

**SOUTH DERBYSHIRE DISTRICT COUNCIL
COUNCIL TAX – DISCRETIONARY REDUCTIONS UNDER SECTION 13A
LOCAL GOVERNMENT FINANCE ACT 1992.**

GUIDANCE FOR DETERMINING APPLICATIONS

1 Empty Property Charges and Second Homes

Where an application for reduction in Council Tax under S13A LGFA 1992 is received in respect of the level of empty property charge including the Premium set against an individual property, it should be tested against the following:

- Local discount will be considered in those cases where either a charge is levied on long term empty properties, i.e. where the empty period is over 3 months or where 100% is charged on Second Homes

So far as cases that are subject to a Council Tax Premium are concerned an application will take into account these cases until such time as Government regulation specifies exemptions from this additional element, as initially proposed within the consultative documentation, but not subsequently enacted.

- The discount will be a maximum of 50% in the case of long-term empties over three months but fewer than two years, where a 100% charge applies, and 50% for second homes where a 10% charge applies and this will be the maximum that can be applied in each class of property.
- The discount will be a maximum of 100% in the case of long-term empties over two years where the Premium of 50% applies in addition to the 100% empty charge.
- The criteria for the award of the discount will centre on the reason(s) why the property remains empty or is treated as a second home, the degree of choice made by the individual concerned in arriving at that situation and the residual capital value of that property.

With these criteria in mind, there will be a **higher likelihood** of granting a reduction under S13A LGFA 1992 where the reasons put forward by the applicant show evidence of:

- A significant inability to enjoy, or otherwise benefit from, use of or access to the property, and/or related amenities, to which the Council Tax liability relates.
- A significant restriction on the ability to sell the property on the open market to a potential purchaser.
- A significant restriction on, or prohibition of, the ability to let the property on the open market to a potential tenant.

There will be a ***lower likelihood*** of granting a reduction where:

- The Council Tax liability is already, or can be, significantly reduced by other more specific discount or relief schemes.
- The claimant has already received, or is receiving some form of compensation (financial or otherwise) relevant to the reasons put forward where the level of compensation appears broadly commensurate with the hardship or detriment experienced.
- There remains sufficient equity in the property or availability of capital to allow the payment of Council Tax within a period of five years.

In determining an application evidence shall be required of

- any financial detriment experienced;
- the reduction in, or loss of use or access to property and/or related amenities;
- the reduction in, or loss of enjoyment or benefit from the use of property and/or related amenities;
- lease, security or other details that restrict enjoyment or benefit from the use of property:
- lease, covenant or other details that restrict the sale or let of the property on the open market:
- Period over which the financial detriment or reduction or loss of access, use or enjoyment or benefit from use of the property and/or related amenities is experienced:
- Value of property, if appropriate, less any residual encumbrance such as mortgage, registered charges or loans and of any other capital assets.

2 Council Tax Reduction Scheme Discretionary Payments

This Part sets out the Council's policy for administering the Council Tax Reduction Scheme Discretionary Payments (CTRSDP) to give South Derbyshire District Council the discretion to reduce the amount of Council Tax payable.

The purpose of the Discretionary Payment is to assist those people who may experience financial difficulty as a result of the Council Tax Reduction Scheme and where no other viable alternative for assistance is available.

The CTRSDP scheme aims to provide short term financial assistance with payment of Council Tax. The objectives of the Scheme are to:

- Alleviate poverty
- Help those who are helping themselves
- Support work incentives
- Support the vulnerable

This scheme is a discretionary fund to support people to meet their Council Tax liability where they are able to demonstrate exceptional hardship. The test of exceptional hardship will be determined by the applicant's individual circumstances and financial ability to make payment.

The process will be administered by the Council's Client Team.

Each application will be considered on its own merits. The applicant will have a liability to pay Council Tax.

Where appropriate we will continue to utilise the Council's on-going support mechanisms for debt management, maximising benefit or referrals to specialist advocacy services and partner organisations such as the CAB and Money Advice.

