Burnley Council
Council Tax
S13A (1) (c) Local Government Act 1992 Policy

Contents

1.0 Introduction

1.1 The following policy outlines the Council's approach to granting discretionary reductions in liability for Council Tax under S13A (1) (c) of the Local Government Finance Act 1992 (as amended). The Council has the ability to the reduce liability for Council Tax in relation to individual cases or class(es) of cases that it may determine where national discounts and exemptions cannot be applied.

1.2 This policy is basically divided into two main areas namely:

(a) **The Flood Recovery Framework** – this part of the policy covers situations outlined by Central Government where any parts of the Council's area were to be designated as a designated flood area; and

(b) **Granting of reductions in Council Tax liability in all other circumstances** - this part of the policy applies to all other circumstances where an application is made to the Council for a reduction in Council Tax liability under S13A (1) (c) of the Local Government Finance Act 1992 other than in respect of (a) above.

2.0 Legislation

2.1 The relevant legislation (S13 of the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2012), states the following:

Reductions by billing authority

(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;

(b)in the case of a dwelling situated in the area of a billing authority in Wales, ……

(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.

2.2 The provisions stated in (c) above, allows the Council to reduce the Council Tax liability for any taxpayer in addition to any application for Council Tax Reduction under the Council's scheme. This is a general power that has always been available to the Council.

3.0 Finance

3.1 Any amounts granted under S13A (1) (c) are normally financed through the Council's general fund and do not form part of the collection fund. In certain circumstances, Central Government provides funding directly to the Council to compensate for specific events in the case of severe flooding. Where this is available, the Council will look to use **all** funding provided.

3.2 Any additional assistance, outside of the funding, would fall to be paid by the Council itself.

4.0 The Flood Recovery Framework

4.1 In a severe weather event with significant wide area impacts, local authorities may need central support to help their communities and businesses return to normal. Building on these principles, a core package of business and community recovery support has been developed by Central Government to serve as a framework for flood recovery funding when needed.

4.2 It will be for Government Ministers to determine when this support will be made available. Weather incidents with localised impacts will not usually trigger a recovery support package.

4.3 In relation to Council Tax, Central Government have developed a Council Tax discount package that is available under S13A (1) (c).

Who is eligible for a council tax discount?

4.4 Where the Council Tax Discount Scheme is activated following severe weather, MHCLG will refund eligible local authorities for granting discounts in the following circumstances:

(a) 100% discount for a minimum of 3 months, or while anyone is unable to return home if longer, for **primary residences** whereas a result of the relevant weather event:
- Flood water entered into the habitable areas; or,
- Flood water did not enter into the habitable areas, but the local authority regards that the residence was otherwise considered **unliveable** for any period of time. **AND**

(b) 100% council tax discount on temporary accommodation for anyone unable to return to their home, in parallel with the discount on their primary residence where applicable.

4.5 Second homes and empty homes will **not** be eligible.

4.6 Instances where households might be considered **unliveable** could include:

- where access to the property is severely restricted (e.g., upper floor flats with no access);
- key services such as sewerage, draining, and electricity are severely affected;
- the adverse weather has resulted in other significant damage to the property such that it would be, or would have been, advisable for residents to vacate the premises for any period of time, regardless of whether they do vacate or not;
- flooded gardens or garages will **not** usually render a household eligible but there may be exceptions where it could be demonstrated that such instances mean effectively that the property is unliveable.

4.7 It will be for the Council to determine eligibility under the scheme.

Properties affected by multiple instances of flooding

4.8 Residences impacted in multiple flood events will not be precluded from repeat support where this is made available by Government in respect of separate weather events.

4.9 Where the scheme is activated for two separate instances of flooding within 3 months of each other, the two discount periods will run concurrently. For example, if the second flood event occurred after 2 months, flooded properties already receiving support could be eligible for another 3 months' discount, making the total period of reimbursement 5 months.

