



**Tonbridge & Malling Borough Council**  
**Exceptional Hardship Policy**  
**S13A (1) (a) Local Government Finance Act**  
**1992**

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## 1.0 Background

- 1.1 This Exceptional Hardship Policy has been created by the Council to assist persons who have applied for Council Tax Reduction and who are facing 'exceptional hardship'. This is to provide further assistance where an applicant is in receipt of Council Tax Reduction but the level of support being paid by the Council does not meet their full Council Tax liability.
- 1.2 Additional support *may* be available to any applicant where their daily award of Council Tax Reduction does not meet 100% of their Council Tax liability (less any appropriate discounts and non-dependant deductions).
- 1.3 The main features of the policy are as follows:
- The operation of the policy will be at the total discretion of the Council;
  - The policy will be operated by the Revenues and Benefits section on behalf of the Council;
  - Exceptional Hardship falls within **S13A 1 A** of the Local Government Finance Act 1992 and forms part of the Council Tax Reduction scheme;
  - Exceptional Hardship payments will only be available from 1<sup>st</sup> April 2020 and **will not be available for any other debt other than outstanding Council Tax**;
  - A pre-requisite to receive a payment is that an application for Council Tax Reduction has been made;
  - Where an Exceptional Hardship Payment is requested for a previous period, Exceptional Hardship must have been proven to have existed throughout the whole of the period requested;
  - Exceptional Hardship Payments are designed as a short-term help to the applicant only and it is expected that payments will be made for a short term only; and
  - All applicants will be expected to engage with the Council and undertake the full application process. Failure to do so will inevitably mean that no payment will be made.

## 2.0 Exceptional Hardship and Equalities

- 2.1 The creation of an Exceptional Hardship Policy facility meets the Council's obligations under the Equality Act 2010.
- 2.2 The Council recognises the importance of protecting our most vulnerable customers and also the impact the changes imposed by the removal of Council Tax Benefit by Central Government. This policy has been created to ensure that a level of protection and support is available to those applicants most in need. It should be noted that an Exceptional Hardship Policy is intended to help in cases of **extreme** financial hardship and not support a lifestyle or lifestyle choice.
- 2.3 Whilst the definition 'Exceptional Hardship' is not exactly defined by this policy, it is accepted that changes to the level of support generally will cause financial hardship and any payment made will be at the total discretion of the Council. Exceptional Hardship should be considered as 'hardship beyond that which would normally be suffered'

### **3.0 Purpose of this policy**

- 3.1 The purpose of this policy is to specify how the Council will operate the scheme, to detail the application process and indicate a number of factors, which will be considered when deciding if an Exceptional Hardship payment can be made.
- 3.2 Each case will be treated on its own merits and all applicants will be treated fairly and equally. All applicants will be expected to follow the process (as far as possible) with Section 4 of this policy

### **4.0 The Exceptional Hardship Process**

- 4.1 As part of the process of applying for additional support, all applicants must be willing to undertake **all** of the following:
- (a) Make a separate application for assistance;
  - (b) Provide full details of their income and expenditure;
  - (c) Where a person is self-employed or a director of a private limited company, details of their business including business accounts must be supplied;
  - (d) Accept assistance from either the Council or third parties such as the CAB or similar organisations to enable them to manage their finances more effectively including the termination of non-essential expenditure;
  - (e) Identify potential changes in payment methods and arrangements to assist the applicant;
  - (f) Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted; and
  - (g) Maximise their income through the application for other welfare benefits, cancellation of non-essential contracts and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.
- 4.2 Through the operation of this policy, the Council will look to
- (a) Allow a short period of time for someone to adjust to unforeseen short-term circumstances and to enable them to "bridge the gap" during this time, whilst the applicant seeks alternative solutions;
  - (b) Enable long term support to households in managing their finances;
  - (c) Help applicants through personal crises and difficult events that affect their finances;
  - (d) Prevent exceptional hardship;
  - (e) Help those applicants who are trying to help themselves financially; and
  - (f) Encourage and support people to obtain and sustain employment.
- 4.3 It cannot be awarded for the following circumstances:
- (a) Where the full Council Tax liability is being met by Council Tax Reduction;

- (b) For any other reason, other than to reduce Council Tax liability;
- (c) Where the Council considers that there are unnecessary expenses/debts etc and that the applicant has not taken reasonable steps to reduce these;
- (d) To pay for any arrears of Council Tax Reduction caused through the failure of the applicant to notify changes in circumstances in a timely manner or where the applicant has failed to act correctly or honestly; or
- (e) To cover previous years Council Tax arrears

