

## EK SERVICES POLICIES AND PROCEDURES

# DISCRETIONARY AND HARDSHIP RELIEF POLICY

Canterbury City Council, Dover District Council and Thanet District Council have entered into a shared service agreement to allow joint working in the Customer Services, ICT, Benefits, Council Tax and Business Rates sections.

Where 'EK Services' and 'EKS' are mentioned this refers to the shared service between Canterbury City Council, Dover District Council and Thanet District Council.

Where references are made to 'EK Services Officers' these services are now being delivered by Civica UK Limited. Civica UK Limited provides benefit services, income collection services, council tax and business rates administration and collection services and customer contact services to the Council.

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## 1.0 Introduction and purpose of policy document

- 1.1 For the purpose of clarity, any reference to 'EK Services' within this document should be taken to mean EK Services working on behalf of participating authorities to deliver the shared priorities and objectives. Any reference to 'we' refers to EK Services.
- 1.2 This power to award discretionary relief for Business Rates and Council Tax has been fully delegated to EK Services and the power is allowed under the following Regulations;
- **Business Rates** – Sections 44A, 47 and 49 of the Local Government Finance Act 1998, Section 69 of the Localism Act 2011.
  - **Council Tax** – Section 13A of the Local Government Finance Act 1992
- 1.3 This policy has been agreed by authorities participating in EK Services to ensure that all customers making application for relief are treated in a fair, consistent and equal manner.
- 1.4 This policy has been written to;
- Set guidelines for the factors that should be considered when making a decision to award or refuse relief;
  - Set out the delegated authority to award relief in appropriate circumstances;
  - Establish an appeals procedure for customers dissatisfied with EK Services decision;
  - Safeguard the interest of the local taxpayers by ensuring that funds that are allocated for the award of relief are used in the most effective and economic way.

## **2.0 Business Rates – Relief for Charities, Not for Profit Organisations, Community Amateur Sports Clubs (CASC) and Rural properties**

### **2.1 Legal Requirements**

- 2.1.1 Section 47 of the Local Government Finance Act 1988 provides the discretion to award relief.
- 2.1.2 Registered Charities and CASC's are entitled to Mandatory Relief of 80%. EK Services has the discretion to award further rate relief of up to 20%, which is commonly referred to as a 'top-up'.
- 2.1.3 Rural properties are entitled to Mandatory Relief of 50% providing the qualifying criteria are met. EK Services has the discretion to award a further rate relief of up to 50%.
- 2.1.4 The award of the 80% mandatory relief to charities and CASC's, and the award of 50% relief for qualifying rural properties are administered in accordance with legislation. This policy explains how the 20% and 50% top-ups are administered.
- 2.1.5 The amount of relief awarded is entirely at the discretion of EK Services.

### **2.2 Legal Requirements – State Aid**

- 2.2.1 European Union competition rules restrict Government subsidies to businesses. Relief from taxes, including business rates, could be considered as state aid.
- 2.2.2 Rate relief for charities and non-profit making bodies is not normally considered state aid because the recipients are not in market competition with other businesses. However, if they are engaged in commercial activities, compete with commercial bodies or have a commercial partner, rate relief could constitute state aid. In such cases it would be unlikely that the customer would be considered for rate relief.

## **2.3 Financial Impact**

- 2.3.1 The funding arrangements for relief changed when the Business Rates retention scheme was introduced in April 13.
- 2.3.4 EK Services aims to spend no more than the budgeted amount. If the budget is likely to be exceeded then EKS staff will discuss this with the clients at the affected Council. It is to be noted that awarding Discretionary Relief on a first come, first served basis i.e. refusing applications once the annual budget is used up, is not permitted. In the event that the annual budget proves to be insufficient, then each Local Authority must either increase the annual budget or re-visit this policy to amend the criteria for granting such relief. The budget will be monitored closely throughout the year and reports on successful and unsuccessful applications will be passed to the Councils monthly. EKS will report to Single Grants Gateway for CCC cases where the award is likely to take them over the annual budget.

## **2.4 Persons who can make application**

- 2.4.1 Applications must be made by the ratepayer.
- 2.4.2 Where the ratepayer is an organisation the application must be made by a person with the authority to act on behalf of the organisation. EK Services may ask for evidence that the person making the application is entitled to act in that capacity.

## **2.5 The Decision Making Process**

- 2.5.1 Although there is no statutory necessity to complete a formal application form, it is recommended that a form be completed, as it will form a checklist of criteria to be met or questions to be answered. This will assist in speeding up the application process.
- 2.5.2 All applications will be considered on an individual basis. Consideration for awarding Discretionary Relief is based on the organisations ability to meet its Business Rate liability. Therefore, copies of the last 3 years audited accounts are to be submitted with the application form. Where audited accounts are not available, financial statements prepared by, or approved by, an appropriate representative shall

be acceptable. For a new organisation 12 months projected cash flow forecast are required.

