

Localised Support for Council Tax Exceptional Hardship Policy

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1.0 Background

1.1 Section 13A (1) (c) of The Local Government Finance Act 1992 provides a discretionary power to the Billing Authority (Tendring District Council) to reduce the amount of Council Tax payable by a Council Tax Payer. Tendring District Council exercises this discretionary power by way of its Exceptional Hardship Fund. This Fund has been set up by the Council to assist Council Tax payers who are facing 'exceptional hardship'. Although it is envisaged that the majority of recipients will be in receipt of local council tax support (LCTS), in exceptional circumstances, applications will also be considered from council tax payers who do not qualify for LCTS.

1.2 The main features of the fund are as follows:

- The operation of the Fund will be at the total discretion of the Council;
- The Fund will be operated by the Revenues and Benefits section of the Council;
- There is no statutory right to payments from the fund although the Council will consider all applications received;
- Exceptional Hardship Fund payments are not payments of Council Tax Support (as defined within S13a of the Local Government Finance Act 1992);
- Exceptional Hardship Fund payments will only be available from 1st April 2013 and **will not be available for any other debt other than outstanding Council Tax**;
- 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 intended to be short term interventions to give applicants time to explore sustainable / alternative solutions to their current circumstances. This Fund is not intended to provide medium / long term support; and
- All applicants will be expected to engage with the Council and undertake the application process.

2.0 Exceptional Hardship Fund and Equalities

2.1 The creation of an Exceptional Hardship Fund facility meets the Council's obligations under the Equality Act 2010.

2.2 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 the Exceptional Hardship Fund is intended to help in cases of **extreme** financial hardship and not to support a lifestyle, lifestyle choice or consequence. Whilst the definition 'Exceptional Hardship' is not exactly defined by this policy, it is accepted that sudden or unexpected changes to individual circumstances may cause temporary financial hardship with any support made under this policy being at the total discretion of the Council. However 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 Fund payment can be made. The current published policy supersedes all previous versions and any application will be determined in accordance with it.
- 3.2 Each case will be treated on its own merits and all applicants will be treated fairly and equally in gaining accessibility to the Fund and also in respect of the decisions made on each application.

4.0 The Exceptional Hardship Fund Process

- 4.1 As part of the process of applying for additional support from the Exceptional Hardship Fund, all applicants must be willing to undertake **all** of the following:

- Make a separate application for assistance;
- Provide full details of their income and expenditure;
- 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;
- Identify potential changes in payment methods and arrangements to assist the applicant;
- Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted; and
- 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

- Support those in exceptional hardship;
- 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;
- Enable long term support to households in managing their finances;
- Help applicants through personal crises and difficult events that affect their finances;
- Help those applicants who are trying to help themselves financially; and
- Encourage and support people to obtain and sustain employment.

- 4.3 It cannot be awarded for the following circumstances:

- Where full Council Tax liability is being met by Council Tax Support;
- For any period that the applicant was not resident.
- For any other reason, other than to temporarily reduce Council Tax liability;
- Where the Council considers that there are unnecessary expenses/debts etc. and that the applicant has not taken reasonable steps to reduce these;
- To pay for any overpayment of Council Tax Support 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;

5.0 Awarding an Exceptional Hardship Fund Payment

5.1 The Council will decide whether or not to make an Exceptional Hardship Fund award, and how much any award might be up to a maximum of the amount of Council Tax outstanding.

5.2 When making this decision the Council will consider:

- Whether the applicant has engaged with the Exceptional Hardship Payment process;
- All capital, income received & expenditure of the applicant, their partner and any member of their household irrespective of whether the income is included or not as household income under the Council Tax Support scheme
- How **reasonable** expenditure exceeds income;
- The difficulty experienced by the applicant that prohibits them from being able to meet their Council Tax liability, and the length of time this difficulty will last.
- 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;
- 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;
- The length of time they have lived in the property; and
- If a Discretionary Housing Payment has already been awarded to meet a shortfall in rent;

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

5.4 An award from the Exceptional Hardship Fund does not guarantee that a further award will be made at a later date, even if the applicant's circumstances have not changed (see 1.2). Any Council Tax payer who has previously received an award must still make a new application, even if their circumstances have not changed from the previous award. If the circumstances of the application remain the same as the previous award (or substantially the same) then further details as to why their circumstances have not improved must be provided along with supporting documentation. Confirmation of what steps they have taken to improve their situation since the previous award must also be supplied.

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 Fund payment

- 7.1 An applicant must make a claim for an Exceptional Hardship Fund award by submitting an application to the Council, preferably via email to benefitsmail@tendringdc.gov.uk.
- 7.2 If it is not possible to make a claim via email or if any further help is required, assistance is available at the Council Tax Office, Pier Avenue, Clacton between 10am and 1pm Monday to Wednesday.
- 7.3 Where the Revenues and Benefits Service identify a household that is failing to clear previous years Council Tax but are paying current Council Tax with best endeavours, then their ability to pay arrears maybe considered for help through the hardship fund. This clause is not intended to cover those taxpayers who have not paid or have failed to pay until a summons has been issued.
- 7.4 In most cases the person who claims the Exceptional Hardship Fund award will be the person liable to pay Council Tax, 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 from the Exceptional Hardship Fund where the applicant's circumstances have changed.

9.0 Duties of the applicant and the applicant's household

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

- 11.0 Any Exceptional Hardship Fund 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 Fund Payments

- 12.1 Overpaid Exceptional Hardship Fund payments 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 Fund payments in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

14.0 Appeals

- 14.1 If the applicant is not satisfied with the decision in respect of an application for an Exceptional Hardship Fund payment, a decision to reduced amount of Exceptional Hardship Fund payment, a decision not to backdate an Exceptional Hardship Fund payment or a decision that there has been an overpayment of an Exceptional Hardship Fund payment, the Council will look at the decision again.
- 14.2 An officer, other than the original decision maker, will consider the appeal by reviewing the original application and any other additional information and/or representation made, and will make a decision within 14 days of referral or as soon as practicable. This decision will be final.
- 14.3 Any request for an appeal must be made within one month of the date of the notification letter confirming the original decision.
- 14.4 The outcome of the appeal will be set out in writing, detailing the reasons for the decision or upholding the original decision. Further appeal rights will be advised at this time.

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 Fund 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 Councils 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 at least every other year and updated as appropriate to ensure it remains fit for purpose. However, the review may take place sooner should there be any significant changes in legislation.