Co-operation by the applicant with such organisations will be element of the assessment process.

An award of Discretionary Council Tax Hardship payment will be considered to meet the costs of council tax liability where the applicant is able to demonstrate hardship.

For the purpose of claimants being treated as being in hardship, this will be interpreted as being where they cannot meet their immediate basic and essential needs.

Basic and essential needs are defined as those listed below, these are in line with Universal Credit regulations but note that this does not constitute an exhaustive list.

- Heating
- Food
- Hygiene

In assessing basic and essential needs we will take into consideration the claimant's age, health and status.

Expenditure which does not relate to basic and essential needs will not be taken into account when assessing hardship and examples of these items are listed below. However, this is not an exhaustive list.

- Rental charges for TV, Satellite and Internet
- Telephone charges for mobile and landline considered unreasonably high
- Credit cards
- Store cards
- Loans, other catalogue debts

Additionally applicants in genuine hardship will also be entitled to apply for assistance under the Discretionary Housing Payment scheme for help with accommodation costs.

The application should relate to THE current Council Tax Year unless the liable person has recently received a Council Tax Demand for a previous year.

Criteria for applying for Discretionary Council Tax hardship payment are:

- The applicant has an outstanding Council Tax liability
- There must be evidence of exceptional hardship or personal circumstances that support a Discretionary Council Tax Hardship payment
- The applicant has taken reasonable steps to resolve their situation prior to application i.e. have made efforts to access alternative source of support, claimed discounts, exemptions and Council Tax Support to which they may be entitled
- Co-operated with advice agencies, and/or the Council in matters relating to debt management

Satisfying the condition for applying does not give automatic entitlement to an award. The discretionary nature of this scheme will require consideration of individual circumstances based on supporting information to demonstrate severe hardship.

An award does not guarantee payment for the full difference up to the Council Tax Liability.

In the case of someone not in receipt of Council Tax Support the award will be up to the amount of daily council tax liability or any part thereof and would depend on the reason why CTRS could not be paid.

An award cannot be considered to cover the following:

- Penalties, Court and/or Bailiff costs applied to the account
- Charges relating to empty homes that are normally rented out on a commercial basis

No cash payments will be made. An award of Discretionary Council Tax hardship payment will be credited to the Council Tax account.

The assessment criteria for an award of Discretionary Council Tax Hardship payments is to support people suffering from hardship, whether or not they fall into the category of people with greatest need of support.

Applicants for Discretionary Council Tax Hardship Fund may initially apply in the following way and thereafter provide supporting information as necessary to determine the claim.

- Writing, with a form provided free for the purpose
- By means of electronic communication
- By Telephone

The claim should normally be made by the person liable for Council Tax. However, a person acting on their behalf, such as an appointee or advocate may also apply and submit an application if the customer is vulnerable and requires support. (the applicant must provide their consent in writing in these circumstances).

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Applicants may be notified of the decision for Discretionary Council Tax Hardship payment in the following ways:

- In writing
- By means of electronic communication
- By telephone

The Client Team will aim to process all applications for an award within 21 working days.

An award will be credited to the applicants Council Tax account.

An award of Discretionary Council Tax Hardship payment will be recovered if the Council determines that payment was made as a result of misrepresentation/failure to disclose information correctly

An award of Discretionary Council Tax that we have deemed to have been paid incorrectly will be recovered via a charge to be debited to the Council Tax account.

The Council will accept a written request for a review of its decision. Such requests must be made in writing to:

Client Team
South Derbyshire District Council
Civic Way
DE11 0AH

The applicant will be notified, in writing, of the outcome of the review within 28 days

NOTE: Each case is to be treated on its individual merits .This Guidance is intended to promote, and allow, consistency in the determination of applications made under Section 13A of the Local Government Finance Act 1992, as amended.

FAIR PROCESSING NOTICE

This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided in an application for a Section 13A Local Discount for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes