



Application Of Section 13A Local Government Act 2003

EXECUTIVE MEMBER FOR RESOURCES

11 November 2008

PURPOSE OF THE REPORT

1. This report seeks approval to extend the delegated powers of the Director of Resources and the Deputy Director of Resources to authorise Council Tax relief in accordance with Section 13A of the Local Government Act 2003.
2. To determine a clear and concise policy for the granting of such relief.

BACKGROUND

3. The Local Government Act 2003 Section 76 inserted a new Section (13A) into the Local Government Act 1992. This amendment allowed billing authority's the power to reduce the amount of Council Tax payable. The provisions Section 13A are:

“13A Billing authority's power to reduce amount of tax payable

- (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) This includes power to reduce an amount owed to nil.
- (3) The power 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.”

4. The Council does not presently have a policy or a clearly defined process regarding applications made for relief under Section 13A and consequently cannot make a determination
5. The first 3 applications requesting relief under Section 13A have now been received from the Citizens Advice Bureau.

PROCESSES AND PROCEDURES

6. It is proposed that each application is considered against the criteria set out below.
7. Each application will be given due regard on its own merits in accordance to the criteria and process laid down by the Council.
8. Applications for relief should be made in writing with:
 - A full explanation as to why the relief is requested,
 - The period for such relief is claimed,
 - Details of the applicants' financial circumstances.
9. In considering each application it is recommended that the following factors will be considered.
 - Relief will only be granted in exceptional cases where as a result of for example a flood, fire, storm damage, subsidence, explosion or Major Incident the Council Tax payer is forced out of their property for longer than 18 months.

Major Incident

“Any event or circumstance (happening with or without warning) that causes or threatens death or injury, disruption to the community, damage to property or to the environment, on such a scale that the effects cannot be dealt with by the emergency services, local authorities and other organisations as part of their normal day to day activities” (“Dealing with Disasters” Cabinet Office booklet).

- If the work undertaken to rectify the problem exceeds 18 months, the Council would use the powers under Section 13A to grant relief for the period exceeding this. Under existing council tax legislation a council taxpayer may apply for a maximum of 18 months exemption (Class C, empty and unfurnished 6 months exemption followed by Class A, 12 months uninhabitable exemption).
- Relief should **not** be extended to council taxpayers making applications due to low income, experiencing periods of sickness, unemployment or having multiple debts. The Council actively promotes the uptake of the council tax benefit, discounts and exemptions and in line with the existing recovery policy works with the council taxpayer to prioritise debt and maximise collection. Various payment methods are available to Council taxpayers and the existence of Section 13A should not be seen as a means of avoiding paying.

- Applications should be granted in extreme circumstances and where all other statutory discounts/ exemptions have been granted.
 - As the granting of relief would only be under exceptional circumstances it should be awarded at 100% having consideration to the financial position of the Council.
10. Applications will be considered in the first instance by the Deputy Director of Resources with any appeals against the refusal to grant such relief being considered by the Director of Resources. Appeals must be made in writing to the Director of Resources.
 11. All letters confirming that an application or appeal has been unsuccessful will contain full information on the reasons behind the decision. Reference will also be made to how the criteria were taken into account in determining the application or appeal.
 12. Information from other Councils shows that their policy is that Section 13A relief is rarely granted and only for exceptional circumstances.

FINANCIAL LEGAL AND WARD IMPLICATIONS

13. The Council must bear the cost of any relief awarded under Section 13A of the Local Government Act 2003.
14. There are no other legal or ward implications.

RECOMMENDATIONS

- 15 Executive Members are asked to approve:
 - i) The criteria for assessing applications set out in paragraph 9 be approved;
 - ii) The arrangements be confirmed, whereby the Deputy Director of Resources determines applications for the Section 13A Council Tax relief;
 - iii) That the Director of Resources considers appeals.

REASONS

16. The recommendations establish a policy for dealing with Section 13A appeals. They also clarify and reinforce the roles of the Director of Resources and the Deputy Director of Resources in the Council Tax relief process. They also provide a higher level of transparency and consistency in both decision and appeals procedures.

BACKGROUND PAPERS

14. Local Government Act 2003 – Section 76.

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