



Revenues & Benefits Service

Local Council Tax Support

DISCRETIONARY HARDSHIP & EXCEPTIONAL HARDSHIP POLICY

VERSION CONTROL

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Part 1 Introduction

- 1.1 The Council has introduced a Local Council Tax Support scheme (LCTS) with the underlying theme that vulnerable residents should be protected and that work should be rewarded.
- 1.2 It is however recognised that there will be some cases where a working age resident is not entitled to a sufficient level of award under the main principles but may face hardship if the Council does not use its discretion to provide additional support. Furthermore there will also be cases where the circumstances of the working age resident are such that the level of support they receive through LCTS does not meet their short term financial needs.
- 1.3 To ensure that the Borough limits the possibility of hardship caused by its' scheme, the scheme contains a Discretionary Hardship Fund. This is to provide short term financial support for claimants whose circumstances mean they do not get sufficient support through the LCTS scheme to meet their short term financial obligations.
- 1.4 An Exceptional Hardship Fund has also been created to provide financial support for residents who fall outside the normal qualifying criteria for Council Tax Support or the discretionary fund and where financial support is deemed necessary because of the exceptional circumstances of the resident.
- 1.5 The Discretionary Hardship Fund forms part of the LCTS scheme. Neither scheme however limits the ability of the Council to apply a further local discount in accordance with Section 13(a) of the Local Government Finance Act 1992 (as amended).
- 1.6 To be considered for additional financial support from either the Discretionary Hardship Fund or the Exceptional Hardship Fund, Brentwood Borough Council must be satisfied that the circumstances of the claimant and the household of that claimant justify an award from either the Discretionary Hardship or Exceptional Hardship Funds.

Part 2 Discretionary Hardship Fund

- 2.1 The Discretionary Hardship Fund is an enhancement of the LCTS award that the Council can award in addition to the claimant's normal Local Council Tax Support award if the Borough decides that the claimant needs additional financial assistance to meet the Council Tax liability for the financial year in question. The main principles of the scheme are:

- The scheme is discretionary

- All applications will be considered on an individual case by case basis
- The scheme is administered by Brentwood Borough Council
- The level of enhanced award will be determined by the Council and administered through the Local Council Tax Support scheme

2.2 The Discretionary Hardship Fund is seen as a short-term emergency fund and the Council has the right to amend, suspend or cancel a Discretionary Hardship Fund payment when necessary or appropriate.

Purpose of the Discretionary Hardship Fund

2.3 The purpose of the Discretionary Hardship Fund is to provide short term financial assistance in order to:

- Alleviate poverty
- Safeguard residents in their home
- Help claimants through personal crises and difficult events

2.4 Claimants can be considered for a payment from the Discretionary Hardship Fund if:

- they are already in receipt of Local Council Tax Support (LCTS)
- **but** they get less support than their Council Tax liability or do not qualify for full entitlement to Local Council Tax Support
- **and** there is a demonstrable need for additional financial assistance with their Council Tax payments
- **and** the claim for a discretionary payment has not been made by a person, whose award of Local Council Tax Support has been classed as made by a vulnerable claimant or whose award has been calculated under the Pension Age provisions of the Council Tax Reductions Scheme (Prescribed Requirements) (England) Regulations 2012.

2.5 Claims for Discretionary Hardship Fund payments will not be considered if:

- There has been a reduction in any benefit as a result of Jobseeker's sanctions, Child Support Agency sanctions or sanctions following certain benefit related offences
- There is a doubt about ongoing entitlement to Local Council Tax Support and the LCTS has been suspended.

- Local Council Tax Support entitlement combined with an award of Discretionary Hardship Fund will not exceed the the Council Tax liability.
- An award of a Discretionary Hardship Fund relief must not create a credit balance on a Council Tax account. For the purpose of clarity, that means the outstanding balance may only be cleared to £0.00.

2.6 The Council will give priority to cases which safeguard individuals and families living in the community and contribute to preventing homelessness.

2.7 Each case will be considered on its merits. However the following guidelines should be used to assess each case (subject to available funding). Consideration will also need to be given to the **short term** nature of the Discretionary Hardship Fund. This list is not exhaustive but under consideration will be the following:-

- Any social or health problems currently being faced by the claimant and/or their family causing the claimant extra financial costs.
- Any income and expenditure of the household excluding that of a joint tenant
- Disregarded income if the claimant is working. It is reasonable to expect them to use their disregarded income towards their shortfall (excluding other forms of disregarded income e.g. Disability Living Allowance - Mobility)
- Is there danger of eviction and homelessness?
- Any savings or capital that might be held by the household
- The amount of priority debts which the claimant has incurred
- What is likely to happen to the family if a Discretionary Hardship Fund is not awarded?
- Are there any other fund/funding schemes available via Benevolent funds or from charitable organisations that would be appropriate to use instead of a Discretionary Hardship Fund?
- Are there any pre existing Local Council Tax Support protections that could apply instead of an award of a Discretionary Hardship Fund
- Whether there are any alternative discounts that can be applied to the award.
- Whether any members of the household could assist in meeting the Council Tax liability all information and evidence furnished, or not furnished.

