

Discretionary Council Tax reductions for individual Council Tax payers

Policy document

31 March 2023

1. Introduction

- 1.1. Newham Council has the power to further reduce Council Tax liability by way of a discretionary discount. This power is additional to other discounts such as the single person discount and Council Tax Reduction.
- 1.2. The power is contained in subsection 13A(1)(c) of the Local Government Finance Act 1992. It may be exercised in relation to individual cases or by determining classes of case.
- 1.3. Under this power, Newham Council can reduce Council Tax liability by whatever amount it considers appropriate, including reducing liability to nil.
- 1.4. Awards are financed entirely by Newham Council. Unlike Council Tax Reduction, there's no Government subsidy or support from precept authorities such as the Greater London Authority.

2. Specific classes eligible for a discretionary reduction

2.1. Council Tax reduction applicants in receipt of war compensation payments

- 2.1.1. Newham Council determined on 24 January 2013 that an additional discount should be awarded, effective from 1 April 2013 onwards, in every case where an applicant for Council Tax Reduction or their partner receives a war compensation payment.
- 2.1.2. The additional discount is the amount by which Council Tax Reduction would increase if Newham Council was able to fully disregard war compensation payments under that scheme.
- 2.1.3. The additional discount shall apply for any period of entitlement to Council Tax Reduction where the applicant or their partner are in receipt of such payments and will be awarded automatically as part of the Council Tax Reduction application process.

2.2. Those leaving Newham's care

- 2.2.1. Newham Council determined on 26 February 2018 that a 100% discount should be given against Council Tax payable, from 1 April 2018 onwards, by those leaving Newham's care and taking up accommodation within the borough.

2.2.2. The discount will apply to any Newham Council Tax liability payable until the care leaver reaches the age of 25, to support their transition from care to independent living and will be awarded automatically in conjunction with Children's Services (CYPS).

2.3. Those providing foster care directly for Newham council

2.3.1. Through a delegated decision of the Corporate Director of Resources, it was determined that from 1 April 2023, a 100% discount should be given against Council Tax payable by those providing foster care directly for Newham Council.

2.3.2. The discount will apply to a property in Newham where the individual lives for periods where the following criteria are met:

- They are fully approved as a foster carer by us and meet the care skills standard;
- have provided foster care to a child placed with them by Newham council for a total of 26 weeks (182 days) in the previous 12 months from 1 April to 31 March – this need not be 182 consecutive days or for the same child, and may include 'staying put' arrangements where the arrangement meant they weren't able to accept other placements;
- maintain their approval as a foster carer with Newham;
- maintain their availability to foster;
- claim all relevant benefits and discounts to which they would usually be entitled.

2.3.3. These eligibility criteria also apply if the individual has been recognised as a 'connected person' – that is, a relative, friend or other person connected with a child – and approved as a 'family and friends' foster carer.

2.3.4. Newly-approved foster carers can benefit from council tax relief where they meet all the eligibility criteria. This means the individual would have had to provide placements to children for at least 182 days in a 12-month period from 1 April to 31 March.

2.3.5. Foster carers transferring to Newham council from another fostering agency, will be eligible for the discount if they meet the eligibility criteria. The days that at least one child has been placed with them by Newham council will count towards the 182 days for eligibility.

2.3.6. The discount will be awarded by Newham Council tax and Benefits service following notification of entitlement by Children's Services (CYPS).

2.4. Council Tax Reduction recipients with liability remaining after award – 2023/24 only

2.4.1. Through a delegated decision of the Corporate Director of Resources, it was determined that a reduction of the outstanding balance to a maximum of £25 be made

to Council Tax Reduction recipients who are entitled on 1 April 2023. This reduction will be applied automatically.

2.4.2. The total expenditure on such reductions will be limited to £770,798, which is the sum provided by the Government for this purpose.

2.4.3. Should there be funding remaining after awards have been made to those entitled on 1 April 2023 then awards will be made to households becoming entitled to Council Tax Reduction after this date until such funding is exhausted.

3. Individual discretionary reduction

3.1. Applying for an individual discretionary reduction

3.1.1. Applications for individual discretionary reductions should be in writing and be signed by the applicant.

3.1.2. Applications that can't be made personally can be made by an advocate, appointee or from a recognised organisation acting on behalf of the liable person.

3.1.3. Applications must be delivered to the billing authority's named building.

3.1.4. Applications must include the following information:

- The name, address and Council Tax account number of the liable person;
- Contact details for the liable person, such as a telephone number and/or email address;
- A full explanation of why discretionary relief is claimed, the period for which it is to be paid and why there are no resources available to meet the taxpayer's liability;
- Someone applying on the liable person's behalf should add their name, address and contact details. They should also include the status of the person making the application and their authority for making the application.

3.1.5. The billing authority may require and request any further information and evidence it considers necessary to support the application.

3.1.6. Applications for an individual discretionary reduction will be treated in confidence and in accordance with the provisions of the Data Protection Act 2018 and Newham Council's Data Protection policy.

3.1.7. Failure to provide supporting information and evidence that is requested may lead to a refusal.

3.2. General principles in making decisions

- 3.2.1. Decision makers will consider all applications on their individual merits, taking into account these general principles and relevant circumstances such as those outlined in the Appendix.
- 3.2.2. Reduction decisions will be considered against the needs of other taxpayers and the general financial constraints of the billing authority.
- 3.2.3. The need for an individual discretionary reduction will normally arise from exceptional financial hardship that cannot be alleviated by other means.
- 3.2.4. Alternative assistance will be offered or referral made to other council departments or external agencies if it is decided this would be a more appropriate solution.
- 3.2.5. The hardship must be beyond the person's control. In particular, an outstanding Council Tax debt would not normally attract a discretionary reduction if considered to be unpaid as the result of the person's wilful refusal or culpable neglect.
- 3.2.6. An individual discretionary reduction may also be awarded in order to redress any inequality or unfairness the individual would otherwise suffer under the current system of benefits, credits, reductions and discounts.
- 3.2.7. Information and evidence will be required where necessary to support an application for a discretionary reduction. Failure to provide it within a specified time limit, or within an extension to the time limit agreed in advance, will normally result in a decision not to award a discretionary reduction.
- 3.2.8. Awards will comprise one-off reductions or will be time-limited, duration depending on the nature of the award.
- 3.2.9. Individual discretionary reductions will be available to individual council tax payers, not to corporate or commercial payers.

