

## **Gosport Borough Council LOCAL COUNCIL TAX SUPPORT SCHEME. EXCEPTIONAL HARDSHIP POLICY.**

### **1.0 Background**

1.1 An Exceptional Hardship Fund (EHF) has been set up by the Council to assist applicants for Local Council Tax Support (LCTS) who are facing 'exceptional hardship'. The fund has been created to provide further assistance where an applicant is in receipt of LCTS but the level of support being paid by the Council does not meet their full Council Tax liability.

1.2 The EHF will be available to any applicant (whether pension or working age) where their daily award of LCTS does not meet 100% of their Council Tax liability (less any appropriate discounts and non-dependant deductions).

1.3 The main features of the fund are as follows:

- The operation of the Fund will be at the total discretion of the Council;
- The Fund will be operated by the Benefits Section on behalf of the Council;
- There is no statutory right to payments from the fund although the Council will consider all applications received;
- Exceptional Hardship Fund payments are not payments of Council Tax Reduction/Support (as defined within S13a of the Local Government Finance Act 1992);
- Exceptional Hardship Fund payments will only be available from 1st April 2017 and **will not be available for any other debt other than outstanding Council Tax**;
- A pre-requisite to receive a payment from the Fund is that an amount of LCTS **must be in payment** for any day that an EHF payment is requested;
- Where an Exceptional Hardship Payment is requested for a previous period, Exceptional Hardship must have been proven to have existed throughout the whole of the period requested;

- Exceptional Hardship Payments are designed as a short-term help to the applicant only and it is expected that payments will be made for a short period only; and
- All applicants will be expected to engage with the Council and undertake the full application process. Failure to do so will inevitably mean that no payment will be made.

## **2.0 Exceptional Hardship Fund and Equalities**

2.1 The creation of an Exceptional Hardship Fund facility meets the Council's obligations under the Equality Act 2010

2.2 This policy has been created to ensure that a level of protection and support is available to those applicants most in need. It should be noted that the Exceptional Hardship Fund is intended to help in cases of **extreme** financial hardship and not support a lifestyle or lifestyle choice. Whilst the definition 'Exceptional Hardship' is not defined by this policy, it is accepted that changes to the level of Council Tax support generally could cause financial hardship and any payment made will be at the total discretion of the Council. Exceptional Hardship should be considered as 'hardship beyond that which would normally be suffered'

## **3.0 Purpose of this Policy**

3.1 The purpose of this policy is to specify how the Council will operate the scheme, to detail the application process and indicate a number of factors, which will be considered when deciding if an Exceptional Hardship Fund award can be made.

3.2 Each case will be treated on its own merits and all applicants will be treated fairly and equally in the accessibility to the Fund and also the decisions made with applications.

## **4.0 The Exceptional Hardship Fund Process**

4.1 As part of the process of applying for additional support from the Exceptional Hardship Fund, all applicants must be willing to undertake **all** of the following:

- Make a separate application for assistance;
- Provide full details of their income and expenditure;
- Accept assistance from either the Council or third parties such as the CAB or similar organisations to enable them to manage their finances more effectively including the termination of non- essential expenditure;

- Identify potential changes in payment methods and arrangements to assist the applicant;
- Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted; and
- Maximise their income through the application for other welfare benefits, cancellation of non-essential contracts and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.

4.2 Through the operation of this policy the Council will look to:

- Allow a short period of time for someone to adjust to unforeseen short-term circumstances and to enable them to “bridge the gap” during this time, whilst the applicant seeks alternative solutions;
- Enable long term support to households in managing their finances;
- Help applicants through personal crises and difficult events that affect their finances;
- Prevent exceptional hardship;
- Help those applicants who are trying to help themselves financially; and
- Encourage and support people to obtain and sustain employment.

4.3 EHF payments cannot be awarded in the following circumstances:

- Where full Council Tax liability is being met by LCTS;
- For any other reason, other than to reduce Council Tax liability;
- Where the Council considers that there are unnecessary expenses/debts etc. and that the applicant has not taken reasonable steps to reduce these;
- To pay for any overpayment of LCTS caused through the failure of the applicant to notify changes in circumstances in a timely manner or where the applicant has failed to act correctly or honestly; or
- To cover previous years' Council Tax arrears

## **5.0 Awarding an Exceptional Hardship Fund Payment**

The Council will decide whether or not to make an Exceptional Hardship Fund award, and how much any award might be.

