

# Ashford Borough Council

## Council Tax Discretionary Policy

**Exceptional Circumstances Scheme (ECS) (13A 1A)**

**Discretionary Relief Scheme (13A 1C)**

**2024/2027**

## **Introduction**

This policy enables support to be given to council taxpayers who are in financial difficulty or other crisis where no other legislative discounts, reductions or reliefs are available.

This policy sets out guidelines for the factors to be considered in determining an application, the criteria that needs to be met and the type of information to be provided when a customer applies for a reduction in their council tax under Ashford Borough Council's discretionary powers.

It also sets out the delegated authority to award relief and establishes an appeals procedure for customers to appeal a decision. There are two ways the council can use its discretionary powers to give a reduction in council tax:

### **Exceptional Circumstances Policy (ECP)**

The council recognises the importance of protecting our most vulnerable customers from the impact of changes to our Local Council Tax Reduction Scheme.

The Exceptional Circumstances Policy is designed to cover all or part of any shortfall between council tax liability and support under the council's Local Council Tax Reduction Scheme.

It is available to council taxpayers who are in receipt of Local Council Tax Reduction, or those who do not qualify and are experiencing exceptional financial difficulties.

The Exceptional Circumstances Scheme is funded through the collection fund under (S13A 1A) and is paid for by all preceptors in proportion to their share of council tax.

### **Discretionary Relief Scheme (13A 1C)**

S13A(1)(c) of the Local Government Finance Act 1992 (as amended) provides powers to councils to reduce the amount of council tax a customer is liable to pay by an amount it deems appropriate to provide necessary relief, where exceptional financial difficulty is evidenced.

This power may be exercised in relation to individual cases, or by determining a class of case in which liability is to be reduced to an extent provided by the determination. The intent behind the legislation is to allow councils to create local discounts to cater for local circumstances, for example flooding, and to provide support in cases of exceptional financial hardship. Any reduction awarded under this provision is wholly funded by Ashford Borough Council. The exception to this is when central government uses this provision to provide grant funding for specific issues, e.g., flooding or the council's response to the COVID-19 pandemic.

Along with Discretionary Relief (13A 1C) debts may be written-off as a way of alleviating council tax arrears where exceptionally difficult financial circumstances can be demonstrated. Debts that are written off are shared by all precepting authorities in proportion to their share of council tax.

## **1.Exceptional Circumstances Scheme (ECS)**

1.1 Customers who have made a claim for Local Council Tax Reduction and who have a shortfall, or no longer qualify for support, are entitled to make a claim for help through the Exceptional Circumstances Scheme (ECS).

1.2 Any customer can apply, awards will only be made to those residents who can demonstrate exceptional financial difficulty as a result. Whilst the definition exceptional financial difficulty is not precisely defined in this policy, exceptional financial difficulty should be considered as difficulty beyond that which would normally be suffered and not awarding support would result in severe financial difficulty e.g., would leave insufficient money for basic and essential needs such as housing, food, heating, lighting, or essential medical needs.

1.3 Support offered will generally be short-term, whilst the customer seeks alternative solutions, but can provide longer term support where the customer is unable to improve their situation and will be subject to regular review.

1.4 A customer does not have a statutory right to support.

1.5 The operation of this policy is at the discretion of the council.

1.6 This policy only applies to council tax.

### **Eligibility**

1.7 The council will consider applications for exceptional circumstances where:

- There is an outstanding council tax balance on the property they are resident in.
- A customer has made a claim for Local Council Tax Reduction, has experienced a shortfall in support, or does not qualify for support.
- There is compelling evidence of exceptional financial hardship.
- The liable person can demonstrate they have no available income to pay their council tax liability and no other occupants of the property could contribute towards the council tax liability.
- The liable person has taken all reasonable steps to improve their financial or exceptional personal circumstances e.g., increase household income or reduce outgoings.
- The liable person does not have access to assets or funds of any kind which could be used to meet their council tax liability.
- All alternative means of resolving the outstanding liability have been exhausted – this includes but not limited to discounts, exemptions, council tax support, valuation office/valuation tribunal application.

1.8 The council retains ultimate discretion, in accordance with the discretionary nature of the scheme, and requests will be considered on their individual merit.

1.9 Any support awarded will be short-term as opposed to long-term or ongoing.

1.10 Customers who are awarded a support will be notified that they need to report any changes in circumstances to the council that affects the relief period.

## **2. Discretionary Relief Scheme (13A 1C)**

2.1 Section 13A (1)(a)(c) and (2) of the Local Government Finance Act 1992 (as amended) provides Ashford Borough Council with discretionary powers to enable it to reduce a person's council tax liability where existing legislation does not provide a discount, exemption, or reduction through the Discretionary Relief Scheme.