2.8 The Council will not make any allowance for the following

- Any loss resulting from the claimant's failure or delay in claiming any income to which they are entitled
- Any debt arising from an overpayment or arrears of Council Tax.

- Any debt, which, in the opinion of the Council arises from the financial imprudence of the claimant, such as but not limited to addictive spending (which may include alcohol, gambling or drugs use).

Discretionary Hardship Fund awards

- 2.9 An award of a Discretionary Hardship Payment must not put the Council Tax Account into credit. The outstanding balance may only be cleared to £0.00. The maximum amount of Discretionary Hardship Payment that may be made in individual cases will be decided based on the circumstances of the claimant, whilst also taking into account the level of funding available. These factors will determine both the amount of award and the period for which it is granted. The principle but not definitive circumstances that will be considered are listed under 2.4 and 2.5.
- 2.10 The start date of the Discretionary Hardship Payment will normally be from the Monday following the date the written request was received. If a claim is received at the same time as an LCTS claim then the start date of the Discretionary Hardship Payment can be matched to the start of LCTS award if the financial circumstances of the claimant and the claimants' household warrant it. The financial circumstances of the claimant and his / her household will be used to determine the start date of the award in all cases.
- 2.11 In all cases, an award of Discretionary Hardship payment cannot be paid beyond the end of that financial year even if a claim is made in March. Other mitigating factors to consider are an expected change in circumstance, i.e. starting work, a date considered reasonable given the circumstances of the case or the end date of the LCTS entitlement.
- 2.12 When considering a Discretionary Hardship Payment claim it should be taken into account that the Discretionary Hardship Payment scheme should in most cases be seen as a short-term enhancement of the standard award. Claimants must be made aware that they must seek advice with regard to their Housing needs and ways to manage financially in the long term. Discretionary Hardship Fund awards will not be paid indefinitely. They will be subject to regular review. Discretionary Hardship awards will be paid directly into the claimants Council Tax account.
- 2.13 The Council reserves the right to prioritise funding. That means where funding has been awarded and we have had applications from people who have a priority, existing awards may be reduced or terminated.

- 2.14 Monthly management statements will be maintained in order to assist with the financial control of the fund.

Part 3 Exceptional Hardship fund

- 3.1 The Exceptional Hardship Fund is the power to award a further discount or relief under Section 13 of the Local Government Finance Act 1992, as amended. These awards will be used to mitigate exceptional hardship. Nothing in this policy creates a right or entitlement to such a relief.
- 3.2 The total amount payable in any financial year is cash limited and therefore applications cannot be progressed once the funding is fully utilised within that year.

Purpose of the Exceptional Hardship Fund

- 3.3 The Exceptional Hardship Fund is an enhanced award, discount or relief that the Council can grant when a resident is considered to require additional financial assistance as a result of exceptional circumstances. The main principles of the scheme are:
- The decision to award a payment is discretionary
 - All applications will be considered on an individual case by case basis, on their own merit.
 - The scheme is administered by Brentwood Borough Council
 - The level of payment will be determined by the Council and any award will be applied to the Council Tax Account of the Claimant.

Claim criteria

- 3.4 Claimants can be considered for payments from the Exceptional Hardship Fund if:
- they have applied for support but have been excluded under the general provisions of the local scheme but would have had an entitlement to an award under the Council Tax Support default scheme.
 - or if they are excluded from assistance under the discretionary hardship scheme
 - **and** their circumstances are deemed exceptional
 - **and** there is a need for further financial assistance to help the claimant meet their Council Tax liability.

Exceptional Hardship Fund awards

- 3.7 The individual maximum amount of exceptional hardship enhancement that may be awarded will be up to the liability of the claimant for the financial year 2013/14. No award from the exceptional hardship fund shall put the account in to credit, for the purposes of this rule; this means that the outstanding balance may only be cleared to £0.00. However the level of funding provided, for the exceptional hardship scheme will be a key factor in deciding both the level of the individual award and the period for which it is granted.
- 3.8 The start date of the Exceptional Hardship Payment will normally be from the Monday following the date the written request was received. The financial circumstances of the claimant and his / her household will be used to determine the start date of the award in all other circumstances.
- 3.9 In all cases an award of Exceptional Hardship Payment cannot be paid beyond the end of that financial year even if a claim is made in March. Other mitigating factors to consider are an expected change in circumstance, i.e. starting work, a date considered reasonable given the circumstances of the case or the end date of the LCTS entitlement.
- 3.10 The Council reserves the right to prioritise funding. That means where funding has been awarded and we have had applications from people who have a priority, existing awards may be reduced or terminated.
- 3.11 Monthly management statements will be maintained in order to assist with financial control of the fund.

Part 4 Claims for Discretionary Hardship Fund/Exceptional Hardship Fund payments

- 4.1 Claims for Discretionary Hardship or Exceptional Hardship payments will be through the Council's website.
- 4.2 Where a claimant is unable to access the website, the claimant will either be assisted by a Customer Support officer via a telephone call or encouraged to use any Council outlet such as the Town Hall reception or local libraries to complete their claim.
- 4.3 The claim must contain sufficient evidence/information to enable the Council to get a balanced view of the claimant's situation and circumstances.