- 2.5.3 Where an organisation has retained funds, or built up reserves, for a purpose related to the aims and objectives of the organisation, provided that the works are realistically expected to be completed within three years of the date of application, those funds/reserves may be disregarded for the purposes of the award of relief. It is accepted that funds may have to be accrued over many years to fund major projects i.e. replacing an ageing building and consideration to this will be given on an individual basis.
- 2.5.4 Relief is likely to be awarded where it is clear that the activities of the applicant are of direct benefit to the local community and the other criteria mentioned in this policy are met.
- 2.5.5 Relief may be refused or capped if it is considered that the financial cost to each Local Authority or the local community outweighs the benefits generated through the award of relief.
- 2.5.6 Organisations with unallocated reserves or substantial assets (taken to mean 6 months or more of operating costs) will be excluded from qualification if it is determined that those reserves or assets could reasonably be used to provide financial support.
- 2.5.7 To ensure there is a fair and consistent approach to the award of Discretionary Relief, all applications will be considered within the guidelines of this policy and a written record will be kept on file of the decisions and factors considered in the process. The decision will be available free of charge to the applicant on request.
- 2.5.8 EK Services will consider applications within 21 days of the application and all supporting information being received and will notify the customer should there be a delay in processing the application.
- 2.5.9 EK Services will notify the applicant of the decision in writing and where less than the maximum amount of relief is granted or the relief is refused, an explanation of the reasons why will be given.
- 2.5.10 EK Services will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused.



2.5.11 Where an application has been refused either initially or through an appeal, further applications will not be considered within the same financial year unless;

- The use of the property changes; or
- The objectives of the organisation change; or
- There have been other changes that may affect EK Services' decision i.e. where an organisation has taken action to address an issue which had previously precluded an award of relief

2.5.12 There is no time limit for an organisation to make application for Discretionary Relief. EK Services must determine applications within six months after the end of the financial year (between 1 April and 30 September) for which the application for relief is made, after this time applications are invalid.

## **2.6 Period of Rate Relief**

2.6.1 Discretionary Rate Relief will be awarded for one financial year (From 1 April to 31 March) except in circumstances where consideration is being given to awarding relief for a previous financial year within the qualifying timescales outlined in paragraph 2.5.12.

2.6.2 Customers receiving relief will be contacted and invited to reapply for relief on an annual basis or as specified by EK Services.

## **2.7 Calculation of relief**

2.7.1 Relief will be calculated as a percentage of the Business Rates bill. Should the Business Rates bill reduce within the period Discretionary Rate Relief is granted, the relief will be reduced proportionately.

2.7.2 If the Business Rates bill increase within the period Discretionary Rate Relief is granted i.e. an increase in rateable value, the amount awarded will not automatically be increased. In such cases, EK Services, upon request of the customer, will reconsider the application and may award additional relief.

## 2.8 Authority to process applications and award Relief

2.8.1 In the interests of efficiency, the authority to consider applications is delegated as set out below;

Thresholds – Value of relief	Position of Authority	Counter Authority
Up to £10,000	Council Tax / Business Rates Officer	Senior Council Tax Officer
£10,001 to £30,000	Council Tax / Business Rates Officer	Senior Council Tax Officer
Over £30,000	Council Tax / Business Rates Officer Revenues Officer to make recommendation & Council Tax Team Leader to approve application	Income Manager
Where relief applied will exceed annual budget	Council Tax / Business Rates Officer to make recommendation & Inc Council Tax Team Leader to approve application (for CCC the Income Manager will make a recommendation via the Client Officer to the SGG Panel)	Income Manager to approve and refer for Executive / Cabinet decision.  For CCC the SGG Panel will recommend and refer to the Executive.

## 2.9 Special Provisions

2.9.1 The full 20% 'top up', discretionary relief may be applied to charity shops and other premises but will normally only be awarded if the charity is a local one, not a national one (a local charity is defined to be one who only operates in the particular Council area or who are part of a national Charity but whose accounts and finances are specific to a local area). If the premises are operated by a national charity that does not exist to wholly or mainly benefit the residents of the local area, then discretionary relief will not normally be awarded to 'top up' the 80% mandatory award.

- 2.9.2 EK Services will consider the contribution and benefit that the charity has to the local community.
- 2.9.3 Charity shops that sell wholly or mainly donated goods may be granted a higher amount of relief than those that sell mainly bought in (new) goods.
- 2.9.4 Discretionary Relief for clubs will not normally be granted if the organisation operates a bar. Membership must be active rather than social membership and wholly or mainly benefit the residents of the local area. Consideration to award relief will only be given if the club is able to fully demonstrate that the bar is not the primary or significant attraction for the majority of the members.
- 2.9.5 Schools with Academy status will not normally be awarded Discretionary Relief to top up the mandatory award.

