



# **The Discretionary Council Tax Exceptional Hardship Policy**

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**Version control**

<b>Issue</b>	<b>Date</b>	<b>Purpose</b>	
1	8 December 2022	Initial Report	
2	16 January 2023	Formatting	
3	17 January 2023	Updated VT details	
4	18 January 2023	Amendments	

## 1.0 Purpose of the scheme, policy and background

- 1.1 This document provides details of the councils' Council Tax Exceptional Hardship Fund (CTEHF), to provide assistance to council taxpayers who are facing 'exceptional hardship' to help reduce their council tax liability.
- 1.2 The CTEHF scheme will be locally funded and will be subject to a budget limit.
- 1.3 The purpose of this policy is to :-
  - Specify how the councils will operate the CTEHF,
  - To detail the application process and indicate several factors, which will be considered when deciding if CTEHF payment can be made.
  - To determine eligibility for a payment under the councils CTEHF.
- 1.4 Each case will be treated on its own merits and all applicants will be treated fairly and equally in the accessibility to the CTEHF and the decisions made with applications.
- 1.5 The CTEHF has been set up by the councils to assist applicants with council tax who are facing 'exceptional hardship'. The fund has been created to provide further assistance where an applicant (whether pension or working age):-
  - is in receipt of council tax support (CTS) but the level of support being paid by the councils does not meet their full council tax liability, or
  - is experiencing short-term extreme financial hardship, due to unforeseen factors outside of their control resulting from the cost-of-living crisis.
- 1.6 In all cases it will be expected that CTS is applied for and, where they have failed to qualify, then evidence of their exceptional circumstances, including full details of their income/expenditure must be supplied for consideration. This includes recommended referrals of potential suitable cases from financial advice organisations, such as Citizens Advice.
- 1.7 The main features of the fund are:-
  - The CTEHF scheme fund has financial limitations and, as such, awards can only be made based on eligibility and having regard to the level of funding available. If available funds have been exhausted from the CTEHF no further awards will be made.
  - The operation of the fund will be at the total discretion of the councils.
  - The fund will be operated by the Revenues and Benefits client team.

- There is no statutory right to payments from the fund although the councils will consider all applications received.
- CTEHF payments are not payments of CTS (as defined within S13A of the Local Government Finance Act 1992).
- CTEHF 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 CTS must be in payment for any day that an CTEHF payment is requested or that an application had been made for CTS and had subsequently been refused.
- Where an CTEHF payment is requested for a previous period, exceptional hardship must have been proven to have existed throughout the whole period requested.
- CTEHF payments are designed to provide short-term help to the applicant only and it is expected that payments will be made for a short-term only.
- Any CTEHF awarded will be credited to the applicant's council tax account.
- All applicants will be expected to engage with the council or 3rd party (such as the Citizens Advice or other advice organisations) acting on behalf of the councils and undertake the full application process. Failure to do so will inevitably mean that no payment will be made.

## 2.0 Funding

- 2.1 The CTEHF is allowable as 'discretionary relief' provided under Section 13A(1)(c) of the Local Government Finance Act 1992, as amended by Section 10 of the Local Government Finance Act 2012. This gives councils additional discretionary powers to reduce the amount of council tax payable for individuals, or for classes of council taxpayer. This includes the power to reduce the amount payable to nil. The cost of awarding discretionary relief, unlike the CTS scheme, falls on the revenue account rather than impacting the tax base.
- 2.2 The County Council will provide match funding of £35,000 to the councils to establish or expand such a scheme to help residents who require short-term assistance due to exceptional circumstances, to assist them in meeting their council tax obligations during the cost-of-living crisis. Funding not utilised by the end of the scheme may be reclaimable by the County Council. Both councils will match the £35,000.

- 2.3 The county council will require a return stating:-
- The number of individuals supported with CTEHF
  - The average value of hardship grant provided
  - The total value of hardship grant distributed
- 2.4 In addition, the County Council requires an impact report setting out:-
- The rational for the local eligibility framework and approach
  - How the funding was delivered
  - An overview of needs that were supported
- 2.5 The CTEHF will close on 31 March 2024 all awards need to be allocated by the scheme deadline.

