



**Extraordinary  
Full Council**

**22 January 2013**

**Matter for Decision**

Title: **Council Tax Discretionary Support Scheme**

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## **1. Recommendations**

- 1.1. Members approve the operation of the Discretionary Council Tax Support (DCTS) scheme from 1 April 2013.
- 1.2. Funding of £4,201 is set aside for OWBC contribution to supporting this scheme.

## **2. Introduction**

- 2.1. This report introduces a new scheme for which provision exists under the Local Government Finance Act 2012 section 13A (1) (c). The scheme is designed to provide additional help and support to persons experiencing hardship in paying their Council Tax and will be essential in managing hardship following welfare reforms from 1 April 2013. The scheme has been jointly developed by local authorities across Leicestershire and Rutland to provide an effective means of supporting vulnerable persons or people suffering financial hardship.

## **3. Information**

- 3.1. The Local Government Finance Act 2012 Section 13A (1) (c) makes the following provision for billing authorities.

(1)The amount of council tax which a person is liable to pay in respect of any chargeable dwelling on any day (as determined in accordance with sections 10 to 13)—

...

(c) in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.

## **4. Discussion**

- 4.1. There is an opportunity for the Council to use the provisions available under Section 13A (1) (c) to mitigate the adverse impacts of the anticipated hardship

that may be caused to vulnerable people with the implementation of Local Council Tax Support (properly known as the Council Tax Reduction Scheme).

- 4.2. Operating a section 13A scheme will permit local discretion on a case by case basis to provide additional financial support to persons experiencing difficulty in paying their Council Tax.
- 4.3. The Government has also outlined that Councils should operate a Section 13A scheme in cases where the Council determines that it will no longer grant exemptions in favour of discounts for:
  - 4.3.1. Empty homes which are undergoing major structural repairs; or
  - 4.3.2. Empty homes which are substantially unfurnished.
- 4.4. The Local Government Ombudsman has also commented on the use of this type of scheme in the past and has stated in the case of Redcar and Cleveland Borough Council that Councils must:
  - 4.4.1. Consider cases on their individual merits; and
  - 4.4.2. Not fetter their discretion by operating blanket policies (i.e. that they will not operate a scheme).
- 4.5. The Ombudsman was also clear that Council's should also give proper consideration to the use of powers where they are provided for within legislation.
- 4.6. One aspect of the operation of the Local Council Tax Support Scheme (LCTS) is the potential risk of increased non payment of Council Tax. Where this occurs and becomes persistent it may lead to a culture of non payment as was seen in relation to Community Charge.
- 4.7. It is therefore important that any LCTS scheme includes an option for the authority to work collaboratively with persons suffering genuine hardship, for example by being able to partly remit a debt in the short term. In turn this will encourage customers to work with the Council in managing their debts.
- 4.8. In light of the above it is clear that operating a Section 13A scheme under the title of the Discretionary Council Tax Support Scheme (DCTS) would assist in reducing poverty and hardship and would permit the Council greater discretion in how it provides support.
- 4.9. This scheme is being proposed as part of a county-wide strategy towards dealing with the adverse impacts of the welfare reforms particularly in relation to vulnerable people.
- 4.10. Where DCTS is granted, this amount is usually fully met by the billing authority. However, the Council is working closely with the precepting authorities in Leicestershire and has negotiated a collective pot which will be jointly funded according to each authority's share of the Council Tax overall charge.

4.11. This will would mean that each authority would contribute as follows (based on the 2012-13 Council Tax precepts):

4.11.1.	71.21%	Leicestershire County Council
4.11.2.	13.57%	Oadby and Wigston Borough Council
4.11.3.	11.65%	Leicestershire Police Authority
4.11.4.	3.57%	Combined Fire Authority

4.12. The proposed amounts of funding that we will have control over are:

Authority	Contribution
Oadby and Wigston	£ 4,201
County Council	£ 22,046
Leicestershire Fire	£ 1,105
Leicestershire Police	£ 3,606
<b>Total Gross Cost</b>	<b>£ 30,958</b>

4.13. The scheme sets out the general operating provisions including arrangements for application, evidence, decision making, payment, overpayments and appeals.