## **2.10 Backdating Applications**

- 2.10.1 The law allows claims received between 1 April and 30 September in any year to be backdated to 1 April of the previous year. Requests for a backdated award of relief i.e. for the previous year will be dealt with in the same way as applications for the current year.
- 2.10.2 Applications outside of the qualifying period in 2.9.1 will not be backdated beyond 1 April of the year in which it is awarded.

## **3.0 Business Rates - Relief for properties that are partially unoccupied for a temporary period (Section 44A)**

### **3.1 Legal Requirements**

- 3.1.1 Under section 44A of the Local Government Finance Act 1988 a Local Authority has the discretion to allow rate relief where a property is partly occupied for a temporary period.

- 3.1.2 The definition of a 'temporary period' is not prescribed with the law and therefore EK Services, using delegated authority, have discretion to decide the period relief should be awarded.
- 3.1.3 Partially occupied rate relief (also referred to as Section 44A Relief) is not intended to be used where part of a property is temporarily not used. The intention is aimed at situations where there are practical difficulties in occupying or vacating part of the property.

## **3.2 Financial Impact**

- 3.2.1 Following the introduction of the Business Rates Retention scheme 2013/2014 there will be a cost to each Local Authority.
- 3.2.2 EK Services recognises that awarding this relief is beneficial to local businesses, therefore Section 44A Relief will be awarded as set out below in all cases that meet the statutory requirements. Thanet District Council and Canterbury City Council have amended their decisions to award up to £10,000, and will consider other applications in exceptional circumstances. Dover District Council has now amended their decision to award up to £10,000, and will consider other applications in exceptional circumstances.
- 3.2.3 Thanet District Council revised their decision on the 15<sup>th</sup> February 2015, that any applications received for Thanet Council, will be considered up to £10,000. Exceptional circumstances will be considered if the RV is over £10,000 by the S151 Officer and the Portfolio Holder for Finance.
- 3.2.4 Canterbury City Council revised their decision on the 24<sup>th</sup> April 2015, that any applications received for Canterbury Council, will be considered up to £10,000. Exceptional circumstances will be considered if the RV is over £10,000 by the S151 Officer and the Portfolio Holder for Finance.
- 3.2.5 Dover District Council revised their decision on the 19<sup>th</sup> October 2015, that any applications received for Dover Council, will be considered up to £10,000. Exceptional circumstances will be considered if the RV is over £10,000 by the S151 Officer and the Portfolio Holder for Finance.

### **3.3 Persons who can make application**

- 3.3.1 Applications must be made by the ratepayer.
- 3.3.2 EK Services will require a written application and the ratepayer must supply a plan of the property, with the unoccupied portions clearly identified.

### **3.4 The decision making process**

- 3.4.1 There are no restrictions in the provisions of a Section 44A Relief, regarding the type of property or circumstances in which relief can be awarded, except for the financial conditions that Thanet District Council and Canterbury City Council and Dover Council have now agreed locally to their authority area.
- 3.4.2 Once EK Services has received an application, providing the application meets the qualifying criteria, relief will be awarded, in respect of the above conditions.
- 3.4.3 EK Services will require accompanied access to the property during normal working hours to verify the application. Further access will be required on at least one occasion each month, during normal office hours, during the period for which relief is being awarded.
- 3.4.4 Relief will not be awarded under any circumstance where it is not possible to verify the application.
- 3.4.5 EK Services will consider applications within 21 days of the application and all supporting information being received and will notify the customer should there be a delay in processing the application.
- 3.4.6 EK Services will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.
- 3.4.7 EK Services will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused.

3.4.8 To ensure there is a fair and consistent approach to the award of Section 44a Relief, all applications will be considered within the guidelines of this policy and a written record will be kept on file of the decisions and factors considered in the process. The decision will be available free of charge to the applicant on request.

### **3.5 Period of Section 44A Relief**

3.5.1 Section 44A Relief will only be applied to a property that is partly occupied for a temporary period.

3.5.2 Section 44A Relief will end under the following circumstances;

- At the end of a financial year, regardless of the date relief was applied;
- Where all or part of the unoccupied area becomes occupied;
- The person liable for Business Rates changes.

3.5.3 A new application may be submitted immediately by the customer if relief ends for any of the reasons outlined in 3.5.2.

### **3.6 Calculation of Section 44A Relief**

3.6.1 Where EK Services agrees to award a Section 44A Relief, we will notify the Valuation Officer to seek a reduction in the rateable value.

3.6.2 The amount of relief is calculated on a statutory basis based on the rateable value of the empty portion of the property. The appropriate rateable value is provided to EK Services by the Valuation Office Agency. The amount awarded by Thanet District Council, Canterbury City Council and Dover District Council will not exceed £10,000 as detailed above.

### **3.7 Authority to Award Section 44A Relief**

3.7.1 In the interests of efficiency, the authority to consider applications is delegated to EK Services' Business Rates Officers, other than the applications that are above £10K

for Thanet District Council, Canterbury City Council and Dover District Council which will now be considered by the S151 and the Portfolio Holder for Finance.