### **3.0 Equalities**

- 3.1 The creation of the CTEHF facility meets the council's obligations under the Equality Act 2010, amended 2018.
- 3.2 The councils recognise the importance of protecting our most vulnerable customers. This policy has been created to ensure that a level of protection and support is available to those applicants most in need.
- 3.3 It should be noted that the CTEHF is intended to help cases of extreme financial hardship and not support a lifestyle or lifestyle choice.
- 3.4 Whilst the definition of 'Exceptional Hardship' is not exactly defined by this policy, it is accepted that reductions to income and/or benefits generally will cause financial hardship. Exceptional Hardship should be considered as 'hardship beyond that which would normally be suffered'.

### **4.0 The Council Tax Exceptional Hardship Fund Process**

- 4.1 As part of the process of applying for additional support from the CTEHF, applicants will undertake all the following:
- An application form must be submitted for consideration which includes a financial statement of all income and expenditure. Applications can also be made via an advice organisation such as the Citizens Advice.

- Provide full details of their income and expenditure.
- Accept assistance from a third party, such as the Citizens Advice to enable them to manage their finances more effectively, including the termination of non-essential expenditure. Identify potential changes in payment methods and arrangements to assist the applicant.
- Assist the councils to minimise liability by ensuring that all discounts, exemptions and reductions are properly 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.

4.2 Through the operation of this Policy the councils 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.
- Assist the long-term support of households in managing their finances via assistance from the Citizens Advice or other advice organisations.
- Help alleviate exceptional hardship; and support applicants through personal crisis and unforeseen difficult events that affect their finances.
- Help those applicants who are trying to help themselves

4.3 CTEHF cannot be awarded for the following circumstances:

- Where full council tax liability is being met by CTS
- For any other reason, other than to reduce council tax liability
- Where the councils consider that there are unnecessary expenses/debts that the applicant has not taken reasonable steps to reduce
- To pay for any overpayment of CTS caused through the failure of the applicant or partner either in error or fraudulently to notify changes in circumstances within 21 days, where the applicant or partner has made a false representation whether in error or fraudulently or has failed to act correctly or honestly.
- To cover court costs or administration fees

- 4.4 No payment will be made where the name on the bank details does not match the person/household without checks being made and suitable assurance provided that payment is going to the eligible person. Should the councils require additional information in order to establish the correct person to receive the payment, it is expected that the household provides all necessary details as soon as possible. Further details of how this request will be made and responsibilities to supply such information are detailed below.

## 5.0 Awards

- 5.1 The councils will decide whether or not to award a CTEHF payment, and how much any payment award might be.
- 5.2 The intention is for the scheme to be a last resort for exceptional situations and circumstances. It is not intended to replace any discounts, exemptions or CTS awards.
- 5.3 It should be noted that where the council has a discretionary power, it must not fetter its discretion by having a set of rules that are inflexible. Each case must be considered on its own merits, determined within the budget provided and administered under the framework set out in this scheme.
- 5.4 When making a decision the councils will consider:
- The shortfall between CTS and council tax liability
  - Whether the applicant has engaged with the CTEHF application process
  - If a Discretionary Housing Payment (DHP) for housing benefit or universal credit housing element has already been awarded to meet a shortfall in rent.
  - Applications for CTEHF should be one of last resort. Applicants will be expected to have explored and secured any lawful entitlement to other benefits, incomes and reductions in preference to claiming CTEHF
  - The personal circumstances, age and medical circumstances (including ill health and disabilities) of the applicant, their partner, any dependents 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
  - The length of time they have lived in the property



