



## **FULL COUNCIL REPORT**

Date Written	16 <sup>th</sup> April 2018
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Service Area	Revenues
Exempt/Non Exempt	Non - Exempt
Committee Date	27 <sup>th</sup> June 2018

*To: Mayor, Ladies and Gentlemen*

### **Council Tax Exemption for Care Leavers**

#### **1.0 SUMMARY OF THE REPORT**

- 1.1 A recent campaign by the Children's Commissioner has highlighted the difficulties that many young people face in managing their money and paying bills when leaving care.
- 1.2 This report provides details of a proposal to 'exempt' care leavers between the ages of 18 and 25 as a specified class from the payment of Council Tax. If agreed, this will require amendments to the Councils 'Council Tax Discretionary Relief Policy – Section 13A (1) (c)' which allows a Council to reduce the Council Tax liability of a person, or a class of persons, to nil if it sees fit to do so.
- 1.3 Currently, the Council Tax Discretionary Relief Policy only allows for applications to be considered on an individual basis. To implement this proposal, care leavers need to be specified as a class of cases in respect of which Council Tax liability can be reduced. Where a care leaver resides in a household and is not liable for Council Tax purposes, the Council Tax liable person(s) will be able to apply for a discretionary reduction if the presence of the care leaver results in an increase in the Council Tax payable for the household. In both instances, the care leaver needs to be aged between 18 and 25.

#### **2.0 RECOMMENDATIONS that**

- 2.1 The decision to amend the Council's Discretionary Relief Policy to exempt care leavers from Council Tax payments be approved.

### **3.0 INTRODUCTION AND BACKGROUND**

- 3.1 Section 13A (1) (c) of the Local Government Finance Act 1992 as amended, gives discretion to billing authorities to reduce a liable persons Council Tax to such an extent as it sees fit, even to nil, whether on an individual basis or by prescribing one or more classes. This discretion is in addition to various statutory reductions, discounts, disregards and exemptions that are prescribed within Council Tax legislation.
- 3.2 Care leavers are a particularly vulnerable group whose transition from care into adulthood can be very challenging in terms of managing money for the first time without family support. There is a significant risk of these young people falling into debt, some facing Council Tax bills along with other commitments. Following a recent campaign by the Children's Commissioner, the Welsh Local Government Association's Executive recently endorsed a paper to pursue the 'exemption' from Council Tax liability within individual local authorities. Additionally, a motion supporting this initiative was presented to, and agreed by Council on the 4th April 2018.
- 3.3 The Council has a responsibility as a Corporate Parent to support young people in its care. Corporate parenting is a statutory function of the Council. The underlying principle is that every local authority will seek the same outcomes for young people in care that every good parent would want for their own children. To support this process, it is proposed that care leavers between the ages of 18 and 25 are designated as a specified class under the Council's Council Tax Discretionary Relief Policy and would in effect be 'exempt' from liability to pay Council tax where their liability to pay has not already been reduced to nil by the award of statutory reductions, discounts, disregards and exemptions for other reasons.
- 3.4 Council Tax officers will work with colleagues in Social Services to develop processes that will make it as easy as possible for care leavers to access this discretionary relief. For young people within the County Borough leaving care, the process should be seamless and invisible. Children's Services will automatically register care leavers with the Council Tax section so that the relief may be awarded promptly.
- 3.5 If this amended policy is agreed, any cases falling within the specified class of 'care leavers' will be awarded a discretionary reduction which will be approved by the Revenues and Benefits Manager. No written application or means testing will be required.
- 3.6 Any discretionary relief for care leavers would take effect from 1<sup>st</sup> April 2018, or the date on which a care leaver's liability to pay Council tax first arises where that date is later than 1<sup>st</sup> April 2018.
- 3.7 Where a care leaver is aged between 18 and 25 and resides in a household but is not liable for Council Tax purposes, the Council Tax liable person(s) will be able to apply for a discretionary reduction if the presence of the care leaver results in an increase in the Council Tax payable. The discretionary relief will be equivalent to the

amount by which the Council Tax has increased. The effective date for any discretionary relief under these circumstances would be 1<sup>st</sup> April 2018, or the date on which a care leaver first joins a household where that date is later than 1<sup>st</sup> April 2018.