### **3.8 Backdating Section 44A Applications**

- 3.8.1 Where a backdated application is received, the customer will be required to produce evidence to prove the area was unoccupied for the period the relief relates to. Acceptance of such evidence is at the discretion of EK Services.

## **4.0 Business Rates - Hardship Relief**

### **4.1 Legal Requirements**

- 4.1.1 Section 49 of the Local Government Finance Act 1988 provides a Local Authority with the discretion to reduce or remit payment of rates under the grounds of hardship.
- 4.1.2 EK Services, using delegated authority, can reduce or remit the payment of rates where it is satisfied that the customer would sustain hardship if we did not do so and that it is reasonable award relief, having taken into account the interests of the Council Tax payers.
- 4.1.3 There is no statutory definition of 'hardship' and it is for EK Services to decide on the facts of each case as to whether to exercise our discretion. EK Services may adopt rules for the consideration of hardship but are unable to adopt a blanket policy and each case will be considered individually.
- 4.1.4 It is the Governments guidance that remission of Business Rates on the grounds of hardship is the exception rather than the rule.

### **4.2 Legal Requirements – State Aid**

- 4.2.1 European Union competition rules restrict Government subsidies to businesses. Relief from taxes, including business rates, could be considered as state aid.

4.2.2 Hardship Relief for customers engaged in commercial activities, which compete with commercial bodies or have a commercial partner, could constitute state aid. In such cases it would be unlikely that the customer would be considered for Hardship Relief.

### **4.3 Financial Impact**

4.3.1 The funding arrangements for relief changed when the Business Rates retention scheme was introduced in April 13. Relief awarded is now funded by the Government, local Council and County Council.

### **4.4 Persons who can make application**

4.4.1 Applications must be made in writing by the ratepayer or their agent.

4.4.2 Applications for hardship relief must be accompanied by the following;

- The most recent accounts and the last audited accounts; and
- An up to date trading statement showing the current financial position of the business; and
- Details of the amount of relief being requested and the period of time it is being requested for; and
- An explanation of the benefits to the community arising from an award of hardship relief.

### **4.5 The Decision Making Process**

4.5.1 Although there is no statutory necessity to complete a formal application form, it is recommended that a form be completed, as it will form a checklist of criteria to be met or questions to be answered. This will assist in speeding up the application process.

4.5.2 All applications will be considered on an individual basis and decisions will be made in accordance with this policy. The following examples indicate circumstances where it may be appropriate to award Hardship Relief. They are included in this policy in the form of broad, general guidelines and are not intended to be prescriptive;



- The customer will suffer hardship if the relief is not granted;
- There is a direct benefit to the ratepayer or the community or no adverse impact to other ratepayers or the community as a result of awarding relief;
- The cost to local Council Tax payers is proportional to the benefits of the community;
- The ratepayer's business has been detrimentally affected by circumstances beyond the ratepayers control and that do not constitute part of the normal risks in running a business i.e. a natural disaster or an unusual or uncontrollable event in the neighbourhood of the business
- By refusing to award the relief may result in the loss of the business. The impact on local amenities must be considered if the business is the sole provider of a service in the local area i.e. the only village shop;
- By refusing to award the relief may result in the loss of the business. The impact on employment prospects in the local area must be considered i.e. if the closure results in a large number of redundancies, the social aspect of increasing unemployment and the possible negative impact in attracting further investment in the area must be considered;

4.5.3 EK Services will only grant Hardship Relief for a period where there is clear evidence of hardship for the ratepayer concerned. This will ordinarily be for short period of time and not on an ongoing basis.

4.5.4 Hardship Rate Relief may not be awarded if there are alternative facilities within the area or if the business is situated in an area with adequate public transport links to alternative businesses. The granting of relief should be in the interests of the community as a whole although the legislative "test" is that the business itself has to be suffering from "hardship". If the decision is that it is not in the interests of the community as a whole to grant Hardship Relief, then the decision will be final with no rights to appeal.

4.5.5 EK Services will also consider applications from new businesses as well as established businesses. We recognise that a new business could also be the sole provider of a service in our local area who contributes to the health and quality of life of the Council Tax payers generally.

- 4.5.6 EK Services recognises that there may be occasional circumstances in which the use of this power is beneficial to either an individual ratepayer or the community. However, in accordance with Government guidelines it accepts that this power should be used sparingly and only in the most exceptional of circumstances.
- 4.5.7 EK Services will consider applications within 21 days of the application and all supporting information being received and will notify the customer should there be a delay in processing the application.
- 4.5.8 EK Services will notify the applicant of the decision in writing and where less than the maximum amount of relief is granted or the relief is refused, an explanation of the reasons why will be given.
- 4.5.9 EK Services will not consider applications on the grounds of hardship where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused.
- 4.5.10 To ensure there is a fair and consistent approach to the award of Hardship Relief, all applications will be considered within the guidelines of this policy and a written record will be kept on file of the decisions and factors considered in the process. The decision will be available free of charge to the applicant on request.

