

01 February 2019

Dear Members of Cabinet

Cabinet - 11 February 2019

I am now able to enclose, for consideration, the following report at the above meeting that was unavailable when the agenda was printed.

**Item Item
No**

12 Council tax reduction exceptional hardship policy (Pages 1 - 22)

Report of Director of Service Delivery
Lead Cabinet member: Councillor Bill Giles

Yours sincerely

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Report to: Cabinet

Date: 11 February 2019

Title: Exceptional Hardship Policy

Report of: Tim Whelan, Director of Service Delivery

Cabinet member: Councillor Bill Giles, Cabinet for Finance

Ward(s): All

Purpose of report: To recommend changes to the Exceptional Hardship Policy.

Officer recommendation(s): (1) That the proposed changes to the policy are adopted
(2) That Cabinet delegate authority to the Director of Service Deliver in consultation with the Lead Member to make alterations to the policy.

Reasons for recommendations: Will allow those self-employed claimants currently excluded from the Exceptional Hardship scheme to benefit from additional financial support.

Contact Officer(s): Name: Bill McCafferty
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1 Introduction

- 1.1 The current Exceptional Hardship Policy (Appendix 1) is in place to help those people who qualify for some Council Tax Reduction (CTR) but still need additional financial assistance to meet their council tax obligations
- 1.2 The Council Tax Reduction scheme applies the minimum income floor to those people who have been self-employed for 12 months or more and means that, even though their actual declared income would qualify them for CTR, the vast majority do not receive CTR and are therefore excluded from the scheme.
- 1.3 Even for those self-employed who do qualify for some CTR and apply for an Exceptional Hardship Payment the majority do not follow through on their application. For example, they do not supply the income and expenditure details needed in order to make a decision.
- 1.4 The breakdown of historic awards through the Exceptional Hardship Payment is shown below:

Year	No of apps sent	No of apps returned	Awarded	No refused	Amount granted
2016/17	156	79	19	58	£2,832
2017/18	66	38	10	28	£2,014
2018/19	31	20	10	10	£2,897
Totals	259	137	39	96	£7,743

2 Proposal

- 2.1 To amend the Exceptional Hardship Policy so that those self-employed who do not qualify for CTR due to the application of the minimum income floor are able to apply for, and if their circumstances warrant it, receive an Exceptional Hardship payment.
- 2.2 To put in place a series of reminders, including telephoning and or emailing, for those who make an application but do not supply further information and for those who request an application but do not return it.
- 2.3 There is currently c£30k available in the Exceptional Hardship fund. Cabinet could consider adding to this fund either at the beginning of each financial year or during the year
- 2.4 The current Exceptional Hardship Policy at 1.3 states '*A pre-requisite to receive a payment from the Fund is that an amount of Council Tax Reduction **must be in payment** for any day that an EHF payment is requisite*'. It will be necessary to remove this from the future policy.

3 Outcome expected and performance management

- 3.1 More self-employed claimants will qualify for an Exceptional Hardship Payment,
- 3.2 Management information will be collected on:
- The number of applications sent to the self-employed
 - The number of applications received from the self-employed
 - The number of reminders sent
 - The number of awards made
 - The number of applications declined
 - A breakdown of the reasons for declining
 - The value of awards made

4 Consultation

- 4.1 To be carried out.

5 Business case and alternative option(s) considered

- 5.1 An alternative would be to remove or amend the rules around self-employed

claims in the current Council tax Reduction Scheme. Any easing of the rules would come with a cost to the Council and preceptors and would have to be adopted by full council prior to the 11 March in the year preceding the change.

6 Financial appraisal

6.1 The Exceptional Hardship Fund was put in place in April 2016 and was funded by the Council and the major preceptors in relation to their share of Council Tax. The initial fund was £38,700 and there is c£30,000.00 remaining.

6.2 As this is a cash limited fund it is possible that we receive applications where we would wish to make awards in excess of the funds available. At this point we would need to consider if the Council wished to add any additional monies to the fund.

7 Legal implications

7.1 Although the operation of the Exceptional Hardship Fund (EHF) is linked to the Council Tax Reduction Scheme (CTRS), the legal basis for each of these is different. Whilst CTRS is governed by the Local Government Finance Act 1992 (specifically, section 13A and Schedule 1A), the discretion to create and implement an EHF stems from the Council's general power of competence under section 1 of the Localism Act 2011.

It is a proper function of Cabinet to approve an amendment to the EHF in exercise of the Council's general power of competence.

Lawyer consulted 31.01.19

Legal ref: 008024-LDC-OD

8 Risk management implications

8.1 There are no new risks arising as a result of this report.

9 Equality analysis

An Equality and Fairness analysis is being carried out.

