

OCC Council Tax Discretionary Discount Procedure (2017)

1. Introduction

Section 13A of the Local Government Finance Act 1992 (as amended 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 classes of cases that it may determine and where national exemptions and discounts cannot be applied, by granting a Discretionary Discount.

In accordance with Section 13A (1) (a) of the Local Government Finance Act 1992 (amended), the Council has a Council Tax Support Scheme (which replaced the Council Tax Benefit Scheme) which provides support, through a discount, to those deemed to be within financial need. The Scheme has been designed to take into account the financial and specific circumstances of individuals through the use of applicable amounts, premiums and income disregards. However, there may be other Council Tax payers who are also suffering financial hardship.

Oxford City Council has not specified any class of case in which liability is to be reduced. However, it will consider claims on individual cases. The Council Tax Discretionary Discount Procedure is intended to provide short term help to alleviate financial hardship.

The procedure below sets out the principles to be adopted when considering Discretionary Discounts, outlines issues that need to be considered and the procedure to follow.

2. Financial implications

The cost of awarding a Section 13A discount has to be met by Oxford City Council itself. We therefore have to fund the 83% of the discount that would otherwise be met by County Council and Thames Valley Police Authority. Because of this, the granting of Section 13A discounts will only be made in exceptional circumstances.

The Council will need to balance the needs of the individual Council Tax payer against the interests of other local Council Tax payers who have to meet the cost of any discount granted.

3. Eligibility

The applicant must be liable for a Council Tax charge levied by Oxford City Council.

Where such a person is unable to act for themselves, a suitable third party may act on their behalf.

Where the charge is for an unoccupied Council Tax charge, the applicant must show that they have made reasonable efforts to sell the property or relinquish the tenancy.

4. Guidance

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There are no pre-set criteria for an award under this procedure, so the following is a guide to the various factors which may need to be considered. This is not an exhaustive list and other relevant factors and issues may need to be taken into account. However, whatever factors are considered they must be done so in light of the eligibility criteria.

5. Criteria for making a claim

Each application will be considered on its own merits and have regard to the factors outlined below:

1. Conduct of the Customer

To what extent has the conduct of the customer contributed to their situation? Could they have taken steps to have avoided or improve their situation? Have they taken steps to avoid or improve their situation? Discretionary Discounts will not be granted where the Council Tax Payer has acted in a reckless or negligent manner.

2. Evidence

Has appropriate and proportionate evidence been provided to support the case for a discount?

We would expect the customer to be co-operative but not require them to provide evidence they could not reasonably obtain.

3. Not an indemnity

No discount will be granted indemnifying customers from risks they have decided to take. For example, they may have invested in the property market and been left with empty properties they cannot let.

4. Council Policy

Is the Council Tax charged in line with Council policy? If it is and there are no other extenuating circumstances a discount would not apply.

5. Government Policy

If there are no other extenuating circumstances, section 13A should not be used to fill what may be seen as gaps or shortfalls in state benefits. Customers should not be expected to fund what may be viewed as shortfalls in state welfare.

Has the customer explored all possible available assistance and are there any benefits they could seek? Could they qualify for assistance from any other funding?

6. Alternative Assistance or remedy

Is there any alternative method available to reduce or remove the Council Tax liability? For example, if the taxpayer is the owner of a derelict property have they sought to have it removed from the Valuation List via the Listing Officer?

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It may be reasonable to simply hold any action for a possible change in the taxpayer's circumstances rather than consider remission or a Discretionary Discount.

7. Precedence

To what extent could awarding this Discretionary Discount set a precedent? These discounts should be a rare occurrence and the exception rather than the rule.

8. Potential class for discounts

Is the circumstance of the case one that may occur occasionally and be capable of being clearly defined to capture future cases? The Council can define a class of properties and/or taxpayers to which a defined discount can be automatically awarded.

9. Major Incident

Has there been a major incident which forces the customer out of their property?

NB. A major incident is defined as: *“Any event or circumstances (happening with or without warning) that causes or threatens death or injury, disruption to the community, damage to property or to the environment, on such a scale that the effects cannot be dealt with by emergency services, local authorities and other organisations as part of their normal day to day activities” (Dealing with Disasters Cabinet Office booklet).*

Any reduction under this heading shall be limited to a maximum of 12 months where the situation continues to make it extremely difficult for the taxpayer to return to the property.

10. Unfortunate or Disastrous Event

Has the customer been the victim of unfortunate or disastrous event? Is this of such an unusual nature and have such an unfortunate impact of the customer that any reasonable person would not expect the taxpayer to have to pay the Council Tax?