- Shortfalls due to non-dependant deductions
- All income received by the applicant, their partner, and any member of their household irrespective of whether the income may fall to be disregarded under the CTS scheme.
- Any savings or capital which could be released in the short-term 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 CTS scheme.
- The expenditure of the applicant, their partner and any dependants or other occupants of the applicant's home
- How reasonable expenditure exceeds income
- The applicant or household does not have access to any other financial assets that could be realised to pay the council tax
- Other debts outstanding for the applicant and their partner
- The exceptional nature of the application and/or their family's circumstances that impact on finances
- Any previous CTEHF applications made, successful or otherwise, or other discretionary financial awards, such as DHP.
- The amount available in the CTEHF at the time of the application.
- The amount outstanding is not as a result of wilful refusal, culpable neglect or fraud.
- Applicants will need to ensure they are able to satisfy the council that they have taken all reasonable steps to resolve their own situation prior to award.
- There is evidence of exceptional financial hardship that justifies an award
- The applicant or household has supplied all evidence requested by the councils, Citizens Advice or other advice organisations

5.5 The above list is not exhaustive and other relevant factors and special circumstances may be considered.

5.6 An award of CTEHF does not guarantee that a further award will be made at a later date, even if the applicant's circumstances have not changed.

- 5.7 A CTEHF payment may be less than the difference between the council tax liability and the amount of CTS paid. The level of payment may be nil if the councils feel that, in its opinion, the applicant is not suffering 'exceptional hardship', the applicant has failed to comply with the CTEHF process, or where all available CTEHF has been allocated.
- 5.8 CTEHF shall not permit officers to reduce the council tax charge for any day to less than NIL.
- 5.9 The order of discounts will be maintained in line with the Local Government Finance Act 1992, therefore the maximum amount of CTEHF that can be claimed for any day will be net of other discounts and reductions already awarded.
- 5.10 The councils may revise an award of CTEHF where the applicant's circumstances have changed which either increases or reduces their CTS entitlement.
- 5.11 Awards will be made directly by way of a discount applied to the council tax account thereby reducing the amount of council tax payable.

## **6.0 Claiming a Council Tax Exceptional Hardship Fund Payment**

- 6.1 The council will accept referrals from third sector organisations e.g. Citizens Advice and other advice organisations. The Citizens Advice and other advice organisations are best placed to provide the applicant or household advice on debt / money management as a long-term solution to financial problems.
- 6.2 Evidence of taking and adhering to advice may be requested from the applicant or household when making an application for CTEHF.
- 6.3 An application form must be submitted for consideration which includes a financial statement of all income and expenditure and should be supported with available evidence. This may include further detail and information reasonably requested by the council (Citizens Advice or other advice organisation).
- 6.4 The applicant must set out the reasons for applying, including explaining any special circumstances or exceptional hardship being experienced.
- 6.5 In most cases the person who claims the CTEHF award will be the person entitled to CTS. However, a claim can be accepted from someone acting on another's behalf such as an appointee if it's considered reasonable.

## 7.0 Information required to support a claim

- 7.1 Evidence will be required to substantiate a claim for CTEHF.
- 7.2 Evidence can include but is not limited to:-
- full details of their income and expenditure
  - documentary evidence such as utility bills
  - evidence of outstanding debts and any action taken to tackle them
- 7.3 Evidence may be requested that is relevant to the nature of the claim e.g. evidence of illness. It should be noted that no costs will be borne by the councils with regard to obtaining the evidence.
- 7.4 Failure to provide supporting information and evidence that is requested will lead to a refusal, unless the applicant can show good cause for the failure.
- 7.5 All information and evidence provided will be treated in confidence and in accordance with the Data Protection Act 2018 and General Data Protection Regulations 2018.
- 7.6 Where the councils require additional information or evidence it will write to / email / telephone the applicant requesting that the information is supplied within one calendar month. Applications for CTEHF for the current financial year, or part of that financial year, start on 1 April and end on 31 March. An award may be backdated if there is continuous good cause, and the councils consider it appropriate to do so.

## 8.0 Changes in circumstances

- 8.1 The councils may revise an award of CTEHF where the applicants' circumstances have changed which either increase or reduces their CTS entitlement.