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#### Background Papers:

- Policy, Finance and Development Committee 10 July 2012 - *Welfare Reform and Local Council Tax Support*
- Extraordinary Council, 24 July 2012 - *Member's Workshop on Local Council Tax Support*
- Policy, Finance and Development Committee 25 September 2012 - *Update on Council Tax Localisation*
- Policy, Finance and Development Committee 25 September 2012 - *Council Tax Discretionary Discount Scheme Report*
- Extraordinary Council Meeting 17 October 2012 - *Members Welfare Reform Workshop*
- Policy, Finance and Development Committee 25 September 2012 - *Update on Council Tax Localisation*
- Full Council 20 November 2012 - *Empty Homes Taxation*
- Full Council 20 November 2012 – *Local Council Tax Support Scheme*

Implications	
Financial (PL)	The Council will need to provide funding of £4,201 to support this scheme being implemented.
Risk (DN)	Expenditure must be properly controlled and checked, this has been added to the Services Operational Risk Register.
Equalities (KG)	Consideration is to be given to all applications of financial hardship from those within the Borough

Legal (KG)

Pursuant to s.13A of the Local Government Finance Act  
2012



*Oadby and Wigston Borough Council*

**DISCRETIONARY COUNCIL TAX SUPPORT  
SCHEME**

**January 2013**



Version	Revision Date	Summary
1.0	30.5.2012	First issue.
2.0	28.6.2012	Revised following comments from WPG
3.0	15.8.2012	Revised following comments from LALAT
4.0	3.09.2012	Revised following inclusion of S13A matters

## 1. Introduction

- 1.1. The Leicestershire, Leicester City, Fire, Police & Rutland authorities have co-operated and shared best practice to develop a shared Local Council Tax Support Scheme (LCTS). The group has also devised a shared Discretionary Council Tax Support Scheme (DCTS) to ensure that the most vulnerable members of the community are protected in line with the requirements of the Government's localisation of Benefits, under which from 1 April 2013, Councils must have in place local schemes for the administration of the scheme which will replace the existing Council Tax Benefits system.
- 1.2. This change to local taxation and benefits systems is amongst the first of a very wide range of changes to the national welfare benefits framework which begins in earnest from next year.
- 1.3. The Government is allowing a number of changes from 1 April 2013 in relation to Council Tax exemption classes A and C and also ending the current scheme for Council Tax Benefit in favour of a Local Council Tax Discounts. The Council therefore intends to set up a DCTS scheme to offset the most severe impacts of these reforms on vulnerable persons
- 1.4. The DCTS scheme will operate along the lines of the existing Discretionary Housing Payments policy and will permit officers the discretion to provide reductions in Council Tax from 0% to 100% of the remaining Council Tax liable amount.
- 1.5. The DCTS scheme will be locally funded but will seek a contribution from precepting authorities to offset the full cost of the schemes operation. The scheme will be subject to a budget cap each year set by the Council.

## **2. Legislative framework**

- 2.1. The following legislation and regulations are relevant to this document:
  - 2.1.1. The Local Government Finance Act 2012
  - 2.1.2. The Local Government Act 1992 Section 13A(2)
  - 2.1.3. The Leicestershire & Rutland Local Council Tax Support Scheme 2012
  - 2.1.4. Child Poverty Act 2010
  - 2.1.5. Equality Act 2010 (incorporating the Disabled Persons Act 1986)
  - 2.1.6. Housing Act 1996
  - 2.1.7. Armed Forces Covenant
  - 2.1.8. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012
  - 2.1.9. The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 Default Scheme
  - 2.1.10. Social Security Act 1992

### 3. Objectives

- 3.1. This document sets up a local DCTS scheme to support local persons experiencing hardship and who are unable to pay their Council Tax. The discount will be known as 'Discretionary Council Tax Support' but will operate under the legal framework outlined in Section 13A of the Local Government Finance Act 1992.
- 3.2. The Government has prescribed a national pension age scheme that will ensure that pensioners are not worse off under the Local Council Tax Support Scheme (LCTS); this is known as the prescribed scheme.
- 3.3. The Government have not prescribed any vulnerable groups, having regard to local authorities' defined responsibilities, in relation to, and awareness of the most vulnerable groups and individuals in their areas through an Equality Impact Assessment.
- 3.4. This DCTS scheme specifies those individuals and groups who are eligible to access the support and explains the claiming process.
- 3.5. This DCTS scheme seeks to incentivise work, reduce worklessness and dependency on benefits in line with the Governments expectations.
- 3.6. It should be noted that where the Council has a discretionary power, it must not fetter discretion by having a set of rules that are inflexible. Each case must be considered on its own merits, determined within the budget provided and administered under the framework set out in this scheme.