Funding

4.10 In such cases, Central Government will make payment to the Council via a Section 31 grant.

The Council's Policy in respect of the Flood Recovery Framework

4.11 The Council shall operate the scheme strictly in accordance with Central Government guidelines.

5.0 Applications for S13A (1) (c) in other cases

5.1 Applications for a reduction in liability in any other case may be made:
(a) In writing; or
(b) via the Council's website

Each application shall be treated on their individual merits.

5.2 It is expected in all cases that there would be evidence of extreme financial hardship to justify any reduction and that this should be viewed only as short term assistance rather than a long term reduction of Council Tax liability. Any awards made will be due to exceptional or unforeseen circumstances.

5.3 Requests must be made in writing by the customer, their appointee or a recognised third party, acting on their behalf with a full explanation of why the reduction is requested along with the period that it is requested for. The written application must be submitted to localtaxation@burnley.gov.uk

5.4 The application must also include a full income and expenditure breakdown of the applicant, together with that of any other household members. This should be done by completing the Council's online Means Test form. The application and evidence must show:

- There must be evidence of extreme hardship caused by exceptional or unforeseen circumstances to justify a reduction in Council Tax liability;
- The application has been made as a last resort and prior to this, the applicant must have explored entitlement to Council Tax reduction, exemptions, and discounts before making an application under Section 13A (1) (c);
- Eligibility for a Crisis and Resilience Fund payment must have been considered, if appropriate;
- The taxpayer must not have access to other assets which when realised could be used to pay the outstanding Council Tax.

5.5 In considering awards, the Council may also ask for supporting evidence to be submitted. This may include, but is not limited to:

- Utility and household bills;
- Bank statements; and
- Credit card statements/ proof of loan arrangements.

5.6 The reduction may be granted at an appropriate amount up to 100% of the full charge.

5.7 The start date of the reduction shall not be earlier than the start of the financial year in which the application was made. The reduction shall be awarded no later than to the end of the financial year in which the application was made.

5.8 The Council will advise the taxpayer of the decision regarding an application within 21 days or as soon as practicable thereafter.

6.0 Delegated Powers

6.1 The request for Section 13A (1) (c) awards will be considered by the Council's Finance Manager.

6.2 Decisions on all other matters related to this policy including technical changes will be taken by the Council's Director of Resources.

7.0 Notification

7.1 The Council will normally issue a written decision letter to the applicant within one month of the request or as soon as practicable thereafter. This will include:
- the level of the award, if relevant;
- full reasons for the decision;
- how it will be paid; and
- information about how to ask for a review of the decision.

7.2 Where the award is part of a Central Government initiative, the award will be shown on the taxpayer’s demand notice.

8.0 Review of Decisions

8.1 Notwithstanding any reductions applied automatically to the Council Tax account, where any application is refused, the applicant will be notified that they can ask for the decision to be reviewed. Any request for a review must be made, in writing or by email, within one month of the decision letter.

8.2 The Council's Director of Resources shall undertake the review and shall respond within two months and will have regard to any further evidence supplied.

8.3 If the applicant is dissatisfied with the outcome of the review, they can, within two months of the Council’s reply, appeal to the independent Valuation Tribunal Service to consider their case.

9.0 Changes in circumstances and misrepresentation

9.1 A reduction in liability under S13A (1) (c) can be recovered if it has been made as a result of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise. It can also be recovered as a result of the subsequent application of a national discount or adjustment in banding by the Valuation Office Agency

9.2 Changes of circumstances that subsequently negate the need for a reduction in liability under this policy will be recovered by the Council. Where this occurs, the Council shall notify the taxpayer accordingly.

9.3 Reductions in liability are not transferable following a change in address.

9.4 The Council reserves the right to recover any reductions in liability as a result of a change in legislation or regulation.

9.5 The Council is mindful that it is important to protect public funds and, as such, will take action to prosecute any case where the applicant acts fraudulently in applying for a reduction in Council Tax liability.