

REPORT TO: Cabinet 6 May 2020

LEAD CABINET MEMBER Councillor John Williams

LEAD OFFICER: Peter Maddock - Head of Finance

Council Tax Discretionary Reductions (under s13a of The Local Government Finance Act 1992)

Executive Summary

1. To consider a refreshed policy that outlines the procedure and decision-making process for application for a discretionary reduction in Council Tax, under s13a of The Local Government Finance Act 1992
2. This is a key decision as it incorporates the Council's general discretion to award discretionary Council Tax reduction on both an individual basis, and by class of cases, which could affect residents across all wards.

Recommendations

3. It is recommended that Cabinet adopts the revised policy as shown in Appendix B.

Reasons for Recommendations

4. In order to ensure fair and consistent decision making, the Council requires a policy that outlines the process and procedure by which discretionary reductions of Council Tax may be sought.
5. The decision-making process outlined in the previous version of the policy did not facilitate expedient decision making as it required all applications to be determined by Cabinet, which itself requires a degree of forward planning and scheduling of matters for consideration. Equally, the public nature of Cabinet decision-making is not conducive to the requirement for confidentiality and sensitivity around the personal circumstances of individuals, which will generally require documentary evidence of the financial situation, amongst other things.
6. Since the previous policy was adopted, the Valuation Tribunal has determined that it does have jurisdiction to entertain appeals relating to any Council's decision to refuse discretionary relief. This has been updated in the revised policy.
7. In response to the COVID-19 emergency, the Government has provided funding to Local Authorities to provide to a hardship fund discount, to be delivered under the Council's

discretionary powers under section 13a(1)(c) of the Local Government Finance Act 1992. Details of how this will be delivered have also been incorporated into the policy.

Details

8. Under section 13 of The Local Government Finance Act 1992, the Council has discretionary powers to reduce or remit the amount of council tax payable to any amount it sees fit, including reducing the amount payable to zero. This power may be exercised in relation to an individual case, or by determination of a group of cases, perhaps where a number of properties are affected by flooding, for example.
9. Whilst it is not a legal requirement for the Council to adopt a policy on such matters, it is considered by The Valuation Tribunal that it would be difficult to see how such open-ended discretion could be satisfactorily exercised in the absence of a formal policy.
10. Any policy under these powers should set out of factors for consideration when reviewing an application, whilst being mindful not to prescribe circumstances for when a reduction may or may not apply, as it is essential that each case is considered on its own merits.
11. In April 2013, the Portfolio Holder adopted a policy relating to the determination of applications via this mechanism. This policy can be found in Appendix A.
12. The policy set out the broad framework under which decisions should be reached, in that it is ordinarily expected that there are exceptional circumstances to justify any reduction, which should be intended as short-term assistance only. It is also expected that all other routes are exhausted prior to seeking assistance via this method.
13. In October 2019, two applications for support were received. The 2013 policy required that decisions on such matters be determined by Cabinet within 21 days, yet the forward plan requirements for Cabinet did not allow for such a quick decision.
14. In addition, the requirement for confidentiality when considering the personal circumstances of individuals was not aligned with the public nature of Cabinet decision-making. Therefore, a report was brought before Cabinet requesting that decision-making be delegated to the Lead Cabinet Member for Finance, until such time as the policy could be reviewed.
15. The policy review has now been completed, and the updated version can be found in APPENDIX B. In addition to an updated decision-making process, updates have also been carried out to clarify the right of appeal.
16. Whilst the key principles that should be accounted for when reaching determinations in such matters remain largely of the same ethos, the policy itself has been updated to reflect a more structured process for decision-making. Where applicants remain dissatisfied with the outcome of such decisions, the policy now reflects accurately the right of appeal, along with details of where further information can be found.
17. The policy has been updated to clearly reflect the obligation of applicants to continue payment of Council Tax as demanded, and also sets out that any reduction awarded could be recovered should it later transpire that the information that the decision was based upon was incorrect or incomplete.

18. The policy has been updated as a result of the Covid 19 hardship fund award from Ministry of Housing Communities and Local Government, under section 10.

Options

1. There are two Options that are available to Cabinet in this matter:

OPTION 1 – adopt the revised version of the policy

OPTION 2 – defer adoption of the revised policy pending further revision, if it is felt that this is required.

It is recommended that Cabinet adopts Option 1.

Implications

19. In the writing of this report, taking into account financial, legal, staffing, risk, equality and diversity, climate change, and any other key issues, the following implications have been considered:-

Financial

20. The full cost of any reduction under s13a of The Act falls to South Cambridgeshire District Council. Therefore, in each case consideration should be given as to whether a reduction of Council Tax in this matter is in the interests of local Council Tax payers.

21. The Council has been provided with funding to cover the cost of the Hardship Fund Discount, in response to the COVID-19 emergency.

Legal

22. Section 13A (1) (c) of the Local Government Finance Act 1992 empowers a billing local authority as follows:

“(1) where a person is liable to pay Council Tax in respect of any chargeable dwelling and any day, the billing authority for the area in which the dwelling is situated may reduce the amount which he is liable to pay as respects the dwelling and the day to such extent as it thinks fit.

(2) The power under subsection (1) above includes power to reduce an amount to nil.

(3) The power under subsection (1) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.”

23. Whilst not a statutory requirement, the adoption of a formal policy to aid determinations ensures a transparent and consistent approach, reducing the risk of legal challenge.

24. Advice has been sought by 3c Legal in this matter, and their recommendations have been incorporated into the new policy.

Appendices

Appendix A: Policy and accompanying report, April 2013

Appendix B: Council Tax Discretionary Reduction Policy 2020

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