### 4. Criteria

- 4.1. Fundamental to the DCTS scheme is a clear indication of the groups or individuals that can be considered eligible to claim additional council tax support.
- 4.2. The DCTS scheme fund has financial limitations and as such awards can only be made based on eligibility and having regard to the level of funding available or remaining funds within the DCTS scheme each financial year.
- 4.3. Unless specified, all criteria and conditions that apply to the Leicestershire & Rutland LCTS scheme will also apply to this DCTS scheme.

## 5. Equalities

- 5.1. The Council is committed to equality and fairness. Equality is about ensuring people are treated fairly and given fair chances. It is also about ensuring that people receive fair outcomes in the standard of service they receive from the Council and equality of access to Council Services. This incorporates everyone, regardless of their race, gender, age, religion or belief, sexual orientation, marital or civil partnership status and/or disability in line with the principles set out in the Equalities Act 2010.
- 5.2. A number of example groups have been defined as being eligible to submit a claim for DCTS. These groups are listed below (this list is not an exhaustive list):
  - 5.2.1. The applicant or dependent child is in receipt of the middle or higher rate of Disability Living Allowance (DLA);
  - 5.2.2. The applicant or a household member is a disabled adult living in supported living accommodation with carers and are unable to work due to their health;
  - 5.2.3. The applicant or a household is in receipt of Employment Support Allowance (ESA) with support component;
  - 5.2.4. The applicant or a household member is a care-leaver up to the age of 22 years;
  - 5.2.5. The applicant or a household member is deemed vulnerable through drug or alcohol dependency and is attending a rehabilitation programme;
  - 5.2.6. The applicant or a household member has suffered domestic violence and is being supported by accredited local schemes to move into permanent accommodation, (this provision is inclusive of persons suffering forced marriages);
  - 5.2.7. The applicant or a household member is a foster carer and has current foster child placements;
  - 5.2.8. The applicant or a household member has dependent children under the age of 5 and is living on income support;
  - 5.2.9. The applicant or a household member who provide care who are single or a couple, and have no other income (other than income support) where they are in receipt of carers allowance
  - 5.2.10. The applicant or household is a foster carer (child or adult) and is in between foster care placements
  - 5.2.11. The applicant or household has parental care responsibility for non-resident children
  - 5.2.12. The applicant or household is a hostel leaver where they were resident in a hostel engaging with support while resident. Minimum period of hostel residency is 3 months
- 5.3. There may be a number of vulnerable individuals who do not fall into any of the above categories. In this event awards may be considered due to severe financial hardship, please refer to section 6 below.

## 6. Severe financial hardship

- 6.1. Applications will be accepted on the basis that the applicant or household would suffer severe financial hardship if financial assistance were not given.
- 6.2. Individuals in this group will not be defined but need to be able to demonstrate their circumstances and have exhausted other sources of income that are available to them.
- 6.3. Each case will be considered on its own merits.
- 6.4. Care will be taken to ensure the applicant or household has access to independent financial advice and support.
- 6.5. Examples of applicants or households who may potentially be awarded DCTS are:
  - 6.5.1. Recently bereaved and suspension of other benefits have caused a disruption to income
  - 6.5.2. Terminally ill and unable to contribute to the household income
  - 6.5.3. Recovering from a serious illness and unable to contribute to the household income
  - 6.5.4. Recently released from prison and under probation
- 6.6. Applications for DCTS should be one of last resort. Applicants will be expected to have explored and secured any lawful entitlement to other benefits, incomes and reductions in preference to claiming DCTS. Applicants will need to ensure they are able to satisfy the Council that they have taken all reasonable steps to resolve their own situation prior to application.
- 6.7. Applications will be considered if the above apply and:
  - 6.7.1. There is evidence of financial hardship or personal circumstances that justify an award
  - 6.7.2. The applicant or household has supplied all evidence requested by the Local Authority in respect of their claim for the LCTS
  - 6.7.3. The applicant or household must have applied for any appropriate discount or exemption and supplied any evidence requested by the Local Authority in respect of that application
  - 6.7.4. The applicant or household does not have access to any other financial assets that could be realised to pay the council tax
  - 6.7.5. The applicant or household must not be avoiding outstanding council tax due to wilful refusal or culpable neglect
  - 6.7.6. The Council's finances must allow for an award to be made

