

# Discretionary Council Tax Discount Policy 2020/21

**Guidelines for the award of Discretionary Relief for  
Council Tax**

March 2020

# 1 Introduction and Scope

- 1.1 This policy sets out the Council's approach to the awarding of Council Tax discretionary discounts and demonstrates that the Council is fair, consistent in its approach and sufficiently flexible to consider individual circumstances.
- 1.2 The policy has been developed to provide guidance in three areas:
  - Exceptional Hardship Payments (EHPs) which are available to support residents experiencing exceptional financial hardship in paying their Council Tax. (See Section 2).
  - Council Tax Discounts for Care Leavers up to the age of 25. (See Section 3).
  - Empty Property Premium. Considering requests from long term empty property owners for the removal of the Empty Property Premium (See Section 4).
- 1.3 Local Authorities can use discretion to reduce a part or all of the Council Tax liability where they are satisfied that the Council Tax payer would suffer hardship if it did not do so under The Local Government Finance Act 1992 (Section 13A (1) (c)) (as amended) and the Local Government Act 2003 (Section 76).
- 1.4 Section 13A(1)(c) allows for a discretionary reduction which can be used in relation to any individual on a case by case basis or by determining a class of case for which the charge should be reduced.
- 1.5 Although the decision to reduce an individual's Council Tax liability is discretionary, the actual award (or refusal of) can be challenged by way of an appeal to a Valuation Tribunal.
- 1.6 Periodically, the Government may introduce a specific scheme in response to an event such as a natural disaster (e.g. flooding). Where such schemes are introduced, funding is normally fully met by Government. Any such schemes that are introduced with the intention to be awarded under Section 13A (1) (c) of The Local Government Finance Act 1992 (as amended), will be administered in accordance with instructions and guidance set out by Government.
- 1.7 The policy will be reviewed on an annual basis or as required in response to changes in legislation or the priorities of the Council. The Cabinet Member for Finance and Corporate Services, in conjunction with the Director of Finance are authorised to vary the criteria, funding and application processes set out in this policy to ensure the policy continues to remain fit for purpose and within budget.

## 2 Exceptional Hardship Payments (EHPs)

### 2.1 Introduction and Scope

- 2.1.1 The Council is aware of its statutory duties under Section 13A(1)(c) of the Local Government Finance Act 1992 (as amended). These regulations allow Billing Authorities the discretion to reduce Council Tax in individual cases.
- 2.1.2 The Council has made provision to assist residents who are facing exceptional financial hardship. Payment made under this provision will be known as Exceptional Hardship Payments (EHPs).
- 2.1.3 EHPs are not the same as payments made under the Council's Council Tax Reduction Scheme (CTR). Those residents on low incomes should first explore entitlement to CTR before making an application for EHP.
- 2.1.4 The Council will ensure each application received will be treated on its own merits and all applicants will receive equal and fair treatment regarding accessibility to the fund and the decisions made.
- 2.1.5 EHPs are only intended as short term assistance and should not be considered as a way of reducing Council Tax liability indefinitely.
- 2.1.6 The Council will give particular (but not exclusive) consideration to applications where the applicant is experiencing specific, exceptional or unforeseen situations which then impacts on their ability to meet their Council Tax liability.
- 2.1.7 In considering an award the Council must be satisfied that:
- It is reasonable to expect other Council Tax payers to meet the cost of reducing the tax.
  - It would be unfair to ask the applicant to meet their Council Tax liability based solely on their own individual circumstances and not on circumstances that affect all or a significant proportion of the residents of Oldham.

### 2.2 Criteria for an application

- 2.2.1 The Council recognises the importance of protecting its most vulnerable residents. This policy has been created to ensure that a level of protection and support is available to those claimants most in need.
- 2.2.2 Hardship can arise in many exceptional circumstances which could include but are not limited to:-
- Multiple and complex issues facing the claimant and his/her household
  - The death of a partner or dependant
  - Sudden increases in other expenses due to a family member's illness or incapacity
  - Where other financial support mechanisms have been exhausted

2.2.3 The Council will consider all relevant circumstances and resources. For example, it may not be appropriate to attempt to alleviate hardship through the award of financial assistance where advice and assistance in accessing other available support may be of greater benefit.

2.2.4 The Council will consider the full circumstances of the applicant before deciding whether or not to award an EHP. The Council will be looking for something out of the ordinary that makes it very difficult for the claimant to pay their Council Tax.

2.2.5 When assessing a claim for EHP, The Council must be satisfied that:

- The applicant is unable to meet their full Council Tax liability or part of their liability.
- All reasonable steps have been taken to meet the full Council Tax liability prior to submitting the EHP application.
- The applicant's current circumstances are unlikely to improve during the period for which the EHP may be made which would make payment of the Council Tax unlikely.
- There is evidence of exceptional hardship or exceptional personal circumstances that justifies a reduction in Council Tax liability.
- The applicant has no assets that could be realised and used to pay Council Tax.
- Entitlement to all other reliefs, discounts, exemptions, discretionary payments and other available support have been considered.
- Non-payment of Council Tax is not due to the wilful refusal or culpable neglect of the taxpayer to pay the tax.

