

CABINET

EXCEPTIONAL HARDSHIP FUND POLICY (COUNCIL TAX SUPPORT)

23 April 2013

Report of Head of Resources

PURPOSE OF REPORT

This report seeks approval to introduce an Exceptional Hardship Fund Policy (“EHF”), which sets out how the Council would operate an EHF in relation to Council Tax Support provided from 01 April 2013 and indicates the factors that would be considered in determining when an EHF award should be made. The proposed new policy is attached as **Appendix A**.

Key Decision	x	Non-Key Decision		Referral from Cabinet Member	
Date of notice of forthcoming key decision	25 March 2013.				
This report is public.					

RECOMMENDATIONS OF COUNCILLOR BRYNING:

1. That the new Exceptional Hardship Fund Policy be approved as set out at Appendix A, to take effect from 01 April 2013.
2. That the Policy be operated within the financial cap as set out in the report and it be monitored on an ongoing basis, for reporting back to the Finance Portfolio Holder initially should total awards be in danger of exceeding the cap.

1 INTRODUCTION

- 1.1 With effect from 01 April 2013, the national Council Tax Benefit Scheme was abolished and in its place, local authorities are now required to adopt Local Council Tax Support (“LCTS”) Schemes.
- 1.2 Following an extensive public consultation exercise, the Council introduced a LCTS Scheme based broadly on the previous rules in place. This retains support levels for claimants, thereby protecting them from the related funding reductions introduced by Government. The scheme was adopted for one year only and it may change in future, in light of experience and further financial pressures.
- 1.3 As part of the new arrangements, it is now recommended that an Exceptional Hardship Fund be set up. This is to assist, on a short term basis, those experiencing exceptional financial hardship resulting from any shortfall between their council tax liability and their award of Council Tax Support (CTS).

- 1.4 Previously, exceptional hardship cases were considered under the banner of Discretionary Housing Payments but as from 01 April 2013, this option has been removed by legislation.

2 BACKGROUND INFORMATION AND OUTLINE PROPOSALS

- 2.1 The LCTS Scheme is based on means testing for pensioners and those of working age on low incomes. The scheme provides protection for those in financial need through a series of premiums and income disregards.
- 2.2 Even though the Council has decided not to reduce the amount of support working age customers can receive, and pensioners are protected under statute, there will still be occasions where a customer is not entitled to full support and may find they are struggling to pay their council tax.
- 2.3 If a customer has unusual or extreme circumstances which are causing financial hardship, the EHF can help in difficult situations. It is designed to provide short term financial assistance to enable customers to make necessary changes to their circumstances to meet their council tax liability. It is not designed to be an on-going top up of Council Tax Support, however.
- 2.4 The level of any award from the EHF cannot exceed the shortfall between the council tax liability and award of council tax support.
- 2.5 Any EHF award would be made directly to the customer's council tax account, therefore reducing the amount of council tax payable.
- 2.6 A customer may make a claim by submitting an application to the Council's Benefit Section. The application must be fully completed and supporting information or evidence provided, as requested by the Council. Each application would be treated on its own merits.
- 2.7 The policy would be reviewed every year and updated as appropriate to ensure it remains fit for purpose.

3 DETAILS OF CONSULTATION

- 3.1 Results from the formal consultation process indicated that approximately 80% of responders considered that the Council should set up a small hardship fund to provide short term assistance to those most in financial need. However, this response was based upon a broad assumption that Council Tax Support would most likely be reduced for working age customers in relation to their award for the previous year.
- 3.2 Major precepting authorities were also consulted and more recently, further discussions have taken place regarding the operation of any Hardship Fund. The principle of having a Fund is generally accepted, but it is also recognised that as the City Council is not reducing council tax support levels in this year, this reduces the pressure and potential call on any such Fund.

4 OPTIONS AND OPTIONS ANALYSIS (including risk assessment)

- 4.1 The basic options are to approve the proposed policy as set out at **Appendix A**, or to require amendments. Such amendments could either broaden or narrow the circumstances that the Council may consider as exceptional hardship.

- 4.2 The pathway for protecting our most vulnerable customers was previously through the Discretionary Housing Payment scheme but as mentioned above, this route is no longer possible. In policy terms there is a need address the void created by this change in legislation, even though for this financial year, the Council has decided to retain existing levels of council tax support and in doing so, the Council already offers some protection to those low income customers who may struggle to pay council tax.

5 **OFFICER PREFERRED OPTION AND COMMENTS**

- 5.1 The Officer preferred option is to approve the policy as set out. The policy demonstrates that the Council recognises the importance of providing measures that may help protect the most vulnerable within the community. The proposed policy has now been adopted by Preston City Council and whilst it is advantageous operationally for both Councils to have the same policy, there is no requirement to do so.

6 **CONCLUSION**

- 6.1 Adoption of an Exception Hardship Fund policy in relation to council tax support would ensure the Council's arrangements are fit for purpose for the current year. The policy would be reviewed in future to ensure that it remains so.