- 4.4 The claim process will also ask for the reasons why financial assistance is required, declaration that the information given is correct, authorisation for Brentwood Borough Council to verify information given, a declaration that the claimant will repay any overpayment and that additional evidence may also be requested. If further evidence is required this must be provided within 21 days.
- 4.5 The claimant remains fully liable for all information and evidence furnished, or not furnished to a Revenue and Benefits Officer, where assistance has been obtained in making that claim
- 4.6 The Borough will accept claims made with the assistance of an appointee or an official (either employed on a voluntary basis or a paid basis) working with an advice agency. The claimant remains liable for all information and evidence furnished, or not furnished to support that claim. Where the Borough believes there has been collusion in order to obtain, increase, or retain entitlement to a main scheme award and or a discretionary award, legal action will be considered against all relevant parties.

Part 5 Changes in circumstance

- 5.1 Recipients of a Discretionary Hardship and Exceptional Hardship payments must report, in writing, any change in circumstance that might affect the amount of Discretionary Hardship Fund or Exceptional Hardship Fund they receive. Examples of these changes include but are not limited to:

- If they change address
- If they leave their home temporarily
- If their income changes
- If the number or circumstances of residents in the household changes.
- The duty to notify changes of circumstances is detailed in the Council's LCTS policy and the recipient of an LCTS award and/or an award from this policy must satisfy that duty in full.

Part 6 Overpayments

- 6.1 The Council will seek recovery of an overpaid Discretionary Hardship Fund payment or Exceptional Hardship Fund payment. This could arise in the following circumstances:
- Misrepresentation or failure to disclose a material fact, fraudulently or otherwise.
 - An error made when the claim was determined.

- Failure to notify any relevant change in order to retain, enhance or obtain entitlement to support, whether fraudulently or otherwise.
- An error was made in the provision of information or evidence or the interpretation of that information or evidence led to an incorrect award.
- This provision does not limit the circumstances by which an overpayment of either a main scheme award or a discretionary award can be recovered.

Part 7 Notifying decisions

7.1 The Council will notify the claimant of the decision in writing. If awarded, the notification advising them they have been successful will specify the amount of award weekly, the period of the award, the right of the claimant to ask for a review/appeal of the award and the time and manner of doing so and the right of the Council to amend, suspend or cancel a Discretionary Hardship Fund payment or Exceptional Hardship Fund payment when deemed necessary or appropriate.

Part 8 Reviews

- 8.1 Exceptional Hardship Fund payments are not part of the Local Council Tax Support and are therefore not subject to the LCTS Appeal Process. For the purposes of this rule, exceptional hardship awards are a discretionary relief as laid down by Section 13 of the Local Government Finance Act, 1992 (as amended). Nothing in this policy creates a statutory or other right to such a relief.
- 8.2 If an appeal is submitted as a request for a review of a decision to not award a relief through the exceptional hardship policy, it will be judged by an independent panel which will normally include two senior officers from Revenues & Benefits, plus a third officer from another Service Area.
- 8.3 Once the review has been completed, written confirmation will be supplied to the claimant informing them of the decision within one week of that decision. The decision to refuse an award of exceptional hardship is final.
- 8.4 As the Discretionary Hardship Fund forms part of the LCTS scheme, the review process will follow the rules laid down in the Council's LCTS policy and will comply with the relevant legislation as set out by the prescribed regulations.
- 8.5 For the purposes of the decision making process and the appeals process, discretionary hardship enhancements to Council Tax Support Awards are to be determined on the same basis as Regulation 60 of the Council Tax Benefit Regulations (1992) (AS MADE) and as such, the Council **may** award such

enhancements. This policy does not establish a requirement to award such enhancements nor does it require the Council to create any individual entitlement to such an enhancement.

Part 9 Funding the schemes

- 9.1 Funding for the Discretionary Hardship Fund payments will be met within the scheme and will be reviewed annually. The Fund will be financed through the Collection Fund via the main scheme grant and/or any additional income derived from technical changes to Council Tax Discounts and Exemptions
- 9.2 As required by the Council Policy on Local Council Tax Support; the defined amount to be made available for enhanced awards under the Discretionary Hardship Fund shall be set at 2% of the estimated expenditure of the Council Tax Support scheme agreed by Council. This sum shall be calculated before the start of the Financial Year.
- 9.3 Funding for the Exceptional Hardship Fund payments for 2013/14 is through the General Fund. Essex County Council has provided a grant towards the cost of any reliefs awarded as part of the Exceptional Hardship Policy. The value of the fund will be reviewed and agreed by the Council and with the preceptor(s) annually. The Exceptional Hardship Policy does not fall within the remit of the Local Council Tax Support Scheme.
- 9.4 This policy does not limit the ability of the Council to award such further discounts or reliefs, within the powers available to it under Section 13 of the Local Government Finance Act, 1992 (as amended).