10 Appendices

- Appendix 1 - Current Lewes Exceptional Hardship Policy
- Appendix 2 - Proposed Lewes Exceptional Hardship Policy (including recommended changes)

11 Background papers

The background papers used in compiling this report were as follows:

None

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Lewes District Council

**Council Tax Reduction Scheme
Exceptional Hardship Policy**

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1.0 Background

- 1.1 An Exceptional Hardship Fund (EHF) has been set up by the Council as part of the Council Tax Reduction Scheme to assist applicants for Council Tax Reduction who are facing 'exceptional hardship'. The fund has been created to provide further assistance where an applicant is in receipt of Council Tax Reduction but the level of support being paid by the Council does not meet their full Council Tax liability.
- 1.2 The EHF will be available to any applicant where their daily award of Council Tax Reduction does not meet 100% of their Council Tax liability (less any appropriate discounts and non dependant deductions).
- 1.3 The main features of the fund are as follows:
- The operation of the Fund will be at the total discretion of the Council;
 - The Fund will be operated by the Revenues and Benefits section on behalf of the Council;
 - There is no statutory right to payments from the fund although the Council will consider all applications received;
 - Exceptional Hardship Fund payments will only be available from 1st April 2016 and **will not be available for any other debt other than outstanding Council Tax**;
 - A pre-requisite to receive a payment from the Fund is that an amount of Council Tax Reduction **must be in payment** for any day that an EHF payment is requested;
 - Where an Exceptional Hardship Payment is requested for a previous period, Exceptional Hardship must have been proven to have existed throughout the whole of the period requested;
Exceptional Hardship Payments are designed as a short-term help to the applicant only and it is expected that payments will be made for a short term only; and
 - All applicants will be expected to engage with the Council and undertake the full application process. Failure to do so will inevitably mean that no payment will be made.

2.0 Exceptional Hardship Fund and Equalities

2.1 This policy has been created to ensure that a level of protection and support is available to those applicants most in need. It should be noted that the Exceptional Hardship Fund is intended to help in cases of **extreme** financial hardship and not support a lifestyle or lifestyle choice. Whilst the definition 'Exceptional Hardship' is not defined by this policy, it is accepted that changes to the level of support generally will cause financial hardship and any payment made will be at the total discretion of the Council. Exceptional Hardship should be considered as 'hardship beyond that which would normally be suffered'

3.0 Purpose of this policy

3.1 The purpose of this policy is to specify how the Council will operate the scheme, to detail the application process and indicate a number of factors, which will be considered when deciding if an Exceptional Hardship Fund payment can be made.

3.2 Each case will be treated on its own merits and all applicants will be treated fairly and equally in the accessibility to the Fund and also the decisions made with applications.

4.0 The Exceptional Hardship Fund Process

4.1 As part of the process of applying for additional support from the Exceptional Hardship Fund, all applicants must be willing to undertake **all** of the following:

- a. Make a separate application for assistance;
- b. Provide full details of their income and expenditure;
- c. Accept assistance from either the Council or third parties such as the CAB or similar organisations to enable them to manage their finances more effectively including the termination of non essential expenditure;
- d. Accept potential changes in payment methods and arrangements to assist the applicant;
- e. Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted; and
- f. 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.

4.2 Through the operation of this policy the Council will look to:

- Allow a short period of time for someone to adjust to unforeseen short-term circumstances and to enable them to “bridge the gap” during this time, whilst the applicant seeks alternative solutions;
- Establish long term support to households in managing their finances;
- Assist applicants through personal crises and difficult events that affect their finances;
- Prevent exceptional hardship; and
- Help those applicants who are trying to help themselves financially.

4.3 It cannot be awarded for the following circumstances:

- Where full Council Tax liability is being met by Council Tax Reduction;
- For any other reason, other than to reduce Council Tax liability;
- Where the Council considers that there are unnecessary expenses/debts etc and that the applicant has not taken reasonable steps to reduce these;
- To pay for any overpayment of Council Tax Reduction caused through the failure of the applicant to notify changes in circumstances in a timely manner or where the applicant has failed to act correctly or honestly; or
- To cover previous years Council Tax arrears

5.0 Awarding an Exceptional Hardship Fund Payment

5.1 The Council will decide whether or not to make an Exceptional Hardship Fund award, and how much any award might be.

5.2 When making this decision the Council will consider:

- The shortfall between Council Tax Reduction and Council Tax liability;
- Whether the applicant has engaged with the Exceptional Hardship Payment process;
- The personal circumstances, age and medical circumstances (including ill health and disabilities) of the applicant, their partner any dependants and any other occupants of the applicant’s home;

- The difficulty experienced by the applicant, which prohibits them from being able to meet their Council Tax liability, and the length of time this difficulty will exist;
- Shortfalls due to non-dependant deductions;
- The income and reasonable expenditure of the applicant, their partner and any dependants or other occupants of the applicant's home, whether the income may fall to be disregarded under the Council Tax Reduction scheme;
- Any savings or capital that might be held by the applicant, their partner and any member of their household irrespective of whether the capital may fall to be disregarded under the Council Tax Reduction scheme;
- Other debts outstanding for the applicant and their partner; and
- The exceptional nature of the applicant and/or their family's circumstances that impact on finances.