## **7. How to claim**

- 7.1. A claim should be made in writing or on line using the approved claim form together with supporting evidence as required.
- 7.2. Claims can also be made by a referral process. Please see Section 10, Referrals from other sectors.
- 7.3. The applicant must be the person liable to pay the council tax, or be their representative with authority to act on their behalf i.e. Power of Attorney
- 7.4. Claims can only be made to and accepted by the billing authority who issues the taxpayer their Council Tax Demand Notice.
- 7.5. If an applicant or household needs advice and support to complete a claim form, the applicant or household will be signposted to an appropriate service that offers support relevant to the needs of the applicant or household.
- 7.6. The applicant must set out the reasons for applying including explaining any special circumstances or hardship being experienced.

## **8. Information required to support a claim**

- 8.1. Evidence will be required to substantiate a claim for DCTS. Evidence can include, but is not limited to:
  - 8.1.1. A household income statement; using a prescribed form
  - 8.1.2. A household expenditure statement; using a prescribed form
  - 8.1.3. Supporting evidence may be requested such as utility bills
  - 8.1.4. Evidence of seeking debt advice, if appropriate
- 8.2. Evidence may be requested that is relevant to the nature of the claim i.e. evidence of illness. It should be noted that no costs will be borne by the Authority in circumstances of this nature.
- 8.3. Failure to provide supporting information and evidence that is requested may lead to a refusal.
- 8.4. Care will be taken by staff to ensure that the applicant or household is treated fairly and respectfully and that only relevant information and evidence is requested.
- 8.5. All information and evidence provided will be treated in confidence and in accordance with the Data Protection Act 1998.
- 8.6. Where the Council requires additional information or evidence it will write to the applicant requesting the information is supplied within one calendar month.

- 8.7. The applicant is required to report any changes in their circumstances or the circumstances of household members immediately in writing to the Council. A failure to report changes may lead to a loss of DCTS, result in an overpayment which will be recoverable from the Council Tax account and lead to prosecution where appropriate.

## **9. Notice of decision**

- 9.1. The Council will provide a written notice of its decision to the applicant or their representative. The decision notice will set out:
- 9.1.1. The amount of the award (if any)
  - 9.1.2. The period of the award (if any)
  - 9.1.3. Provide details of how to appeal or obtain more information about the decision
  - 9.1.4. Provide details of how the award (if any) will be made
  - 9.1.5. Provide a summary of the factors considered in reaching the decision.
- 9.2. On the provision of all satisfactory requested information, a decision will be made where practicable within 14 working days.

## **10. Referrals from other sectors**

- 10.1. The billing authority will accept referrals from:
- 10.1.1. Leicester City, Leicestershire County Council, Social Services Team
  - 10.1.2. Leicester, Leicestershire & Rutland Combined Fire Authority
  - 10.1.3. Leicestershire Police Authority
  - 10.1.4. Third sector organisations i.e. Citizens Advice Bureau, welfare rights
- 10.2. The approved referral form should be completed and returned to the relevant billing authority.
- 10.3. The Leicestershire and Rutland billing authorities and the organisations above have a Service Level Agreement (SLA) in place to ensure the agreed process is adhered to.
- 10.4. Referrals will be monitored and reviewed in accordance with the SLA.

## **11. Alternative sources of financial assistance**

- 11.1. Various alternative sources of financial assistance exist within the public, private and voluntary sectors. If support from The Leicestershire and Rutland DCTS is not awarded, applicants or households will be signposted to alternative sources of financial assistance and advice.

