



## **Tonbridge & Malling Borough Council Discretionary Council Tax Energy Rebate Scheme 2022**

## Contents

Contents.....	2
Definitions.....	3
1.0 Purpose of the scheme and background .....	4
2.0 Funding .....	4
3.0 Eligibility criteria and awards.....	4
Effective date .....	5
Alterations to liability or the Council Tax Band.....	5
Eligibility Disputes .....	5
4.0 How the Council Tax Rebate will be paid.....	5
Direct Debit payers.....	5
Where the Council does not hold current a direct debit instruction for an eligible household ...	6
5.0 Provision of information to the Council.....	6
6.0 Scheme of Delegation .....	7
7.0 Notification of Decisions .....	7
8.0 Reviews of Decisions.....	7
9.0 Taxation and the provision of information to Her Majesty's Revenue and Customs (HMRC).....	7
10.0 Managing the risk of fraud.....	7
11.0 Recovery of amounts incorrectly paid .....	8
12.0 Data Protection and use of data .....	8

## Definitions

The following definitions are used within this document:

**‘Chargeable Dwelling’;** means any dwelling that appears on the Council’s Council Tax Valuation List on 1 April 2022;

**‘Council Tax Exemption or Exempt Dwelling’;** means any chargeable dwelling which is determined by the Council as exempt from Council Tax as prescribed by the Council Tax (Exempt Dwellings) Order 1992 as amended;

**‘Council Tax Rebate Scheme or Mandatory Scheme;** means the scheme announced by the Secretary of State for Levelling Up, Housing and Communities on 3 February 2022 as part of a package of support for rising energy costs;

**‘Council Tax Payer or Liable Person’** means the liable person determined by the Council as being responsible for Council Tax under section 6 of the Local Government Finance Act 1992;

**‘Council Tax Reduction (or Support)’** means any entitlement awarded under section 13A 1(A) of the Local Government Finance Act 1992;

**‘Discretionary Scheme or Fund’;** means the scheme determined by the Council in line with the guidance issued by the Department for Levelling Up, Housing and Communities announced on 3 February 2022;

**‘Effective Date ;** means the effective date of this scheme. The effective date shall be the situation as at the end of the day on 1 April 2022

**‘Empty Dwelling (or premises)’** means any dwelling that is not deemed to be the sole or main residence of a person and are substantially unfurnished;

**‘Liability for Owner’;** means any dwelling determined to fall within the Council Tax (Liability for Owners) Regulations 1992, for example, House in Multiple Occupation or Residential Care homes;

**‘Mandatory Scheme’;** means the scheme determined by Government in line with the guidance issued by the Department for Levelling Up, Housing and Communities announced on 3 February 2022;

**‘Second Home’** means any dwelling not deemed to be the sole or main residence of the liable person and which is furnished as defined by the Council Tax (Prescribed Class of Dwellings) (England) Regulations 2003 as amended; and

**‘Sole or main residence’** means the dwelling determined by the Council to be the sole or main residence of a person.

## 1.0 Purpose of the scheme and background.

- 1.1 The purpose of this policy is to determine eligibility for a payment under the Council's Discretionary Council Tax Energy Rebate scheme (the 'Discretionary Scheme').
- 1.2 The scheme has been designed based on general guidance issued by the Secretary of State for Levelling Up, Housing and Communities on 3<sup>rd</sup> February 2022. However, it is separate to the mandatory Council Tax Energy Rebate Scheme which is largely determined by Government
- 1.3 The Council's Discretionary Scheme is part of a package of support for households in respect of rising energy costs.
- 1.4 Government has determined that Councils can decide locally how best to make use of the discretionary funding to provide payments to other households who are energy bill payers but not covered by the mandatory Council Tax Rebate. However, Government has stated that occupants of class M (student halls) are unlikely to be eligible for discretionary support, unless they are exposed to rising energy prices in a similar way to other households and discretionary support should **not** be offered to occupants of property in exemption class O, where the Ministry of Defence will provide cost of living support.

## 2.0 Funding

- 2.1 Government has provided funding to the Council; however, all payments will have to be made prior to the 30 November 2022 which is the deadline for this scheme.

## 3.0 Eligibility criteria and awards

- 3.1 The Council has decided that the payments will be made provided the household has their sole or main residence in a dwelling and the following conditions are met:
  - (a) A single one-off payment of £150 will be awarded to any household who resides in a dwelling with a Council Tax band E to H **and** is in receipt of Council Tax Reduction;
  - (b) A single one-off payment of £150 will be awarded to any household who resides in a dwelling with a Council Tax band F to H **and** is in receipt of a reduction under the Council Tax (Reductions For Disabilities) Regulations 1992 (Disabled Banding Reduction); and
  - (c) A single one-off payment of £150 will be awarded to any household who resides in a dwelling with a Council Tax band E to H **and** is in receipt of either a Council Tax exemption Class U (severely mentally impaired) or a severely mentally impaired person disregard.
- 3.2 Following payments to households identified at 3.1, where funds remain from the Government discretionary allocation, the Council has decided the these will be equally distributed between the following households:
  - (a) Any household who resides in a dwelling **and** is in receipt of Council Tax Reduction;
  - (b) Any household not within (a) above, who resides in a dwelling **and** is in receipt of a reduction under the Council Tax (Reductions For Disabilities) Regulations 1992 (Disabled Banding Reduction); and

(c) Any household not within (a) or (b) above, who resides in a dwelling **and** is in receipt of a Council Tax exemption Class U (severely mentally impaired) or a severely mentally impaired person disregard.

**3.3** For the purpose of the discretionary scheme, a household is a person or group of persons occupying a single dwelling, as defined in section 3 of the Local Government Finance Act 1992. No award will be made for any unoccupied premises or second homes.