5.3 The above list is not exhaustive and other relevant factors and special circumstances will be considered.

5.4 An award from the Exceptional Hardship Fund does not guarantee that a further award will be made at a later date, even if the applicant's circumstances have not changed.

5.5 An Exceptional Hardship Fund payment may be less than the difference between the Council Tax liability and the amount of Council Tax Reduction paid. The level of payment may be nil if the authority feels that, in its opinion, the applicant is not suffering 'exceptional hardship' or where the applicant has failed to comply with the Exceptional Hardship process.

6.0 Publicity

6.1 The Council will make a copy of this policy available for inspection and will be published on the Council's website.

7.0 Claiming an Exceptional Hardship Fund payment

7.1 An applicant must make a claim for an Exceptional Hardship Fund award by submitting an application to the Council. The application form can be obtained via the telephone, in person at one of the Council offices and/or via the Council's website.

- 7.2 Applicants can get assistance with the completion of the form from the Revenues and Benefits Service or Customer Services at the Council.
- 7.3 The application form must be fully completed and supporting information or evidence provided, as reasonably requested by the Council.
- 7.4 In most cases the person who claims the Exceptional Hardship Fund award will be the person entitled to Council Tax Reduction. However, a claim can be accepted from someone acting on another's behalf, such as an appointee, if it is considered reasonable.

8.0 Changes in circumstances

- 8.1 The Council may revise an award from the Exceptional Hardship Fund where the applicant's circumstances have changed which either increases or reduces their Council Tax Reduction entitlement.

9.0 Duties of the applicant and the applicant's household

- 9.1 A person claiming an Exceptional Hardship Fund payment is required to:
- Provide the Council with such information as it may require to make a decision;
 - Tell the Council of any changes in circumstances (e.g. a change in income) that may be relevant to their ongoing claim; and
 - Provide the Council with such other information as it may require in connection with their claim.

10.0 The award and duration of an Exceptional Hardship Payment

- 10.1 Both the amount and the duration of the award are determined at the discretion of the Council, and will be done so on the basis of the evidence supplied and the circumstances of the claim.
- 10.2 The start date of such a payment and the duration of any payment will be determined by the Council. In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

11.0 Award of the Exceptional Hardship Fund payment

11.1 Any Exceptional Hardship Fund payment will be made direct onto the customer's Council Tax account, thereby reducing the amount of Council Tax payable.

12.0 Overpaid Exceptional Hardship Fund Payments

12.1 Overpaid Exceptional Hardship Fund payments will be recovered directly from the applicant's council tax account, thus increasing the amount of council tax due and payable.

13.0 Notification of an award

13.1 The Council will notify the outcome of each application for Exceptional Hardship Fund payments in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

14.0 Appeals

14.1 Exceptional Hardship Fund payments are subject to the statutory appeal process. However the authority will look to review any decision where requested by the applicant as detailed in the following paragraphs

14.2 If the applicant is not satisfied with the decision in respect of an application for an Exceptional Hardship Fund payment, a decision to reduce an amount of Exceptional Hardship Fund payment, a decision not to backdate an Exceptional Hardship Fund payment or a decision that there has been an overpayment of an Exceptional Hardship Fund payment, the Council will look at the decision again.

14.3 An officer, other than the original decision maker, will consider the appeal by reviewing the original application and any other additional information and/or representation made, and will make a decision within 14 days of referral or as soon as practicable.

14.4 Where the applicant is still dissatisfied with the outcome of the review they will be able to appeal to the Valuation Tribunal. An appeal to the Valuation Tribunal can be made at any time.

15.0 Fraud

- 15.1 The Council is committed to protect public funds and ensure funds are awarded to the people who are rightfully eligible to them.
- 15.2 An applicant who tries to fraudulently claim an Exceptional Hardship Fund payment 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.
- 15.3 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.

16.0 Complaints

- 16.1 The Council's 'Compliments and Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about this policy.

17.0 Policy Review

- 17.1 This policy will be reviewed at least every year and updated as appropriate to ensure it remains fit for purpose. However, the review may take place sooner should there be any significant changes in legislation.

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