## **12. Debt advice**

- 12.1. It is recognised that debt and poverty are linked. In most cases the billing authority will expect the applicant or household to seek debt/money management advice as a long term solution to financial problems.
- 12.2. Working age applicants or households are also expected to move into work if they are able to reduce their dependency on support. With this in mind applicants or households should receive more income from work than being out of work. Work incentives will be a factor when determining awards for DCTS.
- 12.3. Billing Authorities will signpost applicants or households to debt advice services in their area, evidence of taking and adhering to advice may be requested from the applicant or household when making an application for DCTS.

## **13. Backdating**

- 13.1. Applications for DCTS may be backdated up to 1 calendar month from the date the written application is received where continuous good cause exists throughout the period for the delay in making the application

## **14. Determining awards**

- 14.1. The Council will consider each application on its own merits. This will ensure that each application is treated in an open and consistent manner, whilst considering individual circumstances.
- 14.2. The Council will be under no duty to assess applications not made in the approved manner.
- 14.3. Where information or evidence requested has not been received within one calendar month, the Council will determine the application on the basis of the evidence and information in its possession. The Council will make an adverse inference in respect of any information or evidence not supplied by the applicant within the one calendar month time limit.
- 14.4. Nothing in this scheme shall permit the Council to reduce the Council Tax charge for any day to less than NIL.
- 14.5. DCTS may only be awarded in respect of Council Tax liability.
- 14.6. The order of discounts will be maintained in line with the Local Government Finance Act; therefore the maximum amount of DCTS that can be claimed for any day will be net of other discounts and reductions already awarded.
- 14.7. Awards will have a defined start and end date. This information will be provided to the applicant or household when the decision is made.

- 14.8. Awards may be a one off payment, an award for a short period of time or until the applicant or households circumstances change or for a full financial year. This will be detailed when a decision is made.
- 14.9. Awards will stop immediately if the applicant or household or their representative has misrepresented or failed to disclose a material fact, fraudulent or otherwise. The authority may look to recover any overpayment of award but for instances of proven fraudulent activity will seek to recover in all cases.

## 15. Method of payment

- 15.1. Awards will be credited directly to the applicant or households/liable persons' council tax account. This will have the effect of reducing the council tax liability.
- 15.2. Taxpayers may find that the award does not reduce their council tax to zero. If taxpayers have council tax to pay they should contact the recovery section as early as possible and make arrangements to pay the sum due.

## 16. Appeals

- 16.1. Applicants may appeal against a decision within one calendar month of the decision notice where:
  - 16.1.1. They have not been awarded DCTS for a day; or
  - 16.1.2. Where they feel the award should be increased.
- 16.2. Appeals must be :
  - 16.2.1. Submitted in writing;
  - 16.2.2. Received at the Council offices within one calendar month of the date of the decision notice;
  - 16.2.3. Signed by the applicant;
  - 16.2.4. Outline the grounds for appeal;
- 16.3. Applicants will not have the right of appeal:
  - 16.3.1. Where their appeal is received by the Council more than one calendar month after the date of the decision notice;
  - 16.3.2. Where the Council has already made a determination of appeal in respect of the matter;
  - 16.3.3. For any day on which they have received 100% discount or exemption;
  - 16.3.4. For any request to backdate the award for more than one calendar month from the date of application;
  - 16.3.5. Where the Council has no remaining budget provision;
  - 16.3.6. Where the Council has made an adverse inference decision;
  - 16.3.7. In any case where the Council was under no duty to make a decision.

- 16.3.8. Against Local Council Tax Support scheme suspensions where there is doubt about entitlement
- 16.3.9. Against shortfalls caused by the recovery of overpaid Local Council Tax Support
- 16.4. Any appeal under this scheme will be determined within one calendar month of receipt of the appeal or as soon as reasonably practicable.
- 16.5. Appeal decisions are final and may not be further challenged except where legislation permits. The Council will write to the applicant once their appeal has been considered and will explain:
  - 16.5.1. The amount of the award (if any);
  - 16.5.2. The period of the award (if any);
  - 16.5.3. Provide details of how the award (if any) will be made;
  - 16.5.4. Provide a summary of the factors considered in reaching the decision.

## **17. Recovery of an overpaid discretion discount award**

- 17.1. The Council may recover any overpayment of DCTS that has been paid by removing the discount from the account.