## 2.3 What an EHP does not cover

2.3.1 EHPs cannot be awarded:

- To help towards payment of rent
- Where the Council Tax liability is nil as a result of any other discount or exemption
- To cover previous years' Council Tax arrears
- For any reason other than to reduce Council Tax liability.

## 2.4 Making an Application

2.4.1 The applicant, or a party authorised by the applicant such as an appointee or advocate, must complete and submit an EHP application form along with any evidence requested within the application form. To support applicants the Council will encourage the use of an online application form which will be available on the Council's website [www.oldham.gov.uk](http://www.oldham.gov.uk). (Applications will not be considered if they are made by landlords or managing agents of properties where the claimant is liable for Council Tax).

- The application must set out the hardship or personal circumstances upon which the request is based.
- Applicants are required to include proof of their financial circumstances to enable the Council to make an informed assessment of their ability to pay.

Financial evidence can include, but is not limited to, household income and expenditure details, utility bills, household bills and debt.

- Further evidence may be requested that is relevant to the application (e.g. specific details about income and expenditure details and medical evidence).
- Applicants will be expected to provide further information in support of their claim within one month of submitting their application or the application may be made ineligible.
- The Council will not meet any costs an applicant may incur in making an application or in providing requested evidence.

## 2.5 Making an Award

2.5.1 Applications will be reviewed by the Council's Exchequer Client Manager (Revenues) and a recommendation made to the Council's Head of Revenues and Benefits for a decision<sup>1</sup>.

2.5.2 An EHP award will not normally exceed 26 weeks. The start date of the award will be the Monday following the date the application for EHP is received by the Council.

2.5.3 Any reasonable request for backdating an award of EHP will be considered but such consideration will be limited to the current financial year and will not normally be granted for a period exceeding 3 months prior to the date of application.

2.5.4 EHPs are intended as short term assistance and the claimant will be expected to have made clear attempts to improve their financial circumstances during the course of any award.

2.5.5 Claimants may make subsequent applications once their initial award has expired or if their circumstances have changed or worsened if their original award has been previously refused.

2.5.6 Awards will normally be paid only once. The reduction in liability will be applied to the relevant Council Tax account and a revised bill will be issued. No cash alternative to this approach is available.

2.5.7 An award will usually be a percentage of the net Council Tax liability (the amount payable following the award of any benefit, discount, exemption or relief) and be for a specified period. The award will not exceed 100% of Council Tax liability.

2.5.8 The claimant must inform the Council about any changes in their circumstances that might affect their claim for EHP.

2.5.9 Decisions will normally be made within ten working days of the application provided all supporting information has been received and will be notified to the applicant as soon as practicable thereafter. The award letter will set out:

- The amount of EHP awarded
- The period of the award
- When the award will be paid
- The requirement to report changes in circumstances

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<sup>1</sup> These titles are correct at the time of approving this policy but may be subject to change during 2020/21.

- What the claimant can do if they do not agree with the award and
- Details of where the claimant can obtain independent debt advice

2.5.10 If the application is not successful, the letter will include:

- The reasons for refusing the application and what the claimant can do if they do not agree with the refusal of the award
- Details of where the claimant can obtain independent debt advice

2.5.11 If it is subsequently identified that an award was made as a result of false or fraudulent information, the Council will withdraw the award and recover the resulting sum due.

2.5.12 Under Section 16 of the Local Government Finance Act 1992, there is a right of appeal if a Council Taxpayer applying for a discretionary reduction under Section 13a(1)(c) wishes to challenge the Council's decision. The guidance detailing how to appeal is set out in Section 5.

### 3 Council Tax Discount for Care Leavers

3.1.1 Oldham Council wants to support Care Leavers in their transition to independent living by offering a 100% Council Tax discount for care leavers up to the age of 25.

3.1.2 A Care Leaver is defined as a person who has been in the care of a local authority (looked after) for at least 13 weeks since the age of 14 and for at least one day after their 16th birthday.

#### 3.2 Qualifying Criteria

3.2.1 Confirmation will be sought from Oldham Council's Children's Social Care or other public body or professional organisation that Care Leaver status applies. The majority of discount cases will be referred directly by the Council's Children's Services team. However, Care Leavers can also make a direct application for a discount and this will be made available on the Council's website [www.oldham.gov.uk](http://www.oldham.gov.uk)

3.2.2 The Care Leaver must live in the Borough and be responsible for Council Tax in Oldham to qualify for the discount.

3.2.3 The discount will not be means tested.

#### 3.3 Discount Scheme

3.3.1 The Care Leavers discount was introduced in April 2017, as such Care Leavers who become responsible for Council Tax after this date will be granted the discount from the date of occupation.

