**Discretionary council tax reduction**

**How to guide**

**What is a S13A Discretionary Reduction?**

 S13A (1)(c) of the Local Government Finance Act 1992 provides:

(1) The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13)—

• (a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority's council tax reduction scheme (see subsection (2));

• (b) in the case of a dwelling situated in the area of a billing authority in Wales, is to be reduced to the extent, if any, required by any council tax reduction scheme made under regulations under subsection (4) that applies to that dwelling;

• (c) in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.

(6)The power under subsection (1)(c) includes power to reduce an amount to nil.

**So this means that in addition to having a council tax reduction/support scheme (under subsection (1)(a) and (b)) to cover certain groups of people, each local authority has the power to reduce an individual’s council tax liability by as much as it, ‘thinks fit’. So this is a discretionary power and it can be used to reduce the council tax payable to nil.**

**In order to claim the discretionary reduction clients will need to show that they are unable to pay their council tax bill and that to do so would cause financial hardship.**

**What is Financial Hardship**

Financial hardship was discussed in the case of SC and CW v East Riding of Yorkshire Council (2014) where two cases were considered. In the first one, Mr and Mrs W are an unemployed couple with no savings. The couple had no surplus income and there was a shortfall of £72.34 per month in their budget. The tribunal commented “ It is difficult to imagine a clearer case for discretionary assistance” It found that Mr and Mrs W were entitled to discretionary relief and there was no rational basis for restricting it to a twelve week period or any other period and that the full years’ bill should be remitted.

Mr and Mrs C were also a couple who applied for discretionary relief. Mrs C had a disability and Mr C was her carer. It was found that although they were a ‘household existing at the margins of viability’ and ‘in extremely hard pressed circumstances’ they did have a very small surplus of income over expenditure. Because of the surplus, the appeal was dismissed.

In the recent Coventry case, the tribunal found that as the appellant’s outgoings were in excess of her income, her argument that she did not have the ability to pay was made out.

**Who can apply?**

Anyone who is responsible for a council tax bill either in the current year or for arrears from previous years can apply if they can show that they are experiencing financial hardship.

**Does the client have to be entitled to council tax reduction?**

S13A (1) (c) clearly provides that the discretion under S13A (1) (c) can reduce the bill to ‘such extent’ or ‘such further extent’ as the council thinks fit. So this can apply to people whose circumstances mean that they are not entitled to Council Tax Reduction/Support, but are in hardship and can’t pay their council tax bill. The Coventry case illustrates that S13A can be used to ask for council tax arrears to be written off even where the client is not getting means tested benefits. It is the hardship illustrated by a deficit budget which counts.

 **How much can the bill be reduced by?**

The council has the discretion to reduce the client’s liability to nil (S13A (6))

**Can the reduction cover more than one year?**

A reduction can be awarded to cover any council tax liability no matter when that liability arose (Morgan v Warwick DC 2015) and can be used to wipe out arrears of council tax going back several years. In the Coventry case the current year and arrears from previous years were reduced to nil.

**How does my client get a S13A discretionary reduction?**

Step 1 Maximise income

Carry out a full benefit and income maximisation check for the person(s) responsible for the bill and check if they are entitled to any council tax exemptions, discounts or reductions. Check if there are any other ways of reducing their living costs.

Step 2 Produce a financial statement

If your client’s budget shows that they can’t afford to pay their council tax or that to do so would put their budget into deficit they can ask for a discretionary reduction.

Step 3 Gather evidence

Pull together evidence of any other priory debts and any medical conditions which affect your client’s ability to pay.

Step 4 Help your client to apply

Applications must be in writing. Some councils have an online form, or the application can be made by letter. Keep a copy, even if applying using an online form. Send a full standard financial statement together with other supporting evidence. If you don’t get a response, send a copy to the Chief Executive of the council. If necessary, get your client’s local councillor involved.

Use the LBTH application form to apply and send it via on line account or to

London Borough Tower Hamlets, Revenue Services, Town Hall, Mullberry Place, 5 clover Cresence, E14 2BG counciltax@towerhamlets.gov.uk

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