#### **4.6 Period of Hardship Relief**

- 4.6.1 EK Services will normally only award Hardship Relief retrospectively. However, where the applicant can show that the circumstances will remain the same for a period up to the end of the current financial year, relief may be award for the remainder of the year.
- 4.6.2 In all cases Hardship Relief will end in the following circumstances;
- At the end of a financial year;
  - A change of liable person;
  - The property becomes empty or unoccupied;
  - The customer enters any form of Insolvency proceedings;
  - The customer's financial circumstances change. The customer must inform EK Services if their circumstances change.

#### 4.7 Calculation of Hardship Relief

- 4.7.1 Hardship Relief will be calculated as a percentage of the Business Rates bill. Should the Business Rates bill reduce within the period Hardship Rate Relief is granted, the relief will be reduced proportionately.
- 4.7.2 If the Business Rates bill increase within the period Hardship Relief is granted, i.e. an increase in rateable value, the amount awarded will not automatically be increased. In such cases, EK Services, upon request of the customer, will reconsider the application and may award additional relief.

#### 4.8 Authority to process applications and award relief

- 4.8.1 In the interests of efficiency, the authority to consider applications is delegated as set out below;

<b>Thresholds – Value of award</b>	<b>Position of Authority</b>	<b>Counter Authority</b>
Up to £10,000	Council Tax / Business Rates Officer	Senior Council Tax Officer
£10,001 to £30,000	Council Tax / Business Rates Officer	Senior Council Tax Officer
Over £30,000	Council Tax / Business Rates Officer Revenues Officer to make recommendation & Council Tax Team Leader to approve application	Income Manager
Where relief applied will exceed annual budget	Council Tax / Business Rates Officer to make recommendation & Council Tax Team Leader to approve application	Income Manager to approve and refer for Executive / Cabinet decision.

## **4.9 Backdating Applications**

- 4.9.1 The law allows claims received between 1 April and 30 September in any year to be backdated to 1 April of the previous year. Customers requesting hardship relief to be backdated i.e. for the previous year will be dealt with in the same way as applications for the current year.
- 4.9.2 Applications outside of the qualifying period in 4.9.1 will not be backdated beyond 1 April of the year in which it is awarded.

## **5.0 Local Business Rates discounts**

Section 69 of the Localism Act 2011 amends section 47 of the Local Government Finance Act 1988 to replace the limited circumstances in which local authorities can currently give discretionary relief with a power to grant relief in any circumstances. This is subject to the condition that, except in the limited circumstances specified, the local authority may only grant relief if it would be reasonable to do so having regard to the interests of council tax payers in its area. The amendments also require a local authority to have regard to any relevant guidance issued by the Secretary of State.

Periodically, the Government will ask local authorities to consider exercising their powers under the Localism Act for exceptional circumstances (for example the 2014 flooding which affected some businesses and is covered by a separate financial grant from Government). Where this happens EK Services will have due regard to the relevant guidance issued by the Secretary of State and award this relief as appropriate.

This new power was introduced in December 2011 and enacted from 1 April 2012. The Government has not issued guidance in respect of English local authorities but councils do have to ensure that the reliefs they allow do not transgress state aid rules. Any relief granted will have to be funded locally and the Government expects local councils to work closely with the county council on the use of the power.

## **5.1 Retail relief scheme**

The Government announced in the Autumn Statement on 5 December 2013 that it will provide a relief of up to £1,000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014-15 and 2015-16.

The Government have not introduced legislation to cover these reliefs. Instead Councils are instructed to use their discretionary relief powers, introduced by the Localism Act (under section 47 of the LGFA 1988) to grant relief. Central Government will fully reimburse local authorities for the local share of the discretionary relief.

Full details of which businesses qualify for this relief for 2014/15 and 2015/16 are contained in Appendix I

EK Services will award this relief automatically to all businesses who clearly fall into one of the approved “business types” outlined in Appendix I for the financial years 2014/15 and 2015/16. Those that cannot be easily identified will be contacted for further information and the relief awarded as appropriate. EK Services reserves the right to make decisions on awards for businesses that do not readily fall into the Government categories on a “best match” basis.

## **5.2 Business Rates – Enterprise Zone relief**

The Non-Domestic Rating Contributions (England) (Amendment) Regulations 2012 allow local authorities to fund a 100% business rates discount for up to 5 years for businesses that move into Enterprise Zones before April 2015. The discount is awarded using Section 47 Local Government Finance Act 1988 powers and is a matter for the local authority. The total level of discount awarded is subject to state aid de minimis limits.