3.8 The revised policy detailing these changes is attached at Appendix A of this report.

#### **4.0 FINANCIAL IMPLICATION(S)**

4.1 The financial impact of awarding reductions under Section 13A (1) (c) of the Local Government Finance Act 1992 as amended must be borne wholly by the Council as a loss of Council Tax revenue.

4.2 It is difficult to estimate the cost of providing such relief as many potential claimants may qualify for other reliefs and exemptions. However, it is likely that the spend would be below £5,000 per annum.

#### **5.0 EQUALITY IMPACT ASSESSMENT**

5.1 An Equality Impact Assessment (EqIA) form has been prepared for the purpose of this report. It has been found that a full assessment is not required at this time. The form can be accessed on the Council's website/intranet via the 'Equality Impact Assessment' link.

5.2 However, as part of the screening process it was noted that if the scheme were approved, there would be a positive impact on care leavers who are considered a particularly vulnerable group where there is a significant risk of them falling into debt as they transition from care into adulthood.

**GARETH CHAPMAN**  
CHIEF EXECUTIVE

**COUNCILLOR ANDREW BARRY**  
CABINET MEMBER FOR GOVERNANCE  
& CORPORATE SERVICES

<b>BACKGROUND PAPERS</b>		
<b>Title of Document(s)</b>	<b>Document(s) Date</b>	<b>Document Location</b>
Equality Impact Assessment Screening Document	16 <sup>th</sup> April 2018	Electronic Library
<b>Does the report contain any issue that may impact the Council's Constitution?</b>		<b>No</b>

***Consultation has been undertaken with the Corporate Management Team in respect of each proposal(s) and recommendation(s) set out in this report.***

## **Appendix A**

# **Council Tax Discretionary Relief Policy**

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## **1) Introduction**

This discretionary relief policy has been created by the Council to assist all persons liable for Council Tax who may be experiencing financial hardship or distress. This policy is also intended to provide further financial assistance where an applicant is in receipt of a Council Tax Reduction award, where it does not meet their full Council Tax liability.

The discretionary relief policy will be administered by Merthyr Tydfil County Borough Council and will be made available to any council tax payer specified in Sections 4 and 5 of this policy. The purpose of this discretionary relief policy is to provide temporary assistance to Council Tax payers to help reduce their Council Tax liability. The operation of the policy is at the discretion of the Council.

## **2) Legislative Powers**

Section 13A(1)(c) of the Local Government Finance Act 1992 (as inserted by Section 76 of the Local Government Act 2003), provides the Council with the discretion to reduce liability for council tax in relation to individual cases or class(es) of cases that it may determine and where national discounts and exemptions cannot be applied.

A summary of Section 13A(1)(c) is set out below :

- Where a person is liable to pay council tax in respect of any chargeable dwelling, the Council for the area in which the dwelling is situated may reduce the amount to such extent as it thinks appropriate.
- The power under subsection 1) includes the power to reduce an amount to nil.
- The power under subsection 1) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.

There are financial implications to awarding any discretionary reliefs other than those currently available under the statutory legislation and the financial burden of Section 13A discretionary relief is borne directly by the Council as a loss of council tax revenue.

### 3) Statement of Objectives

The purpose of this policy is to specify how the Council will operate this discretionary power and to set out the factors that will be considered when making a decision on whether to award council tax discretionary relief (or not).

Principally, the objective of council tax discretionary relief is to offer short term financial assistance to council tax payers who are experiencing exceptional circumstances. Each application for discretionary relief will be treated strictly on its own merits and all council tax payers will be treated fairly and equally. The Council will seek through the operation of this policy to:

- Alleviate social injustice
- Prevent homelessness
- Keep families together
- Support the vulnerable in their homes in the community
- Support those applicants who are unable to work due to a disability, who have been assessed as such by the Department for Work and Pensions
- Help customers through personal crises and difficult events
- Provide advice on long term possible solutions to meet their housing costs
- Improve financial capability by referral to an independent advisor e.g. Money Advice Service.

The list is not exhaustive and we will consider all factors or exceptional circumstances that may apply.

Council Tax discretionary relief through this policy is intended as a short term emergency measure and is not intended to cover the shortfall between Council Tax and entitlement to Council Tax Reduction Scheme support or any other reduction on a long term basis.



#### 4) Care Leavers' Class

Care leavers are specified as a class of cases in which liability can be reduced to nil. Cases falling within this class will be awarded discretionary relief automatically and no written application will be required.