RELATIONSHIP TO POLICY FRAMEWORK

The intention to protect the most vulnerable in our society runs through the Council's proposed Corporate Plan, as reflected elsewhere on the agenda.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing).

An Equality Impact Assessment was carried out in developing options for the new Council Tax Support scheme and the findings have been considered when determining the criteria for the EHF. As the Council has effectively retained previous benefit/support levels, there are no new equality considerations arising.

The Council will advise customers on other available Council Tax discounts/ exemptions/welfare benefits to which they may be entitled before their application for an EHF payment will be determined. The Council will act fairly, reasonably and consistently throughout the EHF decision making process and this will be monitored. The Benefit Section works with colleagues from other services and agencies to provide a full and comprehensive approach to all its customers on debt and money management issues.

FINANCIAL IMPLICATIONS

The operation of the proposed EHF is at the total discretion of the Council and it would be held within the main Council Tax Support scheme.

Given that in this year the Council has chosen to maintain benefit/support levels, it is envisaged that draw down against the Fund would be unlikely. Nonetheless, an initial cap of £30K is proposed. The financial impact of any awards would be split between the City Council and major precepting authorities (County, Police, Fire) in proportion to their precepts, as part of the annual Collection Fund Balance review. The Council would potentially bear approximately 14% of this cost equating to a maximum liability of around £4K, arising in 2014/15 at the earliest.

Officers will monitor any commitments and expenditure on EHF as the year progresses to mitigate risk. Any potential strain on future budgets will be highlighted to the Finance Portfolio Holder initially. Furthermore, any movements on the Collection Fund will be reported as part of the quarterly corporate monitoring process, with the value of any awards forming the basis for the 2014/15 budget.

SECTION 151 OFFICER'S COMMENTS

This report has been produced on behalf of the s151 Officer and she has no further comments to add.

LEGAL IMPLICATIONS

S10 of the Local Government Finance Act 2012 amends S13A of the Local Government Finance Act 1992 and sets out the requirement for Councils to develop and adopt a localised Council Tax Support scheme.

Lancaster's LCTS Scheme sets out the procedure for qualifying applicants to apply for additional support, which further provides that the Council will determine such applications in line with its EHF Policy.

The operation of the EHF will be at the discretion of the Council and will be held within the main LCTS Scheme.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

None.

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Preston and Lancaster City Councils - Shared Service

Council Tax Support

Exceptional Hardship Fund Policy

Effective from 1st April 2013

Background

Section 10 of the Local Government Finance Act 2012 amends Section 13A of the Local Government Finance Act 1992 and sets out the requirement for Councils to develop and adopt a localised Council Tax Support (CTS) scheme.

The Exceptional Hardship Fund (EHF) has been set up by the Council to help with any shortfall between Council Tax Liability and award of Council Tax Support (CTS).

Every customer (whether pension or working age) who is entitled to CTS, and who has a shortfall, is entitled to make a claim for help from the fund.

The main features of the fund are as follows:

- The operation of the EHF will be at the total discretion of the Council.
- Customers do not have a statutory right to an award.
- The EHF Policy is held within the main CTS Scheme.
- EHF awards are effectively CTS (as defined within S13A (1) (a) of the Local Government Finance Act 1992).
- The EHF will be limited to an agreed sum.
- EHF awards will only be available from 1st April 2013 and will not be available for any other debt other than outstanding council tax.
- CTS must be in payment for any day in which an EHF award is requested and made.
- The benefits service may decide that a backdated EHF award is appropriate; which could settle council tax arrears. This would be the only circumstance where the EHF could be used to facilitate payment of council tax arrears.

Purpose of this Policy

The purpose of this Policy is to specify how the Council's benefit service will operate the scheme, and to indicate some of the factors which will be considered when deciding when an EHF award can be made.

Statement of Objectives

The Benefits Service will seek through the operation of this policy to:

- allow a short period for someone to adjust to unforeseen short-term financial circumstances and to enable them to 'bridge the gap' during this time;

- help support people in managing their finances;
- help keep families together;
- help customers through personal crises and difficult events that affect their finances;
- prevent exceptional hardship;
- help those who are trying to help themselves financially;
- help alleviate poverty;
- encourage and help sustain employment; and
- support the vulnerable in the local community.

The EHF is a short-term emergency fund, whilst the customer seeks alternative solutions.

It cannot be awarded in/for the following circumstances:

- for any other reason than to reduce council tax liability;
- where the council considers that there are unnecessary expenses/debts etc and that the customer has not taken reasonable steps to reduce these;
- to reduce any CTS overpayment;
- to cover council tax arrears prior to 1st April 2013;
- for a shortfall caused by a Department for Work and Pensions sanction or suspension that has been applied because a customer has turned down work/interview/training opportunities;
- when CTS is suspended.

Equalities

The creation of the Exceptional Hardship Fund meets the Council's obligations under the Equalities Act 2010.

The Government is clear that, in developing a LCTS scheme, vulnerable groups should be protected. Other than statutory protection for low-income pensioners, the Government has not prescribed other groups that Councils should support. Each Council has designed their LCTS Scheme to take into account the various statutes that currently protect vulnerable groups in the existing council tax benefit scheme.

