

Exceptional Hardship Fund - Section 13A (1) (a) Policy

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Summary

1. This policy provides for awards under Section 13A (1) (a) of the Local Government Finance Act 1992.

The Exceptional Hardship Fund (EHF) is a local scheme first introduced from 1 April 2013 and is intended to provide additional financial help to residents on low incomes claiming Council Tax Reduction (CTR). An award made from the EHF is referred to as an Exceptional Hardship Payment (EHP).

An EHP is extra money that the Council can pay in addition to an award of CTR if it is considered that the resident needs extra help. The main principles of the scheme are outlined below:

- EHP is intended to provide some additional help to residents who are suffering from severe or exceptional circumstances. It is intended to compensate working age residents who receive less financial support (for example, due to changes brought about by a new CTR scheme);
- The award is to provide short-term support only and should not be considered as a long-term solution;
- The scheme is discretionary; therefore, the resident has no statutory right to a payment;
- All applications must be treated on their own merit, having regard to the priorities set out in this policy;
- The scheme is administered by the Council;
- The level of award will be determined by the Council and payment will be made directly to the Council Tax account;
- Payment from the EHF is not an award of CTR and as such is not subject to the statutory appeals mechanisms. The Council does have a review process and further information can be found in the Reviews section of this policy;
- The Council has the right to amend, suspend or cancel an EHP when necessary or appropriate;
- The total amount payable in any financial year is cash limited and therefore applications cannot be considered once the funding is fully allocated within the relevant year;
- All residents who claim will need to engage with the Council and complete the full application process. Any incomplete applications will not be considered.

Context

2. This policy should be read in conjunction with the Council's CTR scheme. It also forms part of the Council's Welfare Strategy.

Purpose

3. The purpose of this updated policy is to:
 - Prevent homelessness
 - Alleviate poverty;
 - Safeguard residents in their home;
 - Help residents through personal crises, severe or exceptional circumstances and difficult life events such as death, family illness, etc;
 - Assisting residents where they or their family members are sick or disabled;
 - Other reasons or circumstances not listed above where they are considered to be exceptional or severe.
 - Make provision for Care Leavers' council tax liability to be removed where there is no entitlement to Council Tax Reduction.

Definitions

4. Definitions are contained within the Council's CTR scheme, and this policy should be read in conjunction with this scheme.

Resident, when used in this policy refers to someone who lives in Middlesbrough, has a liability for Council Tax, and has claimed (or is claiming) a Section 13A reduction under this policy. In the context of this policy, the term resident is being used for consistency and replaces the terms customer, claimant, applicant, etc

Scope

5. Who can make a claim for an Exceptional Hardship Payment?

The Council will accept claims from:

Residents (or anyone acting on the resident's behalf) who:

- a. are already receiving some CTR; and
- b. get less than the maximum CTR allowed under the scheme; and
- c. need further financial assistance with their Council Tax.

Or

- d. have applied for CTR; and
- e. have been determined as having nil entitlement; and
- f. they have not been excluded from the scheme, due to ineligibility to claim or excess capital; and
- g. they are of an opinion that they require further financial assistance.

The resident must be aware that an application for an EHP is being made on their behalf.

The Council will also accept claims from Care Leavers from any of 12 North East Local Authorities party to a reciprocal agreement resolving that the cost of council tax for Care Leavers whilst under 25 should be covered by the authority in whose area they have their address. As the Council's CTR scheme makes provision for a

100% reduction for all Care Leavers, irrespective of their financial circumstances, to comply with the agreement the Council will provide further reduction through the EHF to cover the limited situations where there would be no eligibility to CTR.

A common example of where this might be appropriate is for a period where the Care Leaver is not resident at one address having moved somewhere else, as CTR eligibility would end for the address vacated though a tenancy term could mean they remain liable for council tax.

What an EHP cannot cover

An award of EHP cannot be paid in the following circumstances:

- Reduction in any benefit as a result of DWP sanctions, Child Support Agency sanctions or sanctions following benefit related offences;
- Due to hardship caused by previous proven fraudulent activity;
- Where the resident is deemed to have high or unreasonable non-essential expenditure commitments. The Council reserves the right to refuse to award EHP where there is evidence to show that the resident's financial situation has been caused by or worsened by non-priority expenditure.