There is only one Enterprise Zone in East Kent – the Discovery Park in Sandwich. All businesses that are situated within the official zone boundary are eligible to receive the discount regardless of the type of business and regardless of whether the accommodation is occupied or not. Relief awarded to companies that exist in name only and who do not physically occupy the relevant property will be discussed with the Council first and approval received prior to awarding the relief.

### 5.3 Business Rates – Re-occupation relief

50% relief awarded for 18 months to occupied property that:

- When previously in use was used for retail use.
- Had been empty for 12 months or more before re-occupation.
- Becomes re-occupied for any use between 01.04.14 to 31.03.16
- Is being used for any use except:
  - Betting shops
  - Payday loan shops
  - Pawn brokers

EK Services will always look at each application for relief individually and decide whether the property is wholly occupied and bona fide within the spirit of the guidance.

Relief will not be granted where it is believed that the occupation of the property/business is contrived so as to mitigate the impact of empty property charges. Examples of this may be where businesses have just installed Bluetooth transmitting equipment or insubstantial amounts of boxes etc. for storage purposes.

## 6.0 Council Tax - Reduction in Council Tax Liability (Section 13A)

### 6.1 Legal Requirements

6.1.1 Section 13A(1)(c) of the Local Government Finance Act 1992 inserted by Section 76 of the Local Government Act 2003 provides a local authority with the discretion to reduce Council Tax.

6.1.2 EK Services, under delegated authority, can further reduce the payment of Council Tax where it is satisfied that the customer is liable to pay Council Tax.

6.1.3 EK Services has the discretion to choose whether to reduce Council Tax on a case by case basis or to specify a class of use. A class of use is where several people who pay Council Tax fall into a group because their circumstances are similar i.e. customers who have had to leave their homes due to flooding.

6.1.4 Applications will only be granted in exceptional circumstances and where other eligible discounts, reliefs and exemptions have been considered. EK Services will give consideration to reducing Council Tax liability for any customer within the local area.

6.1.5 For taxpayers within the Canterbury City Council boundary special provision has been made under this legislation to award a local discount if the following criteria apply:

- a) A property has been empty and substantially unfurnished for 2 years or more; and is subject to the “long term empty premium”
- b) The property itself is “sheltered” housing – the definition of which is a privately owned property which is designed and occupied exclusively by people aged over 60; and
- c) The property is currently empty due to the long term illness or death of the taxpayer and is for sale at market value

The amount of local discount granted in these circumstances is limited to the value of the additional 50% long term empty premium which would normally apply

6.1.6 There is a separate policy and set of rules for Council Tax Reductions under the published Council Tax Reduction Scheme which replaced Council Tax Benefit and these are not covered by this policy.

## **6.2 Financial Impact**

6.2.1 The cost of any reduction awarded under Section 13A(1)(c) must be met by each Local Authority.

## **6.3 Persons who can make application**

6.3.1 Application for reduction of Council Tax liability can be made by the Council Tax payer, an appointee or an authorised third party acting on the customer’s behalf.

6.3.2 Applications must be made in writing and be accompanied by the following;

- The circumstances for which the reduction is being requested including any hardship or personal circumstances relating to the application;
- A full income and expenditure breakdown for the applicant and all other persons residing in the property;
- Details of the amount of reduction being requested and the period of time it is being requested for;

6.3.3 EK Services may request evidence that is relevant to the application. No costs will be borne by EK Services in the provision of this evidence.

## **6.4 The decision making process**

6.4.1 There is no statutory necessity to complete a formal application form.

6.4.2 All applications will be considered on an individual basis and decisions will be made in accordance with this policy. EK Services will consider the following before awarding any reduction;

- The customer must demonstrate in their application that they have taken all reasonable steps to resolve their own situation prior to making application;
- Whether there is an entitlement to Council Tax Support under the Council Tax Reduction Scheme;
- All other discounts./reliefs have been awarded to the customer where there is entitlement;
- Where appropriate, any entitlement to Discretionary Housing Payments;
- The customer does not have access to other assets that could be used to pay the Council Tax;
- Where the criteria applying only to Canterbury City Council “sheltered housing” residents applies then the discount will normally be awarded.
- The financial circumstances of the customer at the time the Council Tax charge or arrears accrued;
- If the customers Council Tax account is in arrears for previous financial years, EK Services must be satisfied that non-payment was not due to refusing to make payment or not prioritising the payment of Council Tax.



- 6.4.3 There must be clear evidence of hardship or personal circumstance that justifies a reduction in Council Tax liability. This will ordinarily be for a short period of time and not on an ongoing basis.
- 6.4.4 EK Services will consider applications within 21 days of the application and all supporting information being received and will notify the customer should there be a delay in processing the application
- 6.4.5 EK Services will notify the applicant of the decision in writing and where less than the maximum reduction amount or the reduction is refused, an explanation of the reasons why will be given.
- 6.4.6 EK Services will not consider applications to reduce Council Tax liability where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused.
- 6.4.7 To ensure there is a fair and consistent approach to the award of Section 13A(1)(c) reduction, all applications will be considered within the guidelines of this policy and a written record will be kept on file of the decisions and factors considered in the process. The decision will be available free of charge to the applicant on request.