3.3. Decisions

- 3.3.1. Individual discretionary reduction decisions will be made in writing. The request to grant the reduction will be made by an Officer and sent to the Corporate Director of Resources via the Council Tax and Benefits manager. They will be rejected or authorised in accordance with the original Section 13A policy agreed by Cabinet in 2007.
- 3.3.2. The Council will provide to the liable person and any representative a written notice of its decision. The notice will set out:
 - the amount of the award, if anything;
 - the period covered by the award;
 - details of the grievance and appeals process;

- a summary of the reasons for making the decision.

3.3.3. A decision notice will be sent as soon as practicable following receipt of all the information and evidence required in support of the application. If required information or evidence has not been provided within the specified time limit, the decision notice will be sent as soon as practicable following expiry of the time limit.

3.3.4. Decisions will be recorded electronically.

3.4. Review of decisions

3.4.1. Subject to the provisions of the Limitation Act 1980, the billing authority will review its decision any time if it considers the decision was based on an error or made in ignorance of a material fact and substitute any revised decision for the original decision.

3.5. Appeals

3.5.1. The right to appeal an individual discretionary reduction is prescribed in section 16 of the Local Government Finance Act 1992.

3.5.2. A person can appeal to the Valuation Tribunal if either of these conditions is fulfilled:

- they have served written notice on the billing authority giving details of their grievance and they are not satisfied with the billing authority's written reply; or
- they have not received a reply from the billing authority within two months of their written notice.

3.5.3. On receiving written notice of a grievance the billing authority must consider the matter. Its written reply must set out any steps it has taken to remedy the situation or the reasons why it believes the grievance is not well founded.

3.5.4. Any appeal to the Valuation Tribunal is initiated by serving a written notice on the Tribunal containing:

- the grounds on which the appeal is made;
- the date on which the appellant served their notice of grievance to the billing authority; and
- the date of the billing authority's reply, if any.

3.5.5. An appeal must be made within two months of the billing authority's written notice, or within four months if the billing authority has failed to reply.

4. **Changes of circumstances**

- 4.1. Any person in receipt of a discretionary discount whether as a class of person or as an individual, and/or their representative must report changes in their circumstances within 21 days of the change occurring.
- 4.2. The liable person and/or their representative are required to notify in writing:
 - any changes to the circumstances presented in connection with the award of a discretionary reduction; and
 - any other changes they might reasonably be expected to know would affect the award.
- 4.3. Awards will be amended or terminated on the basis of any relevant change from the date the change occurred.
- 4.4. Amended reductions will result in an increase or decrease in Council Tax liability.
- 4.5. Failure to notify a change within the time limit may lead to a fine and, in some cases, prosecution.

5. Fraud

- 5.1. Newham Council takes the threat of fraud seriously. Anyone who tries to claim a discretionary discount under this policy by falsely declaring their circumstance or providing a false statement or evidence may have committed an offence under the Theft Act 1968 or the Fraud Act 2006.
- 5.2. The Council will investigate all cases where fraud may have been committed. Criminal proceedings or other sanctions may be applied in appropriate circumstances.

Appendix 1 – Guidelines on individual discretionary reductions (Described in section 3)

General

Each case must be considered on its own merits and the applicant's particular circumstances, although a consistent approach will need to be taken to ensure fairness.

The need for an individual discretionary reduction will normally arise from exceptional financial hardship that:

- is not already catered for by the social security and universal credit systems or by the usual Council Tax reductions, discounts and exemptions; and
- cannot realistically be alleviated by other means.

Exceptional hardship is most likely to arise from a mixture of circumstances, particularly costs that have not been budgeted for that the applicant is temporarily or permanently unable to pay.

Exceptional hardship may also result where the social security, universal credit or Council Tax Reduction arrangements are unfair or inequitable in relation to people with particular needs. In these circumstances, a discretionary reduction may be appropriate to alleviate unfair or unequal treatment of individuals.

Unforeseen additional costs

Costs for which the applicant hadn't budgeted might include:

- retrospective withdrawal of a Council Tax reduction or discount the applicant couldn't be expected to have anticipated;
- costs or problems associated with illness, an accident, assault or bereavement;
- fundamental damage to the home.

Debts arising from the wilful refusal to make payment or culpable neglect of the applicant will not normally attract a discretionary reduction.

Alleviating the hardship

An application made under S13A(1)(c) provisions must be a last resort, after the applicant has taken reasonable steps to find alternative solutions.

The applicant:

- would be expected to claim any other possible sources of financial help, including:
 - social security benefits, advances or loans;
 - universal credit;
 - discretionary housing payments;
 - Council Tax reduction, discounts or exemptions
- might be expected to use some or all of their savings or other capital assets in offsetting their additional costs;
- should be assessed, along with members of the household, to establish whether they could find work or increase earnings and how soon. The assessment should take into account things like age, state of health, disability and child care needs.
- should have explored options for:
 - debt and budgeting advice;
 - debt reprioritisation and rescheduling payments;
 - any other relevant sources of support and advice.