For the purposes of this policy, care leavers will be defined as residents for whom Merthyr Tydfil County Borough Council (or another local authority), held corporate parenting responsibility at the point at which the young person left care. Corporate parenting is a statutory function of the council and in Wales, Councils retain corporate parenting responsibilities for young people who left care up to the age of 21 or up to the age of 25 if they are pursuing education or training.

The principles of awarding discretionary relief to care leavers are as follows:

- The young person is a 'care leaver' and is between the ages of 18 and 25 and is not exempt from Council Tax liability on any other basis.
- Where a Merthyr Tydfil CBC 'care leaver;' moves out of the Councils area, the discretionary relief will be apportioned to the date that they move.

The Care Leavers Class will operate as follows:

- The young person is a 'care leaver' and is between the ages of 18 and 25 and is not exempt on any other basis.
- The discretionary relief will apply to residents for whom Merthyr Tydfil CBC or another local authority, held parenting responsibility at the point at which the young person left care.
- The care leaver resides and is liable, or jointly liable, to pay Council tax within Merthyr Tydfil County Borough.
- The level of reduction applied will be 100% of residual Council Tax liability, after taking into account any other discounts, disregards, exemptions or Council Tax Reduction (CTR) to which the care leaver may be entitled.
- The relief will be awarded against any Council tax liability arising from 1<sup>st</sup> April 2018 and the Council will have discretion to backdate future awards to the 1<sup>st</sup> April 2018 but no earlier.

- The relief will not be means-tested if the care leaver is between the ages of 18 and 25.
- The date of the day before the care leavers 25<sup>th</sup> birthday determines the last day of the period of the discretionary relief.

## 5) Claiming Discretionary Relief

With the exception of the Care Leavers' specified class where no application is needed, the Council will treat all applications on their individual merits. Council will only consider using its powers to reduce council tax liability for a council tax payer or class of payer in exceptional circumstances, because the full cost of awarding relief has to be borne by the Council.

Examples of circumstances where a council tax payer may experience financial hardship can include, but is not limited to the following:

- A sudden change in circumstances, such as loss of employment
- A reduction in income due to illness suffered by the liable person
- Loss of income incurred by the liable person to enable them to care for a dependant
- Sudden increase in other expenses, for example, due to a family member's illness or incapacity.

General hardship can also be incurred from living on a very low income. It is difficult to determine when a person on a low income will qualify for additional support through this policy. However, the following are factors that the Council may take into account:

- Inability to make payments for basic utilities such as water, electricity and heating
- Court proceedings for outstanding debts
- Consistently exceeding overdraft limits without evidence of spending on anything other than necessities such as utilities, food and accommodation
- The threat of homelessness
- Inability to pay for food.

### Who can apply?

Those persons liable to pay Council Tax to Merthyr Tydfil County Borough Council who can apply are:-

- Owner occupiers
- Tenants
- Liable residents (but not formally a 'tenant')
- Persons acting on behalf of a liable person i.e. an appointee, solicitor or someone with power of attorney.
- Where a care leaver is between the ages of 18 and 25 and resides in a household but is not liable for council tax purposes, the council tax liable person(s) will be able to apply for discretionary relief if the presence of the care leaver results in an increase in the council tax payable. The relief will be equivalent to the amount by which the council tax has increased.

### Who cannot apply?

Any person not liable to pay Council to Merthyr Tydfil County Borough Council, but also specifically:-

- Landlords of properties where the tenant is liable
- Landlords, if liable
- Estate agents/managing agents on behalf of a landlord
- Friends/relatives of the liable person (unless acting as an appointee or under a power of attorney)
- Lodgers or other residents who are not liable to pay Council Tax
- Support agencies (unless acting as an appointee or under a power of attorney)
- Banks or other holders of a mortgage or other legal charge on a property
- Owners of empty properties.

The Council will treat all applications on their individual merits, however some or all of the following criteria must be met for each case:

- There must be evidence of financial hardship or personal circumstances that justifies a reduction in council tax liability

- The applicant must satisfy the Council that all reasonable steps have been taken to resolve the situation prior to application
- The applicant has applied for council tax support (the Welsh Government's national Council Tax Reduction Scheme exists to ensure that those on low incomes receive financial assistance with their council tax)
- All other appropriate council tax discounts/reliefs have already been awarded
- The applicant does not have access to other assets that could be used to pay council tax
- All other legitimate means of resolving the situation have been investigated and exhausted by the applicant.
- The situation and reason for the application must be outside of the applicant's control
- The amount outstanding must not be the result of deliberate non-payment or failure to make payments as required through neglect.