## **6.5 Period of Section 13(A)(1)(c) reduction**

- 6.5.1 EK Services will normally only award Section 13A(1)(c) reduction retrospectively. However, where the applicant can show that the circumstances will remain the same for a period up to the end of the current financial year, a reduction may be awarded for the remainder of the year.
- 6.5.2 In all cases a Section 13A(1)(c) reduction will end in the following circumstances;
- At the end of a financial year;
  - A change of liable person;
  - The property becomes empty or unoccupied;
  - The customer enters any form of Insolvency proceedings;
  - The customer's financial circumstances change. The customer must inform EK Services if their circumstances change.

In the case of the discount awarded to Canterbury City Council “sheltered housing” taxpayers the reduction will continue all the time the 50% long term empty premium is still being charged and will end automatically if the premium ends.

## 6.6 Calculation of 13A(1)(c) Reduction

- 6.6.1 EK Services will not set percentage discounts or reductions to be applied, as each individual case will have different circumstances. The amount of remission or reduction awarded will take into account the level of arrears or Council Tax charge and the extent to which the criteria or guidelines are met.
- 6.6.2 Should the Council Tax bill reduce within the period that Section 13A(1)(c) reduction has been applied; the reduction will be reduced proportionately. If the Council Tax bill increases within the period the reduction is applied, i.e. discount is removed, the amount of relief awarded will not automatically increase. In such cases, EK Services, upon request of the customer, will reconsider the application and may award an additional reduction.

In the case of the discount awarded to Canterbury City Council “sheltered housing” taxpayers the reduction will be to the same financial value as the extra 50% premium added by the “long term empty property premium”

## 6.7 Authority to process applications and award Section 13A(1)(c) relief

- 6.7.1 In the interests of efficiency, the authority to consider applications is delegated as set out below;

Thresholds – Annual Cost to EK Services	Position of Authority	Counter Authority
Up to £2,000 *	Council Tax Officer	Senior Council Tax Officer
£2,001 to £6,000	Senior Council Tax Officer	Council Tax Team Leader

Over £6,000	Council Tax Team leader to make recommendation	Income Manager
Where relief applied will exceed annual budget	Council Tax Team Leader to make recommendation	Income Manager to approve and refer for Cabinet decision.

\* In the case of applications from Canterbury City Council “sheltered housing” taxpayers all decisions will be made by the Council Tax Team Leader or more senior officer regardless of the financial value involved.

## 6.8 Backdating Applications

6.8.1 Customers requesting Section 13A(1)(c) reduction to be backdated i.e. for the previous year will be dealt with in the same way as applications for the current year.

## 6.9 Fraudulent claims

6.9.1 If a reduction has been made as a result of a false or fraudulent claim EK Services reserves the right to withdraw the award granted.

6.9.2 EK Services will consider prosecuting any applicant who makes a false statement or provides fraudulent evidence to support their application.

## 7.0 Council Tax and Business Rates Discretionary Relief - Right of Appeal

### 7.1 Overview

7.1.1 There is no statutory right of appeal against a decision regarding discretionary relief made by EK Services. However, EK Services recognises that customers should be entitled to have a decision reviewed objectively, if they are dissatisfied with the outcome.

- 7.1.2 EK Services will give consideration to all appeals in accordance with this policy and agrees to abide by the following appeals process. Aggrieved customers should make an appeal in accordance with the process.
- 7.1.3 Customers will be notified of the appeals process by EK Services in writing at the time that they are notified of the outcome of their request for discretionary relief.
- 7.1.4 Appeals against decisions to award discretionary relief will not be considered by the same Officers administering the application for relief and will normally be considered by a Senior Council Tax Officer or the Business Rates Team Leader.
- 7.1.5 Decisions made after the appeals process has been followed will be final. Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process

## **7.2 Persons that can appeal**

- 7.2.1 Appeals may only be made by the original applicant. An appellant may appoint a third party to act on their behalf and in such cases EK Services will require written authorisation from the appellant.
- 7.2.2 Customers may appeal against the decision to award or not award relief or against the level of relief awarded. An appeal must be made within four weeks of the issue of the letter notifying them of EK Services' decision.
- 7.2.3 Any appeals received outside of the 4 week period will only be considered if EK Services are satisfied that exceptional circumstances led to the delay in submitting the appeal.

## **7.3 Applications for appeal**

- 7.3.1 Appeals must be in writing and include the following;
- The reasons why it is believed the decision should be amended;
  - Any new or additional information relevant to the decision making process.

7.3.2 The appellant does not have a right to appear in person but may make a request to present evidence in person. Such requests will be considered at the discretion of EK Services, as appropriate.

