

APPENDIX 4 - PART 2

Brighton & Hove City Council

The Discretionary Council Tax Scheme (Brighton & Hove City Council) 2013

1. Citation and Interpretation

1.1 This scheme is made in pursuance of the functions of Brighton & Hove City Council (“the Council”) under the Local Government Finance Act 1992 (“the 1992 Act”) and all other enabling powers. It may be cited as the Discretionary Council Tax Scheme (Brighton & Hove City Council) 2013 (“the Discretionary Scheme”).

1.2 Unless the context requires otherwise:-

1.2.1 words and phrases in the Discretionary Scheme shall have the same meaning as in the 1992 Act and any regulations or orders made under the 1992 Act;

1.2.2 references to numbered paragraphs are references to paragraphs in the Discretionary Scheme and

1.2.3 references to “Council Tax Reduction Scheme” mean the Council Tax Reduction Scheme (Pensioners) (Brighton & Hove City Council) 2013 and the Council Tax Reduction Scheme (Persons who are not Pensioners) (Brighton & Hove City Council) 2013 made under Section 13A(2) of the 1992 Act and include any revisions or replacements of those schemes.

2. Principal Statutory Power

2.1 Section 13A subsections (1)(c), (6) and (7) of the 1992 Act (“Section 13A(1)(c)”) empower the Council, as billing authority for the City of Brighton & Hove, to reduce the amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13 of the 1992 Act) in any case to such extent (or if the amount has already been reduced under Section 13A(1)(a) of the 1992 Act, such further extent) as the Council thinks fit. This includes power to reduce the amount to nil.

3. Purpose of the Discretionary Scheme

3.1 The Discretionary Scheme makes provisions in relation to a discretionary fund of a minimum of £100,000 (“the Fund”), set up pursuant to the Council’s council tax functions and in particular to its powers under Section 13A(1)(c).

3.2 The purpose of the Fund is to give additional assistance by way of council tax reductions (“discretionary reductions” / “discretionary reduction”) in exceptional circumstances to the most vulnerable council tax payers.

3.3 The Discretionary Scheme is without prejudice to the Council's powers under Section 13A(1)(c) to consider applications which do not fit the Discretionary Scheme criteria or to set up other schemes under Section 13A(1)(c).

4. Commencement and duration of the Discretionary Scheme

4.1 The Discretionary Scheme comes into effect on 1 April 2013, but applications for discretionary reductions in the financial year commencing on 1 April 2013 may be made and decided before that date.

4.2 Under Section 13A(1)(c), the Council has power to amend, extend or withdraw the Discretionary Scheme at any time. This power may be exercised by the Council, by the Policy and Resources Committee (or its Urgency Subcommittee) or by the Director of Finance who will keep under review the amount of the Fund.

4.3 Subject to paragraph 4.2, no new applications for assistance under the Discretionary Scheme will be accepted when and if all the Fund has been spent or committed.

5. Assistance under the Discretionary Scheme

5.1 Subject to paragraphs 5.2, 5.3, 5.4 and 6, the Council may, by approving a discretionary reduction, reduce to such further extent as it thinks fit the amount of council tax which a person is liable to pay in respect of a chargeable dwelling (as determined in accordance with sections 10 to 13 of the 1992 Act) if that person:-

5.1.1 is (or was) entitled to a reduction in the amount of council tax payable by that person under the Council's Council Tax Reduction Scheme and

5.1.2 appears to the Council to require some further assistance (in addition to the reduction to which that person is entitled under the Council Tax Reduction Scheme) in order to meet that person's council tax liability.

5.2 Subject to paragraphs 5.3, 5.4 and 6, the Council has a discretion:-

5.2.1 in any particular case, as to whether or not to give a discretionary reduction under paragraph 5.1; and

5.2.2 as to the amount of the discretionary reduction and the period for, or in respect of which, any such discretionary reduction is given.

5.3 The discretion in paragraph 5.2 2 as to the amount of a discretionary reduction under paragraph 5.1 includes discretion to reduce to nil the amount of council tax which a person is liable to pay in respect of a chargeable dwelling (as determined in accordance with sections 10 to 13 of the 1992 Act).

5.4 The Council

5.4.1 may restrict the period for or in respect of which a discretionary reduction under paragraph 5.1 is given to such period as it considers appropriate in the particular circumstances of a case, but

5.4.2 may only give a discretionary reduction under paragraph 5.1 to a person in respect of a period during which that person is or was entitled to a reduction in the amount of council tax payable by that person under the Council Tax Reduction Scheme.

6. Circumstances to be taken into account by the Council in exercising discretion under the Discretionary Scheme

6.1 A discretionary reduction may be given by the Council where the Council considers that it is necessary to give additional assistance in exceptional circumstances to the most vulnerable council tax payers.

6.2 The Government does not prescribe by regulation which class of person(s) is deemed as vulnerable. It is for the Council to decide, having regard to its duties under the Acts referred to below.

6.3 In making the Discretionary Scheme, the Council has paid due regard to the -

6.3.1 Equality Act 2010, public sector equality duties with regard to – age, disability, gender reassignment, marriage and partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation, and

6.3.2 Child Poverty Act 2010, the duty to mitigate the effects of child poverty, and

6.3.3 Disabled Persons (Services, Consultation and Representation) Act 1986, and

6.3.4 Chronically Sick and Disabled Persons Act 1970, the duties relating to the welfare needs of disabled people, and

6.3.5 Housing Act 1996, the duty to prevent homelessness, and

6.3.6 Armed Forces Covenant, to recognise what our Armed Forces do for us, especially the injured and the bereaved.

6.4 The following classes of person may be deemed vulnerable for the purposes of the Discretionary Scheme. Other persons may be considered vulnerable if their individual circumstances are such that the Council considers them to be so.