### **Duties of the applicant and the applicant's household**

- 8.2 A person claiming an CTEHF payment is required to:-
- Tell the councils of any changes in circumstances, within 21 days that may be relevant to their ongoing claim, and
  - Provide the councils with such other information as it may require in connection with their claim.

8.3 A misrepresentation or failure to report changes to the councils will:-

- Lead to a loss of CTEHF
- Result in cancellation of an award from the council tax account and action to recover any increase in council tax outstanding as a result.

## **9.0 Award and duration of a Council Tax Exceptional Hardship Fund Payment**

9.1 Any award of CTEHF will be made directly onto the applicant's council tax account thereby reducing the amount of council tax payable.

9.2 Taxpayers may find that the award does not reduce their council tax to zero. In those circumstances where taxpayers have council tax to pay they should contact the council tax department as early as possible to discuss payment.

9.3 The start date of an award, the amount and the duration are determined at the discretion of the councils and will be done so based on the evidence supplied, circumstances of the claim and funding available.

9.4 In any event the maximum length of the award will not exceed the end of the financial year in which the award is given.

## **10.0 Notification of Award**

10.1 The councils will notify the outcome of each application for CTEHF in writing. If an application is successful, the decision notice will set out the amount and period of the award.

10.2 The notification for both successful and unsuccessful applications will include the reasons for the decision and advise the applicant of their appeal rights.

## **11.0 Overpaid and incorrectly awarded Council Tax Exceptional Hardship Fund**

11.1 Overpaid CTEHF awards or awards made incorrectly due to error, misrepresentation or incorrect information provided to the councils by the applicant or any other person will generally be recovered directly from the applicant's council tax account, thus increasing the amount of council tax

due and payable under council tax regulations. A revised council tax bill will be issued detailing the instalments due.

## 12.0 Reviews and Appeals

- 12.1 Applicants may challenge a decision by requesting a review within one calendar month of the decision notice where:
- they have not been awarded CTEHF for a day
  - where they feel the award should be increased
- 12.2 Requests must be in writing, received by the councils within one calendar month of the date of the decision notice, be signed by the applicant and outline the grounds for the review request.
- 12.3 The councils may consider a review request if it is made outside one calendar month if the applicant can show continuous good cause for the delay in making the request throughout the period.
- 12.4 There is no right for review where:-
- the council has already reviewed the application
  - for any day on which they have received 100% discount or exemption of their liability
  - where the council has no remaining budget provision
  - in any case where the council was under no duty to make a decision
- 12.5 Review decisions are final and may not be further challenged except where legislation permits. The council will write to the applicant once their review has been considered confirming the outcome, amount and period of any award and a summary of the factors considered in reaching the decision.
- 12.6 We have a duty to respond to the applicant within two months but if they have not received a reply within four months then they can appeal direct to the Valuation Tribunal at the following address:

Valuation Tribunal  
2nd Floor  
120 Leaman Street  
London  
E1 8EU  
**Email:** [appeals@valuationtribunal.gov.uk](mailto:appeals@valuationtribunal.gov.uk)

## **13.0 Fraud**

- 13.1 The councils are committed to protecting public funds and ensuring funds are awarded to the people who are rightfully eligible to them.
- 13.2 The councils will correct any awards made under this scheme where fraud or error has occurred and will seek recovery of any payment made.
- 13.3 The councils will not accept deliberate manipulation and fraud. Any person caught falsifying their records, supplying misleading information or is found to have failed to provide information, the councils reserve the right to withdraw any award made under this scheme as an offence may have been committed under The Fraud Act 2006.

## **14.0 Data sharing and fair processing**

- 14.1 The councils may use any evidence and information supplied to it in respect of CTEHF to check the eligibility of the applicant in respect of this scheme or any other welfare benefit, council tax reduction, discounts or exemptions.
- 14.2 The councils are required by law to protect the public funds they administer. The councils may share information provided to them with other bodies responsible for auditing or administering public funds, in order to prevent and detect fraud. Data will only be shared if the law permits it.

End.