can include, but is not limited to:

* Supporting evidence may be requested such as utility bills, and other debts.
* 2 months bank statements.
* Evidence of seeking debt advice, if appropriate.
* Where a person is self-employed or a Director of a private limited company details of their business including business accounts must be supplied.

Failure to provide supporting information and evidence that is requested will lead to a refusal.

Where the Council requires additional information or evidence it will write to the applicant requesting the information is supplied within 2 weeks.

The applicant is required to report any changes in their circumstances or of the circumstances of household members immediately in writing to the Council. Failure to report changes may lead to a loss of Exceptional Hardship, which will be recoverable from the Council Tax account.

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**8. Awarding Exceptional Hardship and Discretionary Reductions**

Applicants will need to be able to demonstrate their circumstances and that they have exhausted all other sources of income that are available to them.

Where appropriate, the Council will refer the applicant or members of their household to obtain money and debt advice. At the discretion of the Council awards may not be made to applicants who have not sought advice where it has been recommended.

When considering an application on financial grounds, the Council Tax payer will be required to provide details of household income and expenditure, savings, capital, debts, etc.

When considering an application, the following factors will be considered:

* Evidence of financial hardship or unforeseen, exceptional circumstances to justify any reduction.
* The personal circumstances, age and medical circumstances (including ill health and disabilities) of the applicant, their partner any dependants and any other occupants of the applicant’s home.
* The difficulty experienced by the applicant, which prohibits them from being able to meet their Council Tax liability, and the length of time this difficulty will exist.
* Household income and expenditure
* The possibility of changing payment methods, re-profiling Council Tax instalments or setting alternative payment arrangements to make them more affordable.
* The willingness to accept assistance either through a third party, such as; Citizens Advice or similar organisations, to enable them to manage their finances more effectively.
* The Council Taxpayer has taken all reasonable steps to resolve their situation prior to making an application, including alternative lines of affordable credit and benefits, discounts and exemptions.
* Whether they have applied for Council Tax Reduction. This scheme exists to ensure low-income households receive financial assistance with their Council Tax.
* Whether non-essential contracts have been cancelled and outgoings for the supply of utilities and services generally are the most economical available.
* Whether the Council Taxpayer has access to other funds/assets that could be used to pay Council Tax.
* Whether other legitimate means of resolving the situation have been investigated and exhausted by the applicant.
* Whether a crisis or event has occurred that has rendered accommodation uninhabitable such as fire or flood, where a liability to pay Council Tax remains in respect of that accommodation and for which they have no recourse to compensation nor to any statutory exemptions or discounts or where the crisis or event is not covered by any insurance policy.
* Whether the relief sought applies to their primary home or other property.

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.

In assessing basic and essential needs the applicant’s age, health and status will be taken into consideration. Expenditure which does not relate to basic and essential needs, or which appears to be excessive will not normally be taken into account when assessing hardship.

**9. Notification of an Award**

The Council will notify the outcome of an application for Exceptional Hardship or Discretionary Award in writing. The notification will include:

1. The amount of the award (if any)
2. The period of the award (if any)
3. Provide details of how to appeal or obtain more information about the decision

On providing all satisfactory requested information, a decision will be made, where practicable, within 14 working days.

**10. Referrals from Other Organisations**

The Council will accept referrals from:

* Torbay Council Children’s Services Team
* Registered Social Landlords
* Torbay Council’s Housing Needs department
* Third sector organisations i.e. Citizens Advice

The approved referral form should be completed and returned to the Council.

**11. Backdating**

Ordinarily, an award will only be considered for the Council Tax payable for the financial year in which the application is made.

Applications for Exceptional Hardship or Discretionary Reduction may be backdated from the date the written application is received, where good cause exists.

**12. Paying Awards**

Awards will be credited directly to the applicant or households/liable persons’ Council Tax account. This will have the effect of reducing the Council Tax liability.

Taxpayers may find that the award does not reduce their Council Tax to zero. If taxpayers have Council Tax to pay, they should contact the Council’s debt recovery section as early as possible and make arrangements to pay the sum due.

**13. Recovery of Overpaid Exceptional Hardship and Discretionary Reductions**

The Council may recover overpaid Exceptional Hardship or Discretionary Reduction by removing the payment from the Council Tax account, increasing the amount of Council Tax due and payable.

**14. Appeals**

Exceptional Hardship and Discretionary Reductions are granted under S13A (1a) of the Local Government Finance Act 1992 as part of the Council Tax Reduction scheme, as such the normal Council Tax appeal process applies.

If an applicant disagrees with the outcome of their application they should in the first instance ask the Council to look at the decision again (carry out a reconsideration). If the applicant remains unhappy following the Council’s reconsideration they then have the right to make an appeal direct to the Valuation Tribunal.

 Reconsideration requests must be:

* Be submitted in writing or online at https://forms.torbay.gov.uk/ContactBenefits, or by email;
* Received at the Council offices within one calendar month of the date of the decision notice;
* Outline the grounds for appeal.

The Council will write to the applicant once the decision has been reviewed and will explain:

1. The amount of the award (if any);
2. The period of the award (if any);
3. Provide details of how the award (if any) will be made;
4. Provide a summary of the factors considered in reaching the decision and reasons for the decision.

If we do not respond to a reconsideration request within two months you can appeal directly to the Valuation Tribunal.

**15. Legislative Framework**

The following legislation and regulations are relevant to this document:

* The Local Government Finance Act 2012 Section 13A(1)(a) and 13A(1)(c)
* The Local Government Act 2003 Section 31
* The Local Government Act 1992 Section 13A(2)
* Child Poverty Act 2010
* Equality Act 2010 (incorporating the Disabled Persons Act 1986)
* Housing Act 1996
* Armed Forces Covenant
* The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012
* The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 Default Scheme
* Social Security Act 1992

**16. Other Government Initiatives**

This category currently covers the [Flood Recovery Framework](https://www.gov.uk/government/publications/flood-recovery-framework-guidance-for-local-authorities-in-england). In a severe weather event with significant wide area impacts a core package of support has been developed by the Government for flood recovery funding.

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.

**17. Equalities**

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, age, religion or belief, sexual orientation, marital or civil partnership status and/or disability in line with the principles set out in the Equalities Act 2010.

**18. Fraud**

The Council is committed to protect public funds and ensure funds are paid to the people who are rightfully eligible to them.

An applicant who fraudulently applies for Exceptional Hardship or Discretionary Reduction by falsely declaring their circumstances or by providing a false statement or evidence in support of their application, may have committed an offence under the Fraud Act 2006.

Where the Council suspects that such an offence may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

**19. Data Sharing**

The Council may use any evidence and information supplied to it when applying for Exceptional Hardship or Discretionary Reduction to check the eligibility of the applicant in respect of this scheme or any other welfare benefit, discounts or exemptions.

The Council takes part in data matching exercises 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.

**20. Policy Review**

The Exceptional Hardship and Discretionary Reduction Policy will be reviewed annually. However, a review may take place earlier should there be any significant changes in legislation or Council policy.

This policy will be published and available to view on the Council’s website.