2.2 This policy is intended to enable the council to provide relief to those most in need and seeks to:

- alleviate poverty
- encourage and sustain people in employment and education
- sustain tenancies and preventing homelessness
- safeguard residents in their own homes
- help those who are trying to help themselves
- keep families together
- support the vulnerable or the elderly in the local community
- help customers through personal and difficult events

2.3 This policy is divided into two sections:

- **Exceptional financial difficulty** To assist council taxpayers who are suffering financial difficulty and unable to meet their council tax liability. This can apply to an individual household.
- **Unforeseen and exceptional circumstances** To assist council taxpayers who are suffering from unforeseen and exceptional circumstances and whom the council considers to be, in general, in financial need. This can apply to an individual household or class of cases

2.4 Discretionary awards can be given in respect of any chargeable dwelling within the district to:

- Individual council taxpayers.
- Groups of council taxpayers defined by a common set of circumstances.
- Council taxpayers within a defined area.
- All council taxpayers within the council's area.

2.5 The council may reduce the amount to pay to any amount between full liability down to nil.

2.6 A customer does not have a statutory right to a relief.

2.7 The operation of this policy is at the discretion of the council.

2.8 This policy only applies to council tax.

## Eligibility

**Financial difficulty** This policy ensures support is in place to aid residents who are experiencing financial difficulty by demonstrating they meet the full eligibility criteria and require further financial assistance.

2.9 The council will consider applications for discretionary relief where:

- There is an outstanding council tax balance.
- There is compelling evidence of extreme financial difficulty.
- The liable person can demonstrate they have no available income to pay their council tax liability and no other occupants of the property could contribute towards the council tax liability.
- The liable person has taken all reasonable steps to improve their financial or exceptional personal circumstances e.g., increase household income or reduce outgoings.
- The liable person does not have access to assets or funds of any kind which could be used to meet their council tax liability.
- All alternative means of resolving the outstanding liability have been exhausted – this includes but not limited to discounts, exemptions, council tax support, valuation office/valuation tribunal application.
- If this liability refers to a retrospective period, the customer can demonstrate and evidence the arrears did not accrue due to their wilful refusal to pay council tax or due to their culpable neglect to pay their council tax.
- The liable person can evidence that each of the criteria set out above existed for the entire period for which they wish to be considered for discretionary relief.
- Enforcing the full council tax liability would result in severe financial difficulty e.g., would leave insufficient money for basic and essential needs such as housing, food, heating, lighting, or essential medical needs.
- This list is not exhaustive and other relevant factors and special circumstances will be considered. When making any decision, officers will be mindful of any protected characteristics and the impacts these may have on the household. Unforeseen and exceptional circumstances This policy ensures support is in place to aid residents based on other unforeseen, exceptional circumstances, which are not caused by financial difficulty.

2.10 The council will consider applications for discretionary relief where:

- There is an outstanding council tax balance.
- There is compelling evidence of unforeseen and exceptional circumstances beyond the applicant's control such as, including, but not limited to flooding.
- All alternative means of resolving the outstanding liability have been exhausted – this includes but not limited to discounts, exemptions, council tax support, valuation office/valuation tribunal application.

- If this liability refers to a retrospective period, the customer can demonstrate and evidence the arrears did not accrue due to their wilful refusal to pay council tax or due to their culpable neglect to pay their council tax.
- The liable person can evidence that each of the criteria set out above existed for the entire period for which they wish to be considered for discretionary relief.
- The award would be considered fair and reasonable in the circumstances by the council taxpayers of the district.
- No reduction in liability will be granted where it would conflict with any resolution, core priority or objective of the council.
- This list is not exhaustive and other relevant factors and special circumstances will be considered. When making any decision, officers will be mindful of any protected characteristics and the impacts these may have on the household.

2.11 The council retains ultimate discretion, in accordance with the discretionary nature of the scheme, and requests will be considered on their individual merit.

2.12 Any relief awarded will be short-term as opposed to long-term or ongoing.

2.13 Customers who are awarded a relief will be notified that they need to report any changes in circumstances to the council that affects the relief.

### **3. Application process- complete the online application form.**

3.1 A request for discretionary relief should be made using the discretionary relief application form by the customer, or by a party authorised by the customer.

3.2 If customers are applying due to financial difficulty, applicants will be required to provide details of income and expenditure.

3.3 Evidence requested in the application form should be provided with the application. If required evidence is not supplied, the application will not be considered until all evidence is received.

3.4 Following submission of an application, the council may also require further evidence depending on individual circumstances and will contact the applicant directly to request this.