5.1 When making this decision the Council will consider:

- The shortfall between LCTS and Council Tax liability;
- Whether the applicant has engaged with the Exceptional Hardship Payment process;
- If a Discretionary Housing Payment has already been awarded to meet a shortfall in rent;
- The personal circumstances, age and medical circumstances (including ill health and disabilities) of the applicant, their partner any dependants and any other occupants of the applicant's home;
- The difficulty experienced by the applicant, which prohibits them from being able to meet their Council Tax liability, and the length of time this difficulty will exist;
- Shortfalls due to non-dependant deductions;
- The income and expenditure of the applicant, their partner and any dependants or other occupants of the applicant's home;
- How reasonable expenditure exceeds income;
- All income received by the applicant, their partner and any member of their household irrespective of whether the income may fall to be disregarded under the LCTS scheme;
- Any savings or capital that might be held by the applicant, their partner and any member of their household irrespective of whether the capital may fall to be disregarded under the LCTS scheme;
- Other debts outstanding for the applicant and their partner;
- The exceptional nature of the applicant and/or their family's circumstances that impact on finances; and
- The length of time they have lived in the property

5.2 The above list is not exhaustive and other relevant factors and special circumstances will be considered.

5.3 An award from the Exceptional Hardship Fund does not guarantee that a further award will be made at a later date, even if the applicant's circumstances have not changed.

5.4 An Exceptional Hardship Fund payment may be less than the difference between the Council Tax liability and the amount of LCTS paid.

5.5 The level of payment may be nil if the authority feels that, in its opinion, the applicant is not suffering 'exceptional hardship' or where the applicant has failed to comply with the Exceptional Hardship process.

## **6.0 Publicity**

The Council will make a copy of this policy available for inspection and will be published on the Council's website.

## **7.0 Claiming an Exceptional Hardship Fund payment**

7.1 An applicant must make a claim for an Exceptional Hardship Fund award by submitting an application to the Council. The application form can be obtained via the telephone, in person at the Council offices and/or via the Council's website.

7.2 Applicants can request assistance with the completion of the form from the Benefits Service at the Council Offices.

7.3 The application form must be fully completed and supporting information or evidence provided, as reasonably requested by the Council.

7.4 In most cases the person who claims the Exceptional Hardship Fund award will be the person entitled to LCTS. However, a claim can be accepted from someone acting on another's behalf, such as an appointee, if it is considered reasonable.

## **8.0 Changes in circumstances**

8.1 The Council may revise an award from the Exceptional Hardship Fund where the applicant's circumstances have changed which either increases or reduces their LCTS entitlement.

## **9.0 Duties of the applicant and the applicant's household**

9.1 A person claiming an Exceptional Hardship Fund payment is required to:

- Provide the Council with such information as it may require to make a decision;
- Tell the Council of any changes in circumstances that may be relevant to their ongoing claim; and
- Provide the Council with such other information as it may require in connection with their claim.

## **10.0 The award and duration of an Exceptional Hardship Payment**

10.1 Both the amount and the duration of the award are determined at the discretion of the Council, and will be done so on the basis of the evidence supplied and the circumstances of the claim.

10.2 The start date of such an award and the duration of any award will be determined by the Council. In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

### **11.0 Award of the Exceptional Hardship Fund payment**

11.1 Any Exceptional Hardship Fund award will be made direct onto the customer's Council Tax account, thereby reducing the amount of Council Tax payable.

### **12.0 Overpaid Exceptional Hardship Fund Payments**

12.1 Overpaid Exceptional Hardship Fund payments will generally be recovered directly from the applicant's council tax account, thus increasing the amount of council tax due and payable.

### **13.0 Notification of an award**

13.1 The Council will notify the outcome of each application for Exceptional Hardship Fund payments in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

### **14.0 Appeals**

14.1 Appeals against the Council's decision may be made in accordance with Section 16 of the Local Government Finance Act 1992.

14.2 The Council taxpayer must in the first instance write to the Council outlining the reason for their appeal.

14.3 Where an appeal is received, an officer other than the original decision maker will reconsider the decision and notify the Council taxpayer accordingly.

14.4 Where the Council taxpayer remains aggrieved, a further appeal can then be made to the Valuation Tribunal. This further appeal should be made within 2 months of the decision of the Council not to grant any reductions.

### **15.0 Fraud**

15.1 The Council is committed to protect public funds and ensure funds are awarded to the people who are rightfully eligible to them.

15.2 An applicant who tries to fraudulently claim an Exceptional Hardship Fund payment 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.

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

## **16.0 Complaints**

16.1 The Council's 'Compliments and Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about this policy.

## **17.0 Policy Review**

17.1 This policy will be reviewed at least every year and updated as appropriate to ensure it remains fit for purpose. However, the review may take place sooner should there be any significant changes in legislation.