Requests for reductions in council tax liability will be required in writing from the council tax payer or a recognised third party appointed to act on their behalf.

The application should relate to the current council tax year, unless the applicant has received a bill following a delayed council tax valuation for a previous year(s) or a late determination as to liability to the council tax (provided the late determination is not the fault of the applicant).

The Council reserves the right to request any additional evidence in support of the discretionary relief application, and will act consistently and reasonably in doing so. Where the applicant is unable to, or does not supply the required evidence, the Council will still consider the application and will take into account any other evidence available, including documentation held on the housing benefit/council tax reduction case file.

The Council will consider the household's overall financial capability when determining an award for discretionary relief.

## 6) Decision Making

Whilst the discretionary relief policy is by definition 'discretionary', the Council has a duty to make decisions in accordance with recognised principles about good decision-making, i.e. administrative law, and in particular, to act fairly, reasonably and consistently.

The Revenues and Benefits Manager will determine all Section 13A applications in consultation with the Chief Finance Officer and the decision will then be referred to the Director of Customer Services for authorisation.

In deciding whether to award discretionary relief, the Council will take into account the following:

- The shortfall between income and expenditure
- Any steps taken by the applicant to reduce their rental or council tax liability
- The household, financial and medical circumstances of the applicant, their partner and any other persons in the household
- Any savings or capital held by the applicant's household
- The applicant's level of debt
- Any special reasons which make it necessary or particularly desirable for the applicant(s) to occupy the dwelling in respect of which the liability arises
- The possible consequences of council tax arrears for the applicant or family members, especially if any of them are vulnerable by reason of age, sickness or disability
- Whether the applicant can change their spending pattern on non-essential items
- The possible impact of not making a payment i.e. the pressure on priority homeless accommodation
- The actions being taken by the applicant to improve or change their domestic, financial or personal situation to reduce or limit the amount of support that they will require in the future i.e. helping those that are trying to help themselves
- Any other special circumstances brought to the attention of the Council.

Any successful application will be granted for the remainder of the financial year in which the application is made, but will cease at the end of that financial year and a re-application will be required for consideration of any ongoing assistance.

Awards will generally be made from the date that the Council received the application form, but the Council may backdate awards under this policy, if it is considered reasonable.

## **7) Notification of Decision**

The Council will notify an applicant in writing within 14 days of receiving sufficient information to make a decision or within a reasonable period afterwards.

Where an application for discretionary relief is successful the applicant (and any other affected party) will receive notification of:

- The amount of the award
- The circumstances of the award, any steps that the applicant should take and any conditionality attached to the award
- The start and end date of the award
- Their duty to report any change of circumstances that may affect the award
- The recoverability of any award
- The procedure to follow should the applicant disagree with the decision.

## **8) Review of Decision**

Under the Local Government Finance Act 1992, there is no right of appeal against the Council's use of discretionary powers. However, the Council will accept an applicant's written request for a further review of its decision, if it is made within one month of the date of notification of the decision.

The request for review will be considered by a person other than the person who made the original decision. He/she will consider whether the applicant has provided any additional information against the required criteria that will justify a change to the original decision.

If the review concludes not to revise the original decision, this decision is final and may only be challenged by way of an appeal to the Valuation Tribunal for Wales, judicial review or by a complaint to the Local Government Ombudsman, (where there is an allegation of maladministration).

## **9) Fraudulent Claims and Overpayments**

The Council reserves the right to recover any overpayment of discretionary relief where the award was made as a result of misrepresentation or failure to disclose a material fact, fraudulently (or otherwise), or due to an administrative error by the Council (where it is reasonable to assume that the taxpayer would have been aware).

The Council is committed to tackling fraud and abuse of public funds in all forms. Where there is suspicion that a fraud may have occurred, the matter will be investigated and this may lead to criminal proceedings being initiated. The Council will consider prosecuting any applicant who makes a false statement or provides fraudulent evidence in support of an application.

An application for a discretionary relief will not be considered to offset any council taxes that have become payable as a result of the taxpayer being prosecuted and convicted for Housing & Council Tax Benefit/Council Tax Reduction Scheme fraud, or in cases where an Administrative Penalty or a sanction has been given in the last 6 years.

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