### **Effective date**

**3.4** The effective date for this scheme is 1 April 2022. The Council will determine eligibility based on the position at the end of that day.

### **Alterations to liability or the Council Tax Band**

**3.5** Where the Council has reason to believe that the information they hold about the valuation list, liable taxpayer(s) or residents' circumstances in respect of 1 April 2022 is inaccurate, it will withhold the payment and take reasonable steps to determine the correct information.

**3.6** Where records relating to the liable taxpayer(s) or the residents' circumstances in respect of 1 April 2022 are retrospectively updated, the Council will take reasonable steps to either pay the discretionary award or potentially reclaim any payment made.

**3.7** In any case, where the Council Tax band of the chargeable dwelling is amended retrospectively after 1 April 2022, for example where a successful appeal is made to the Valuation Office Agency (VOA) that concluded after this date, the Council is not required either to pay any discretionary award or to reclaim any payment made.

### **Eligibility Disputes**

**3.9** The decision of the Council on any eligibility matter will be final. Should any tax payer feel aggrieved by any decision, then matters will be dealt with through the Council's complaints procedure. Full details are available on the Council's website.

## **4.0 How the Council Tax Rebate will be paid**

**4.1** Where the Council determines that all of the eligibility criteria are met in full, payment will be made to the household as defined within section 3 above. It should be noted that **only one discretionary payment together with any top-up from the remainder of the fund set out at 3.2** will be made per household, regardless of the number of occupants or liable Council Taxpayers.

### **Direct Debit payers**

**4.2** Where the Council holds a current direct debit instruction for a liable Council Taxpayer of an eligible household, payment will be made using the bank account details held. Payments will be made as soon as practicable.

- 4.3** The Council is required to verify that the bank details held are those of the eligible householder and where multiple residents of an eligible household are jointly and severally liable for Council Tax, the full payment will be made to the account for which the direct debit is held only. Payment of the award, however, is for the benefit of the household as a whole.
- 4.4** No payment will be made where the name on the bank details does not match a liable party. Should the Council require additional information in order to establish the correct person to receive the payment, it is expected that the household provides all necessary details as soon as possible. Further details of how this request will be made and responsibilities to supply such information are detailed below.
- 4.5** It should be noted that the award will be paid on the assumption that the person receiving the payment is the liable Council Taxpayer (or would have been if the property were not exempt) and that the property meets the criteria on 1 April 2022 as defined with section 3 above.

**Where the Council does not hold a current direct debit instruction for an eligible household**

- 4.6** Where the Council does not hold a current direct debit instruction for an eligible household, it will make reasonable efforts to contact the household and obtain the necessary bank details.
- 4.7** Where the Council is unsuccessful in contacting the household but where it is of the opinion that the household meets the eligibility criteria, the discretionary award may ultimately be credited to the Council Tax account.
- 4.8** In all cases, the Council must ensure that payments are made correctly and where appropriate, require households to verify that that they are eligible for the payment. Where no such verification can be made or where a household fails to respond to the Council's request, no payment whatsoever shall be made.

## 5.0 Provision of information to the Council

- 5.1** Residents, owners and managing agents should note that the Council has powers available to it under Regulation 3 (1) (c) of the Council Tax (Administration and Enforcement) Regulations 1992, to request such information to determine the correct liable person for Council Tax purposes. Government has stated that these powers may also be used for Council Tax Energy Rebate purposes.
- 5.2** Failure to respond to such a request, without a reasonable excuse, within 21 days could lead to penalties being imposed. The Council therefore encourages all such persons to provide any requested information as soon as possible.

## **6.0 Scheme of Delegation**

- 6.1** The Council has authorised the Director of Finance & Transformation to establish this Scheme in liaison with the Leader, Cabinet Member for Finance and Chief Executive. The Scheme must align to criteria set by Government.
- 6.2** Payments will be limited to the fund provided for these purposes by Government.
- 6.3** Consideration will be given to an appropriate level of contingency for the provision of awards for exceptional circumstances to be paid in agreement with the Director of Finance & Transformation and the Chief Executive.

## **7.0 Notification of Decisions**

- 7.1** All Council Tax Energy Rebate payments shall be made by the Revenues and Benefits Service.
- 7.2** All decisions made shall be notified to the liable person either in writing or by email.

## **8.0 Reviews of Decisions**

- 8.1** The Council will operate an internal review process and will accept a taxpayer's request for a review of its decision.
- 8.2** All such requests must be made in writing to the Council and should state the reasons why the taxpayer is aggrieved with the decision of the Council. New information may be submitted at this stage to support the taxpayer's review
- 8.3** The case will be reconsidered by a senior officer as soon as practicable, and the taxpayer informed in writing or by email of the decision. That decision shall be final.

## **9.0 Taxation and the provision of information to Her Majesty's Revenue and Customs (HMRC)**

- 9.1** The Council does not accept any responsibility in relation to a taxpayer's HMRC tax liabilities and all taxpayers should make their own enquiries to establish any tax position.

## **10.0 Managing the risk of fraud**

- 10.1** The Council will not accept deliberate manipulation of this policy or fraud. Any person caught falsifying information to gain a discretionary payment will face prosecution and any amount awarded will be recovered from them.

## **11.0 Recovery of amounts incorrectly paid**

- 11.1** If it is established that **any** payment has been made incorrectly due to error, misrepresentation or incorrect information provided to the Council by a taxpayer or any other person, the Council will look to recover the amount in full.

## **12.0 Data Protection and use of data**

- 12.1** All information and data provided by applicants shall be dealt with in accordance with the Council's Data Protection policy and Privacy Notices which are available on the Council's website.