## **5.0 Awarding an Exceptional Hardship Payment**

5.1 The Council will decide whether or not to make an Exceptional Hardship award, and how much any award might be.

5.2 When making this decision the Council will consider:

- The shortfall between Council Tax Reduction and Council Tax liability;
- Whether the applicant has engaged with the Exceptional Hardship process;
- 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;
- The income and expenditure of the applicant, their partner and any dependants or other occupants of the applicant's home;
- How reasonable expenditure exceeds income;
- In the case of a self-employed applicant, whether they are in gainful employment;
- All income received by the applicant, their partner and any member of their household irrespective of whether the income may fall to be disregarded under the Council Tax Reduction scheme;
- Any savings or capital that might be held by the applicant, their partner and any member of their household irrespective of whether the capital may fall to be disregarded under the Council Tax Reduction scheme;
- Other debts outstanding for the applicant and their partner;
- The exceptional nature of the applicant and/or their family's circumstances that impact on finances; and
- The length of time they have lived in the property;

5.3 The above list is not exhaustive and other relevant factors and special circumstances will be considered.

5.4 An award of Exceptional Hardship does not guarantee that a further award will be made at a later date, even if the applicant's circumstances have not changed.

- 5.5 An Exceptional Hardship payment may be less than the difference between the Council Tax liability and the amount of Council Tax Reduction paid. The level of payment may be nil if the authority feels that, in its opinion, the applicant is not suffering 'exceptional hardship' or where the applicant has failed to comply with the Exceptional Hardship process.

## **6.0 Publicity**

- 6.1 The Council will make a copy of this policy available for inspection and will be published on the Council's website.

## **7.0 Claiming an Exceptional Hardship payment**

- 7.1 An applicant must make a claim for an Exceptional Hardship award by submitting an application to the Council. The application form can be obtained via the telephone, in person at one of the Council offices and/or via the Council's website.
- 7.2 Applicants can get assistance with the completion of the form from the Revenues and Benefits Service or Customer Services at the Council.
- 7.3 The application form must be fully completed and supporting information or evidence provided, as reasonably requested by the Council. The form must be returned within one calendar month of its issue.
- 7.4 In most cases, the person who claims the Exceptional Hardship award will be the person entitled to Council Tax Reduction. However, a claim can be accepted from someone acting on another's behalf, such as an appointee, if it is considered reasonable.

## **8.0 Changes in circumstances**

- 8.1 The Council may revise an award where the applicant's circumstances have changed which either increases or reduces their Council Tax Reduction entitlement.

## **9.0 Duties of the applicant and the applicant's household**

- 9.1 A person claiming an Exceptional Hardship payment is required to:
- (a) Provide the Council with such information as it may require to make a decision;
  - (b) Tell the Council of any changes in circumstances that may be relevant to their ongoing claim;
- and

- (c) Provide the Council with such other information as it may require in connection with their claim.

## **10.0 The award and duration of an Exceptional Hardship Payment**

- 10.1 Both the amount and the duration of the award are determined at the discretion of the Council and will be done so on the basis of the evidence supplied and the circumstances of the claim.
- 10.2 The start date of such a payment and the duration of any payment will be determined by the Council. In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

## **11.0 Payment**

- 11.0 Any Exceptional Hardship payment will be made direct onto the customer's Council Tax account, thereby reducing the amount of Council Tax payable.

## **12.0 Overpaid Exceptional Hardship Payments**

- 12.1 Any Exceptional Hardship payment which is considered to be paid incorrectly or under any misrepresentation will generally be recovered directly from the applicant's council tax account, thus increasing the amount of council tax due and payable.

## **13.0 Notification of an award**

- 13.1 The Council will notify the outcome of each application for Exceptional Hardship payment.

## **14.0 Exceptional Hardship and the relationship with applications for a reduction in liability (S13A(1)(c)).**

- 14.1 Any application for additional support under the Council's Exceptional Hardship scheme shall not prevent an application for a reduction in liability under S13A(1)(c) of the Local Government Finance Act 1992.
- 14.1 Where an applicant for Council Tax Reduction makes an application for both Exceptional Hardship **and** a reduction in liability under S13A(1)(c), then the Exceptional Hardship application shall be considered first, followed by the application for a reduction in liability if required.
- 14.2 The Council's S13A(1)(c) policy is available on the Council's website.

## **14.0 Appeals**

- 14.1 Exceptional Hardship payments 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 appeals process applies, and an appeal can be made at any time. The initial appeal should be made to the Council who will review any decision. Ultimately any decision can be considered by an independent Valuation Tribunal.

## **15.0 Fraud**

- 15.1 The Council is committed to protect public funds and ensure funds are awarded to the people who are rightfully eligible to them.
- 15.2 An applicant who tries to fraudulently claim an Exceptional Hardship payment by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.
- 15.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

## **16.0 Complaints**

- 16.1 The Council's Complaints Procedure (available on the Council's website) will be applied in the event of any complaint received about this policy.

## **17.0 Policy Review**

- 17.1 This policy will be reviewed on a regular basis and updated annually to ensure it remains fit for purpose. However, a review may take place sooner should there be any significant changes in legislation.