6.4.1 families and lone parents with one or more dependants;

- 6.4.2 applicant or any partner who is registered / certified as blind;
- 6.4.3 an applicant who receives, or any partner who receives or has an underlying entitlement to -
 - (a) income support, or
 - (b) employment and support allowance, or
 - (c) disability living allowance, or
 - (d) personal independence payment, or
 - (e) the universal credit capability for work element, or
 - (f) other disability benefits,
 due to a physical and mental health problems, language, literacy, substance misuse or debt support requirements;
- 6.4.4 applicants who receive or have an underlying entitlement to a Carer's Allowance;
- 6.4.5 young people aged 18 to 21 years who have a history of local authority care;
- 6.4.6 applicants who have recently been housed following a period of homelessness;
- 6.4.7 applicants who have moved address to secure employment;
- 6.4.8 single people on a low income.

6.5 Circumstances which might fall within the discretion are:-

- 6.5.1 families and those who have significant, long term health or mobility problems;
- 6.5.2 individuals with multiple needs (for example a combination of physical/mental health, language, literacy, substance misuse, debt problems & support requirements);
- 6.5.3 where the chargeable dwelling has been significantly adapted for someone with a disability and no other dwelling is likely to be easily available;
- 6.5.4 short term situations which are likely to change soon, for example where a young, single pregnant woman needs short-term discretionary reduction which will be affordable once the child is born;
- 6.5.5 Where a carers commitments and duties means their income is less than it otherwise may be;
- 6.5.6 younger people entering employment who may need temporary assistance to make the employment sustainable,

but (i) discretionary reduction will not usually be given by the Council where debt is the sole reason for the application and (ii) satisfying any of the

circumstances set out in 6.5.1 to 6.5.6 will not automatically entitle a person to discretionary reduction as paragraph 6.1 is subject to paragraph 6.6.

6.6 In deciding whether the criteria in paragraph 6.1 are met, the Council will take into account the financial and personal circumstances of the person in respect of whom an application for discretionary reduction has been made.

6.7 In circumstances where the Council decides that a long term discretionary reduction would not be appropriate, the Council may be prepared to consider giving a short term discretionary reduction, for example to allow time for a move to be made to more affordable accommodation.

7. Applications and decisions

7.1 An application to the Council for a discretionary reduction must be made

7.1.1 in writing,

7.1.2 by means of an electronic communication in accordance with the provisions in the Council Tax Reduction Scheme or

7.1.3 where the Council has published a telephone number for the purpose of receiving such applications, by telephone.

7.2 Where

7.2.1 the Council has made a determination under section 13A(1)(c) of the 1992 Act in relation to a class of case in which liability is to be reduced; and

7.2.2 a person in that class would otherwise be entitled to a reduction under its Council Tax Reduction Scheme, that person's application for a reduction under the Council Tax Reduction Scheme may also be treated as an application for a reduction under section 13A(1)(c).

7.3 The application may be made by

7.3.1 a person entitled to a reduction in the amount of council tax payable by that person under the Council Tax Reduction Scheme; or

7.3.2 where it appears reasonable in the circumstances of a particular case, a person acting on behalf of a person so entitled.

7.4 The Council shall give a person who has applied for a discretionary reduction or who has requested a review of a decision made in respect of that person's application, written notice of its decision in respect of that application or review and the reasons for that decision as soon as is reasonably practicable.

8. Provision of information

8.1 A person applying for or receiving a discretionary reduction shall provide the Council with the following information:-

8.1.1 particulars of the grounds of application or, as the case may be, particulars of the grounds for a review;

8.1.2 changes in circumstances which may be relevant to the continuance of a discretionary reduction, and such other information as may be specified by the Council within such time as the Council thinks appropriate.

9. Reviews initiated by the Council

9.1 The Council may review any decision it has made with respect to the making, cancellation or recovery of a discretionary reduction in such circumstances as it thinks fit.

9.2 Without prejudice to the generality of paragraph 9.1, the Council may, on any such review, cancel any further discretionary reduction and recover any council tax already remitted because of a discretionary reduction where the Council has determined that:-

9.2.1 whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, a material fact and, as a consequence of that misrepresentation or failure to disclose, a discretionary reduction has been given; or

9.2.2 an error has been made when determining the application for a discretionary reduction, and as a consequence of that error, a discretionary reduction has been made which would not have been made but for that error.

10. Reviews initiated by a person applying for a discretionary reduction

10.1 A person aggrieved by a decision of the Council in determining an application for discretionary reduction may request a review of the decision. The Council may accept a request for a review of a decision in such form and manner as it approves. The Council will not normally accept a request for a review of a decision if the request is received by the Council more than 28 days after notification of the decision was sent by the Council.

10.4 A review of a decision in accordance with paragraph 10.1 shall be carried out by a different person from the person who made the decision to which the review relates and shall normally be completed within 28 days from the date on which the request for the review was received by the Council.

The Brighton & Hove City (Council Tax) Discretionary Scheme 2013 was approved by Brighton & Hove City Council on 13 December 2012.