7.3.3 EK Services can request a meeting with the customer to hear evidence in person.

#### **7.4 Notification of the final decision following appeal**

7.4.1 EK Services will consider appeal applications within 21 days of the application and all supporting information being received and will notify the customer should there be a delay in the consideration of the appeal.

7.4.2 EK Services will notify the applicant of the final decision in writing within the 21 days period and whether an appeal is refused or accepted, a full explanation of the decision making process will be given. A written record will be kept on file of the decisions and factors considered in the process.

7.4.3 For Business Rates, both Discretionary Relief and Hardship Relief is the subject of separate applications. Should an EK Services Officer decide to reject the appeal in respect of Discretionary Relief they cannot offer Hardship Relief as an alternative. However, the applicant can be invited to make a separate application.

#### **7.5 Discontinuation of Applications or Appeals**

7.5.1 If EK Services have requested further evidence from the customer and this has not been received within the specified time given, the appeal will not be considered.

7.5.2 Customers will be advised in writing the reason why their application has been discontinued.

#### **7.6 Cancellation of relief**

7.6.1 Relief will be cancelled if;

- The applicant ceases to be the ratepayer or taxpayer;
- The property becomes empty or becomes occupied, or all or part of the unoccupied area becomes occupied;

- The use of the property changes;
- The aims or objectives of the ratepayer / taxpayer change;
- The financial circumstances for a customer changes.

7.6.2 Where relief is cancelled for any of the reasons above, a new application may be made by customers straight away.

## **8.0 Action to recover unpaid Business Rates or Council Tax whilst a decision is pending**

- 8.1 Once an application for discretionary relief is received, no action will be taken to recover any unpaid Business Rates or Council Tax until after the decision has been notified to the customer.
- 8.2 In the case where the customer has been notified of a decision and they exercise their rights to appeal, payment cannot be withheld pending an appeal decision. In the event that an appeal is successful, any overpayment will be refunded.
- 8.3 For circumstances where an application is being discontinued, recovery action will commence after the ratepayer has been notified of the discontinuation in writing.

## **9.0 Promotion of the availability of relief**

- 9.1 EK Services will proactively promote the availability of discretionary relief, in the following ways;
- All Business Rates and Council Tax Bills will have include accompanying information explaining the availability of relief;
  - EK Services Officers who deal with enquiries from customers will be trained in all aspects of this policy and will actively promote the availability of relief when responding to customers enquiries;
  - EK Services will work in partnership with other organisations to promote the availability of relief;
  - Information regarding the availability of relief's will be published on our web site;
  - A copy of this policy will be placed on our website and printed copies will be made available to ratepayers and other stakeholders on request.

## 10.0 Equalities Statement

EK Services are committed to delivering a service that is accessible and fair to all of the communities that we serve. We will ensure that all people are treated with respect and dignity.

The Equality Act 2010 sets us an “Equality Duty” to:

1. eliminate discrimination, harassment and victimisation;
2. promote equality of opportunity between different groups in the community; and
3. foster good relations within the local community

We give careful consideration to equality issues in our new and existing policies, strategies and services to see what effect they will have on different groups within our communities, including those with protected characteristics.

The protected characteristics covered by the Equality Duty are:

- age;
- disability;
- marriage and civil partnership (but only in respect of eliminating unlawful discrimination);
- pregnancy and maternity;
- gender reassignment;
- race – this includes ethnic or national origins, colour or nationality;
- religion or belief – this includes lack of belief;
- sex (gender);
- sexual orientation.

We also recognise that socio-economic status can be a significant barrier to equality of opportunity.

We identify potential consequences for these groups and ensure any negative impacts are eliminated or reduced. We also identify opportunities to eliminate discrimination and promote positive relations between groups and throughout our communities.

## **11.0 Policy Review**

This policy will be reviewed on an annual basis, or where significant legislation changes in order to ensure it remains valid, effective and relevant.

### **Appendix I**

#### **Retail relief scheme – qualifying properties**

Properties that will benefit from the relief will be occupied hereditaments with a rateable value of £50,000 or less, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments.

We consider shops, restaurants, cafes and drinking establishments to mean:

**i. Hereditaments that are being used for the sale of goods to visiting members of the public:**

- Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemists, newsagents, hardware stores, supermarkets, etc.)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/ caravan show rooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)



**Hereditaments that are being used for the provision of the following services to visiting members of the public:**

- Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops, etc.)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/ TV/ domestic appliance repair
- Funeral directors
- Photo processing
- DVD/ video rentals
- Tool hire
- Car hire

**Hereditaments that are being used for the sale of food and/ or drink to visiting members of the public:**

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs/Bars

To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide for authorities as to the types of uses that government considers for this purpose to be retail. Authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

### **Retail relief scheme – non qualifying properties**

#### **Hereditaments that are being used for the provision of the following services to visiting members of the public:**

- Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)
- Post office sorting office

#### **Hereditaments that are not reasonably accessible to visiting members of the public**