3.3.2 The level of discount applied will be 100% of Council Tax liability after any entitlement to any national reliefs, exemptions or other discounts including entitlement to Council Tax Reduction have been calculated and awarded.

- 3.3.3 If subsequent to an award, the Care Leaver's liability for Council Tax reduces during the period of the award, for example if the Care Leaver becomes entitled to a single person discount, the Care Leaver's discount will be amended to ensure the award does not exceed the Care Leaver's Council Tax liability.
- 3.3.4 Where awarded, the discount will remain in force until the Care Leaver reaches the age of 25 years or ceases to become responsible for Council Tax whichever date occurs first.
- 3.3.5 When a discount has been given, a Council Tax bill will be issued showing the detail. If a discount request is refused, a letter will be issued outlining the reasons why it has been refused.
- 3.3.6 Under Section 16 of the Local Government Finance Act 1992, there is a right of appeal if a customer applying for a discretionary reduction under Section 13a(1)(c) wishes to challenge the Council's decision. The guidance detailing how to appeal is set out in Section 5.

## 4 Empty Property Premium

### 4.1 Background

- 4.1.1 The Local Government Finance Act 2012 gave Local Authorities the power to apply a Council Tax Empty Property Premium for properties unoccupied and unfurnished for over 2 years from 2013. The Empty Property Premium (EPP) was 50% from 2013 to 2019. The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 allowed Local Authorities to increase the premium to 100% from April 2019 and the Council exercised its discretion to do this.
- 4.1.2 The Local Government Finance Act 1992 Section 11B (8), sets out the criteria for determining whether a property is considered long-term empty which is that the property has been unoccupied and substantially unfurnished for a continuous period of at least 2 years.
- 4.1.3 A property owner may be exempt from the Empty Property Premium (EPP) if the property owner is a member of the armed forces and absent directly as a result of such service or if the empty property is considered an annexe to a main building.
- 4.1.4 Government guidance<sup>2</sup> issued about the application of the EPP in 2013 suggests that there may be occasions where application of the premium would penalise a property owner who is genuinely trying to sell a property. The Council must make its own decision about cases where an exemption from the premium may be appropriate. These may cover, but are not limited to the following circumstances:
- The property owner has purchased or inherited a long-term empty property but is unable to move into or rent the property due to the major structural repair work and renovation that is needed.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/797672/Empty\\_home\\_premium\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/797672/Empty_home_premium_guidance.pdf)

- The property is available for sale or rent but the owner has been unable to find a willing buyer or tenant despite ongoing efforts to do so which can be evidenced.
- 4.1.5 A request for the removal of an EPP must be made in writing. Removal of the premium will only be considered if the property owner is experiencing specific, exceptional or unforeseen situations which impacts on their ability pay the EPP.
- 4.1.6 The Council in partnership with Homes England operates a scheme<sup>3</sup> to encourage and support owners of empty properties to bring them back into use or achieve a market value sale. This can include purchase or lease agreements with the Council. Long-term empty property owners are invited to access this scheme. The Council would expect that property owners, who are struggling to sell or rent their empty property would fully engage with this service prior to the removal of the empty premium.
- 4.1.7 The Council also offers a discount of 50% for properties undergoing major structural repairs up to a maximum of 12 months. In most cases it is anticipated that owners of long-term empty properties requiring major structural repairs would reasonably be able to bring a property back into use within 12 months. Evidence would be required to support a request for removal of EPP where the repair work had exceeded these timescales.

## **4.2 Making a Decision**

- 4.2.1 Any decisions regarding the removal of the Empty Property Premium will be considered on a case by case basis by the Council's Exchequer Client Manager (Revenues).

# **5 Appealing a Decision**

- 5.1 If an applicant disagrees with a decision, there is a right to request that the application is reviewed by the Director of Finance.
- 5.2 Any requests for a review of the decision must be made within one calendar month of the original decision letter being issued.
- 5.3 All applications for a review of the decision must be made in writing or via email and must outline the reasons why the applicant is disputing the decision.
- 5.4 The applicant will be notified in writing of the outcome of the review and the reasons for the decision.
- 5.5 If the applicant disagrees with the outcome of the internal review undertaken by the Director of Finance they can appeal to the Valuation Tribunal. Appeals must be made directly to the Valuation Tribunal.
- 5.6 The Valuation Tribunal can only consider whether the decision made by the Council was made reasonably by applying judicial review principles. The Valuation Tribunal

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<sup>3</sup> [https://www.oldham.gov.uk/info/100007/housing/2159/bringing\\_empty\\_homes\\_back\\_into\\_use](https://www.oldham.gov.uk/info/100007/housing/2159/bringing_empty_homes_back_into_use)



cannot award discretionary reductions but may ask the Council to review its policy or decision again.