Legislative and regulatory framework

6. Key elements of the legislative and regulatory framework for this policy are set out below.

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| Local Government Act 1992 (as amended) | Establishes requirements to manage the Council's financial affairs and the appointment of a section 151 officer. Section 13A (1) (a) & (c) gives the Council additional discretionary powers to reduce the amount of council tax payable for individuals, or for classes of council tax payer, and creates the duty for it to have a CTR scheme. |
| Council Tax (Administration and Enforcement) Regulations 1992 | Makes provision for the administration and enforcement of council tax. |
| Social Security Contributions and Benefits Act 1992 (SSCBA) | The primary legislation defining most benefits in the UK pre-Universal Credit |
| Social Security Administration Act 1992 | The primary legislation for the administration of SSCBA benefits |
| Welfare Reform Act 2012 | Introduced Universal Credit as a combined replacement for previous benefits |
| Insolvency Act 1986 | Consolidates enactments relating to company insolvency and winding up, and bankruptcy of individuals |
| Equality Act 2010 | Is an amalgamation of previous anti-discrimination laws and protects from discrimination of unfair treatment on the |

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| | basis of certain personal characteristics such as age. |
| General Data Protection Regulation 2016 (GDPR) and Data Protection Act 2018 (DPA2018) | The GDPR/DPA2018 place a duty on the Council to comply with the data protection principles relating to processing of personal data: (1)(a) Lawfulness, fairness and transparency; (1)(b) Purpose limitation; (1)(c) Data minimisation; (1)(d) Accuracy; (1)(e) Storage limitation; (1)(f) Integrity and confidentiality (security); (2) Accountability (including the rights of data subjects). |
| Freedom of Information Act (FOIA) 2000 | Under the FOIA, the Council has a duty to make information available to the public upon request, unless specific exemption(s) apply. It is also obliged to proactively and routinely publish information that has been frequently requested in the past in its Publication Scheme. Information requests frequently include requests for information held in emails. |
| Local Government Acts 1972, 1985, 1988 and 1992, Lord Chancellor's Code of Practice on Records Management (S46 Freedom of Information Act) | Establishes requirements to manage records and information and gives implied authority to share certain kinds of information with partners. |

Policy detail

7. How to claim

The main elements of claiming are as follows:

- The Council encourages electronic claims to be submitted wherever possible;
- The link to the electronic claim form is on the Council's website in the 'Make a claim online' section. The claim must contain sufficient evidence/information to enable the Council to get a balanced view of the resident's situation and circumstances.

If additional evidence is required and requested, this must be provided within one month of the request date.

As part of the process of applying for additional support from the Exceptional Hardship Fund, all residents who claim 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 Citizen's Advice Bureau or similar organisations to enable them to manage their finances more effectively including the termination of non-essential expenditure;
- Consider alternative payment methods and arrangements that might assist the resident;
- Assist the Council to minimise liability by first ensuring that all relevant discounts, exemptions and other reductions are claimed and have been 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.

Priority for award of EHP

The fund is cash limited, meaning the Council may refuse an application due to insufficient funds. However, it should be noted that vulnerable groups (outlined below) will be given priority:

- Those at risk of homelessness; or
- Where the resident or members of their dependant family are sick or disabled and who are entitled to a severe disability premium; or
- Where the household includes any children under 5 years old.

The Council reserves the right (based on evidence provided) to determine other vulnerabilities and prioritise these over other cases.

Guidelines for consideration

The following guidelines should be used to assess each case. The list is not exhaustive but will give a starting point to ensure consistent and transparent decision making.

- Is the resident claiming all of the benefits that they are entitled to?
- Is there a risk of eviction and homelessness?
- Are there any social or health problems currently being faced by the resident and / or their family that could cause them extra financial costs?
- Does the resident or their dependant family have any income that is disregarded under the CTR? Is it reasonable to use that disregarded income to meet the shortfall?
- Does the resident or their dependant family have any savings or capital?
- Has the resident provided a budget statement showing their income and outgoings?
- Is there evidence to show that the resident's financial situation has been caused by or worsened by non-priority expenditure?
- Does the resident have any priority debts; these may include Council Tax, Rent, Mortgage, fuel bills, arrears of maintenance, unpaid Income tax or VAT, etc.;
- Is there likely to be a detrimental impact to the family if an EHP is not awarded?

- Are there any other funds or funding schemes that can be accessed such as Benevolent funds or charitable organisations that would be appropriate to use instead of an EHP;
- If it is reasonable to award an EHP having regard to the amount of unallocated budget in the EHF;
- The Council will (where applicable) signpost residents to help them to claim other sources of income, or to services who can provide help and support with their financial situation, or any other circumstances where support has been identified (such as language barriers, etc.);
- The Council will be mindful of the Public Sector Equality Duty (PSED), and as such has previously conducted an Equality Impact Assessment for the policy. The update further extends assistance available to a vulnerable group.

The Council will not make any allowance for the following:

- Any loss resulting from the resident's failure or delay in claiming any income to which they are entitled;
- Any debt, which, in the opinion of the Council arises from the financial imprudence of the resident including proven fraud.