3.5 Should the required evidence not be supplied within the requested timescales (from date of application or request of evidence), the application will be considered closed. In such circumstances, if an applicant still wishes their application to be considered, they will be required to apply again.

3.6 Applicants will normally be notified of a decision within 28-days of submitting a completed application. This notice will include the decision and the amount of relief to be awarded and the period the award relates to. The notification will include the reason for the decision and advise the applicant of their appeal rights.

3.7 Customers who have applied/are considering applying should continue to pay their council tax pending a decision. The council will not pause recovery action on unpaid council tax based on receipt of/or an intention to apply.

### **4. Amount, award, and period of relief**

The amount of discretionary relief to be awarded will be at the council's discretion.

4.1 Any relief granted will be credited to a customer's council tax account and must not result in a credit balance on the council tax account.

4.2 Relief will only be granted on liability for the financial year in which the request is made, or for a prior period of up to 12 months. Relief will not be awarded for subsequent financial years, unless a new successful request is made for each year.

4.3 The council retains the right to withdraw relief at any time, including retrospective periods, where the applicant's circumstances have changed to the extent that the relief is no longer required.

4.4 The relief is normally considered to be a source of temporary assistance (no more than one financial year maximum) and is not intended to be given for long-term or indefinite periods.

4.5 A relief will not be awarded where the outstanding council tax has arisen because of fraud by the taxpayer, wilful refusal, or culpable neglect, or where the taxpayer has failed to provide information promptly.

4.6 Reliefs are not transferable where a change of address occurs.

## **5. Decision making**

5.1 Awards above £100.00 must be authorised by either the Revenues and Benefits Operations Manager.

5.2 Where a relief relates to a class or classes of case (for example, a group affected by the same circumstances, such as flooding) these will be determined through Director of Finance.

## **6. Changes in circumstances**

6.1 By accepting an award, the customer agrees that he/she must inform the council about any changes in their circumstances which might affect the relief under this policy.

6.2 The council may revise any award based on a customer's change of circumstances.

6.3 Failure to report a change in circumstances may result in the withdrawal of an award for the year and the requirement to repay any outstanding amount to the council.

## **7. Recovery of relief**

7.1 An award issued in line with this policy can be withdrawn together with the requirement to repay any outstanding amount to the council:

- If the relief was granted based on misrepresentation or failure to disclose a material fact, either fraudulently or otherwise.
- because of the subsequent application of a national discount or adjustment in the banding by the Valuation Office Agency.
- Where a customer has failed to report a change in circumstances in a timely manner.

## **8. Reviews and appeals**

8.1 Where an application is rejected, a customer can request the council reviews its decision.

8.2 Review requests should be received by the council within 21 days of the date of the original decision notice and should detail the reasons for the appeal.

8.3 Thereafter, an appeal can be made to the Valuation Tribunal where:

- the customer is notified in writing that the council reviewed its decision and customer remains unhappy with the decision.

## **9. Equalities**

9.1 The council is committed to developing and delivering services in a way that ensures it treats people fairly and promotes equality of opportunity and social cohesion within the wider community.

9.2 This policy aims to give the fairest outcomes to everyone regardless of race, gender reassignment, age, disability, pregnancy and maternity, religion or belief, sex, or sexual orientation, marital or civil partnerships status and/or disability.

## **10. Funding**

10.1 Any relief granted under Section 13A (1C) is financed through the council's general fund and do not form part of the collection fund. As such, any decision made under this policy is made having regard to our council taxpayers who will ultimately pay for a reduction in council tax income. In certain circumstances central government provides funding directly to the council to compensate for specific events, such as severe flooding. Where this is available, the council will aim to use all the funding available.

10.2 Any support awarded under the Exceptional Circumstances scheme are financed through the collection fund and is paid for by all preceptors in proportion to their share of council tax. As such, any decision made under this policy is made having regard to our council taxpayers and partner authorities who will ultimately pay for a reduction in council tax income.

## **11. Fraud**

11.1 The council is committed to protecting public funds and ensuring funds are only awarded to the people who are rightfully eligible to them.

11.2 An applicant who tries to fraudulently claim a relief 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.

11.3 Where the council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to proceedings being instigated.

## **12. Protecting your data**

12.1 The council is committed to protecting customers' data and the operation of this policy complies fully with the General Data Protection Regulation 2016 (GDPR) and Data Protection Act 2018 (DPA2018) which place a duty on the Council to comply with the data protection principles relating to processing of personal data:

- Lawfulness, fairness and transparency.
- Purpose limitation.
- Data minimisation
- Accuracy.
- Storage limitation.



- Integrity and confidentiality (security).
- Accountability (including the rights of data subjects)