## **18. Fraud**

- 18.1. The Council may always correct any award made under this scheme where fraud or error has occurred.
- 18.2. Where a customer has failed to provide information or has knowingly supplied false or misleading information the Council reserves the right to withdraw any award made under this scheme.
- 18.3. Furthermore, the Council reserves the right to investigate any alleged offences, to levy penalties in accordance with the law and to prosecute anyone who has committed a criminal offence.

## 19. Data sharing and fair processing

- 19.1. The Council may use any evidence and information supplied to it in respect of DCTS to check the eligibility of the applicant in respect of this scheme or any other welfare benefit, discounts or exemptions.
- 19.2. The Council takes part in data matching exercises as part of work to assist in the prevention and detection of fraud. Data matching involves comparing sets of our data, such as council tax or benefit records against other records held by the Council or other bodies to see how far they match. Data matching allows potentially fraudulent claims, reductions and payments to be identified. Where a match is found it indicates that there is an inconsistency that requires further investigation. No assumption can be made as to whether there is fraud, error or other explanation until an investigation is carried out. The processing of personal information by the Council for data matching exercises is carried out in accordance with the Data Protection Act 1988; specifically under section 29 of that act. This means the Council does not require the consent of the individuals concerned

## 20. Publicity

- 20.1. The DCTS scheme will be publicised across the region.
- 20.2. The following methods of communication may be used:
  - 20.2.1. Leaflets and posters
  - 20.2.2. Information with decision notices for the Local Council Tax Support Scheme where there is a shortfall
  - 20.2.3. Face to face and verbal when visiting or telephoning the council offices
  - 20.2.4. Information on billing authority websites
  - 20.2.5. Information from 3<sup>rd</sup> sector organizations and referrers
  - 20.2.6. Claim forms available to download or complete online
  - 20.2.7. Information with council tax reminders notices where the taxpayer is in receipt of LCTS

## **21. Administration**

- 21.1. Applications will be subject to the billing authority's usual quality control procedures and audit.
- 21.2. Home visits will be made available to applicants or households who are unable to attend the council offices and have no-one else to assist them.
- 21.3. Awards will be recorded and reported on monthly basis to Senior Management and to the precepting authorities. Statistical information will be made available on the billing authorities website, personal data i.e. individuals names and addresses will be withheld and not published in accordance with The Freedom of Information Act 2000.
- 21.4. Reports will record the following: for both successful and unsuccessful claims per financial year:
  - 21.4.1. Name of applicant or household
  - 21.4.2. Address of applicant or household
  - 21.4.3. Ward of applicant or household (if relevant)
  - 21.4.4. The start/end date of the award
  - 21.4.5. The amount of the award
  - 21.4.6. The reason for the award/refusal/eligibility criteria
  - 21.4.7. Equality data to monitor the effectiveness of the EIA
- 21.5. Billing authorities may from time to time conduct a survey of all applicants to seek opinions, satisfaction levels and to shape the scheme for future years.

## **22. Scheme review**

- 22.1. The DCTS scheme will be reviewed annually by 31<sup>st</sup> January each year.
- 22.2. Any major changes will be subject to consultation in accordance with best practice.
- 22.3. The DCTS scheme will be published and available to view on billing authorities' websites.

## **23. Budget considerations**

- 23.1. The DCTS will have a budget set each financial year for each local authority. This will be set in agreement with and with a contribution from major precepting authorities.
- 23.2. Once available funds have been exhausted from the DCTS no further awards will be made until a new financial year.

## **24. Legislation**

- 24.1. Awards under this scheme are made in line with the Local Government Finance Act as outlined below:
  - 24.1.1. Section 13A and 76 Local Government Finance Act 1992 – The award of discretionary discounts.
  - 24.1.2. Section 4 Local Government Finance Act 1992 - Dwellings may be exempt from Council Tax if they fall within one of the specified classes.
  - 24.1.3. Section 11 Local Government Finance Act 1992 - The amount of Council Tax payable may be subject to a discount under where there is no resident, or all but one of them fall to be disregarded.
  - 24.1.4. Section 13 Local Government Finance Act 1992 - The amount may be reduced where it is occupied by disabled person(s).