Decision

The Council will write to the resident advising them of the decision. The notification will contain the following information:

If the award is made

- Period of the EHP award;
- Weekly amount of EHP;
- The resident's right to ask for a review/appeal of the award and the time and manner of doing so;
- The right of the Council to amend or cancel an EHP when deemed necessary or appropriate.

If the application is refused

- Reason for refusal; and
- The right of the resident to ask for a review/appeal of the award and the time and manner for doing so.

Start Dates

The start date of the EHP award will be determined by the authority.

Length of Award

EHP claims are for short-term emergency support and the length of the award will be determined by the Council. Residents who claim EHP must be made aware that

they must seek advice with regard to their housing needs and ways to manage financially in the long term. EHPs cannot be paid indefinitely.

Awards

An award of EHP will be credited directly to the resident's Council Tax account.

The maximum number of claims made, other than by Care Leavers, that can be made against the EHP (in any one year) is two.

Change in Circumstance

Residents must report immediately, in writing, any change in circumstance that might affect the amount of EHP they get. Examples of these changes include:

- If they change address;
- If they leave their home temporarily;
- If their income changes;
- If the household make up changes.
- Or any other change which may impact on the amount of EHP a resident receives.

Fraud, Overpayments and recovery

The Council is committed to protecting public funds and as such, only those entitled will qualify.

A resident who tries to fraudulently claim an EHP 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.

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.

The Council may seek recovery of an overpaid EHP in certain circumstances:

- Misrepresentation or failure to disclose a material fact, fraudulently or otherwise;
- An error made when the claim was determined.

Reviews

Residents can request a review of EHP decisions. They must do this in writing (by post or electronic means) within one month of the date they are notified of the decision. The resident (or appointee) must sign the review request letter. Late requests will be only considered where the Council is satisfied that there were good reasons for the delay, and there are funds still available.

If a review is requested regarding the decision, this will be looked at by a Senior Officer who was not involved in the original decision. The resident will be notified (where possible) of the outcome of the review within 14 days, and this decision is final.

Roles and Responsibilities

8. The principal roles and responsibilities are as follows:

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| Director of Finance / Chief Financial Officer | Under Part 9 of the Council's Constitution, the Chief Financial Officer (Section 151 Officer) is responsible for regulating and controlling the finances of the Council and hence that person will be responsible for the proper administration of the Council's financial affairs. |
| Head of Service – Resident and Business Support | Overall responsibility for the delivery of the Revenues and Benefits Service and the Policy Owner. |
| Records Manager | Responsible for the development and implementation of the corporate Records Management Policy and Retention Schedule. Will liaise with the Data Protection Officer. |
| Service Strategic Business Managers and other relevant managers. | Where appropriate, responsibility for overseeing day-to-day compliance with this policy and the standards set out within it by their staff and other personnel they manage or commission. |
| All staff, contractors, consultants, interns and any other interim or third parties | Responsible for compliance with this policy. |
| Data Protection Officer | Responsible for provision of advice and guidance to the Council on its obligations in relation to data protection. |

Supporting policies, procedures, and standards

9. The following policies, procedures and standards will be implemented across the Council to ensure that the Council's debts are managed effectively and securely.

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| Council Tax Reduction Scheme | The Council's approach to the provision of a Council Tax Reduction Scheme for residents who have a low income, are liable for Council Tax and are unable to pay their full Council Tax bill. |
| Debt Management Policy | This provides a framework for the collection of all Council debt using consistent procedures across the organisation. |

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| Debt Write Off Policy | This provides a framework for the consistent management of uncollectable debts. |
| Welfare Strategy | This provides a framework for a joined up approach to a holistic welfare advice and support service for all relevant residents who owe a debt. |
| Data Protection Policy | This summarises the Data Protection Policy position of Middlesbrough Council and how it will comply with legislation, and associated codes of practice and official guidance in relation to the processing of personal data. |
| Records Retention Schedule | This defines how long different records should be retained to comply with legal, regulatory or other requirements and the proper arrangements for archiving and destruction. |
| Records Management Policy and supporting procedures | This provides a framework for ensuring that the Council's records are well kept and that the systems used to hold them are fit-for-purpose. |
| Information Security and Infrastructure Security Technical Policies | These set out policies and standards for the management and maintenance of the security of Council infrastructure and applications. |
| Vital Records Standards | This sets out how vital records will be identified and the steps to be taken to ensure their protection and preservation. |
| Vulnerability Policy | Intended for use by Middlesbrough Council employees when engaging with residents / customers where payment of a collectable debt is being considered. |

Monitoring and review arrangements

10. The implementation and effectiveness of this policy and its supporting procedures will be reviewed and monitored by the Head of Service and associated management team.

The policy will be subject to a full review every 3 years.

Evaluation

11. The cost to the Council incurred through the policy will be monitored through the normal financial reporting cycle and any pressures or emerging issues escalated for due consideration.