Each Council recognises the importance of protecting their most vulnerable customers and the impact these changes will have; thus have created an EHF to

ensure we protect and support those most in need. The EHF is intended to help in cases of extreme hardship only.

The Council will act fairly, reasonably and consistently throughout the EHF decision making process. Each case will be treated on its own merits and all customers will be treated equally in accessibility to the fund and the decisions made with applications.

Publicity

The Council will publicise this fund and will work with interested parties to achieve this. A copy of this Policy will be made available for inspection and will be published on each Council's website.

Making a Claim

A customer must make a claim for an EHF award by submitting an application to the Council's Benefits Section. The application form can be obtained via telephone, in person at the Council offices and/or from the websites. Customers can get assistance with the completion of the form through the Customer Services Centres. (Lancaster City Council - located in Lancaster and Morecambe).

The application must be fully completed and supporting information or evidence provided, as requested by the Council.

In most cases, the person who claims the EHF 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 is considered reasonable.

Where a customer is not claiming a council tax discount or exemption to which they may be entitled or a welfare benefit or additional financial assistance, they will be advised, and where necessary assisted, in making a claim to maximise their income or reduce their council tax liability, before their claim for an EHF payment is determined.

Duties of a Customer

A person claiming an EHF payment is required to:

- give the Council such information as it may require to make a decision;
- tell the Council of any changes in circumstances that may be relevant to their on-going claim;
- give the Council such other information as it may require in connection with their claim.

Awarding from the Exceptional Hardship Fund

When making the decision the Benefit Service will consider:

- the shortfall between the CTS and council tax liability;
- the steps taken by the customer to reduce their council tax liability;
- changing payment methods, re-profiling council tax instalments or setting alternative payment arrangements in order to make them affordable;
- ensuring that all discounts, exemptions and reductions are granted;
- steps taken by the customer to establish whether they are entitled to other welfare benefits;
- steps taken by the customer in considering and identifying where possible the most economical tariffs for supply of utilities;
- if a discretionary housing payment has already been awarded to meet a shortfall in rent;
- the personal circumstances, age and medical circumstances (including ill health and disabilities) of the customer, their partner and any dependants and any other occupants of the customer's home;
- the difficulty experienced by the customer, which prohibits them from being able to meet their council tax liability, and the likely length of time this difficulty will exist;
- shortfalls due to non-dependant deductions;
- the income and expenditure of the customer, their partner and any dependants or occupants of the customer's home;
- all income may be taken into account, including those which are disregarded for CTS;
- any savings or capital that might be held by the customer or their partner;
- other debts outstanding for the customer and partner;
- whether the customer has already accessed or is engaging with third parties for assistance with budgeting and financial/debt advice;
- the exceptional nature of the customers and/or their family's circumstances that impact their finances;

- the length of time they have lived in the property.

This list is not exhaustive and other relevant factors and special circumstances will be considered.

An award from the EHF does not guarantee that a further award will be considered. An award may be less than the difference between the council tax liability and the amount of CTS paid.

Determination, Amount and Duration of Award

Full responsibility for the decision to award payments, recording and making those payments, and the legality of payment will lie with the Assessment Manager of the Council, in consultation with the Benefits Manager.

Both the amount and the duration of the award are determined at the discretion of the Council and will be based on the evidence supplied and the circumstances of the claim.

The EHF award will normally be awarded for a minimum of one week.

The maximum length of the award will not exceed the end of the financial year in which the award is given.

The Assessment Manager will detail on a monthly basis current awards and a forecast of expected awards to the end of each financial year.

Payment of Award

Any EHF award will be made directly against the customer's council tax account, thus reducing the amount of council tax payable.

Overpaid Exceptional Hardship Fund payments

Overpaid EHF awards will generally be recovered directly from the customer's council tax account, increasing the amount of council tax due and payable.

Notification of an Award

The Council will notify the outcome of each application for EHF awards in writing, including the reason for the decision and advise the customer of their appeal rights.

Change of Circumstances

The benefits service may revise an award from the EHF where the customers circumstances have changed, which either increases or reduces their CTS entitlement.

The Right of Appeal

If the customer is not satisfied with:

- the decision in respect of an application for an EHF award;
- a decision not to backdate an EHF award, or
- a decision that there has been an overpayment of an EHF award;

they must make written representation to the Council setting out their grounds for appeal and ideally providing new evidence to support their claim. Any request for an appeal must be made within one month of the date of the notification letter confirming the original decision.

A Senior Manager, other than the original decision maker, will consider the appeal by reviewing the original application, and any other additional information and will make a decision within 14 days of referral or as soon as practicable. This decision will be final.

EHF payments are not part of the statutory appeals process.

Fraud

The Council is committed to protect public funds and ensure funds are awarded to the people who are rightfully entitled to them.

A customer who tries to fraudulently claim an EHF award 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.

Where the Council suspects an offence may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

Complaints

The Council's complaints procedure is available on the website and will be applied in the event of any complaint received about this policy.

Policy Review

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, or as directed by the Council.