11. Other factors to be taken into consideration

- The applicant must satisfy the Council that all reasonable steps have been taken or will be taken to resolve the situation
- The Council's finances allow for a reduction to be made
- Whether the situation can be resolved by some other legitimate means
- Whether an award will assist the applicant towards a position where they can pay their Council Tax within a reasonable time frame without further recourse to this discount
- Any social or health issues currently being faced by the resident and/or their immediate family
- The effect the situation is having on vulnerable members of the resident's family (e.g. the elderly, the young, those with illness etc.)
- The size and banding of the current accommodation

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- The possibility of moving to a smaller and lower banded property
- Whether there is a threat of court action in relation to Council Tax arrears.

This list is neither prescriptive nor exhaustive.

6. Application Procedure (see Appendix B)

In most instances a request for a Discretionary Discount will be made by or on behalf of the customer. However, a written application may not be needed in all cases and it is possible that officers may identify a potential case from information already known.

All cases will be considered, in the first instance, by a Team Leader in the Revenues Team. They will determine initially if there are grounds for granting a Discretionary Discount or whether it should be refused.

They will prepare a report for approval by the Revenues Manager with their recommendation on whether to grant or refuse a Discretionary Discount. If a recommendation is made to grant a Discretionary Discount this should specify the level of the Discretionary Discount either as a percentage or in monetary terms.

Where appropriate this report should indicate if the particular circumstances of the case may apply to other existing and future taxpayers where it may be appropriate for the Council to determine a class of properties allowing for discounts to be given automatically.

The Revenues Manager will either accept or reject the recommendation and could refer it back to the Team Leader for more information.

7. Period of award

The discretionary discount will be granted for a specific period. A discount will only be granted within the financial year in which the application is made and will terminate when either the applicant is no longer entitled to the discount or at the end of the financial year, whichever is the sooner.

The discount is intended to assist with the Council Tax liability for the short term only.

8. Amount of discount

The discount will be calculated against the daily Council Tax liability after deducting any other reliefs, discounts or Council Tax support and will not exceed that figure.

The discount to be awarded is entirely at the Council's discretion. The discount granted can be 0%-100%.

9. Notification of a decision

The applicant will be notified in writing of a decision within 28 days of receipt of the application. The decision notice will include reasons for the decision.

If a discount is granted, the notice will include the amount of the discount and the period for which it is granted. (Appendix A)

Any discount will be credited to the applicant's Council Tax account.

10. Review of a decision

The Council will accept a customer's written request, signed by the applicant or their authorised representative, for a review of its decision within 21 days of receipt of the request.

That review will be undertaken by the Head of Financial Services or the Service Manager, Revenues and Benefits.

If the customer disagrees with the outcome of this review they can appeal to the Valuation Tribunal.

11. Duty to notify changes in circumstances

Where a discount is granted, applicants are required to notify the Council of any relevant changes in their circumstances that could affect the award.

Examples of these changes include, but are not limited to:

- If the applicant changes address
- If the applicant or a member of their household leaves their home temporarily or permanently
- If an applicant's or a member of their household's income or capital changes
- If the number and/or circumstances of others in the household changes.

In addition, the applicant must inform the Revenues Team:

- Of a change to any factor that caused or contributed towards their hardship
- If their hardship ends
- If the severity of their hardship
- Of a change to any of the circumstances that were included in the application for the discount.

12. Recovery of overpaid Discretionary Discount

If it is subsequently identified that a Discretionary Discount has been awarded as a result of false or fraudulent information, the Council reserves the right to withdraw the award and recover the resulting sum (which may include interest) due. The Council also reserves the right to prosecute the applicant for false representation.

Examples of circumstances where the Council will seek recovery of an overpaid discount include, but are not limited to:

- Misrepresentation or failure to disclose a material fact, whether fraudulently or otherwise
- Failure to notify any relevant change in circumstance whether fraudulently or otherwise
- An error made in the provision of information or evidence or the interpretation of that information or evidence which led to an incorrect award.

Overpayments will generally be recovered directly from the applicant's Council Tax account, increasing the amount of Council Tax payable

13. Equalities and Monitoring

This procedure will be reviewed annually by the Head of Financial Services, or an officer selected by them, to check that it is applied fairly and consistently, that expenditure does not exceed the budget available, and identify if there may be the need for the Council to determine a class of properties allowing for discounts to be given automatically in specific circumstances

If the Head of Financial Services judges that it may be appropriate for the Council to determine a class of properties allowing for Discretionary Discounts to be given automatically they will prepare a report to Full Council for approval.

Records of all Discretionary Discounts granted and refused shall be recorded on a central database to be maintained by the Revenues Team. This will enable colleagues considering cases to review past decisions to help achieve a consistent approach.