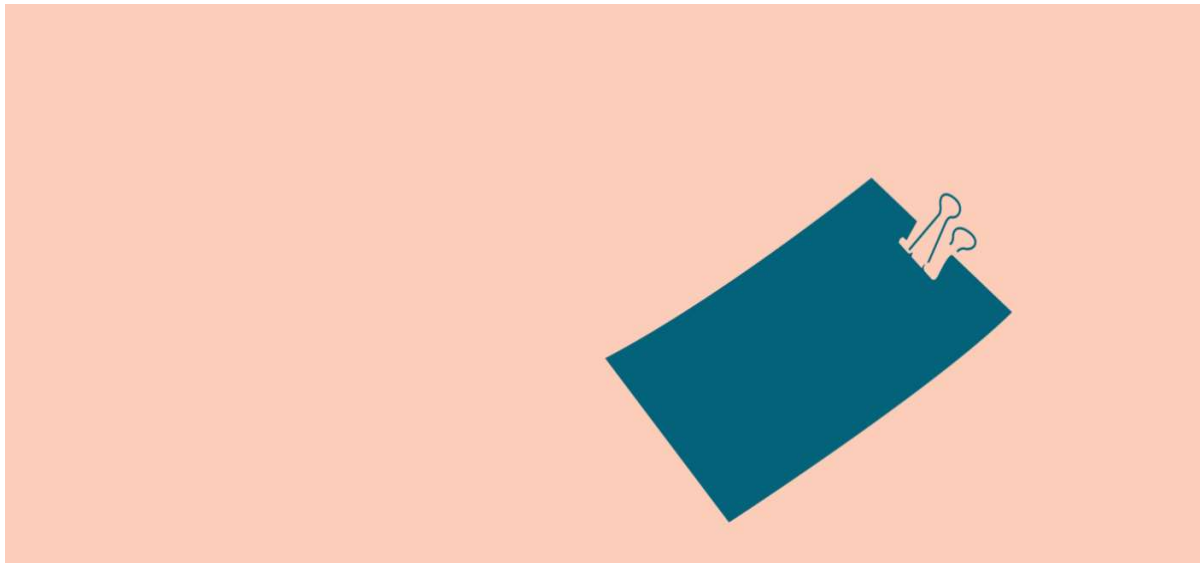


# Discretionary council tax reduction — Know your right

How you can make an application for discretionary council tax reduction under s13A of the Local Government Finance Act (LGFA).



Section 13A is a really useful provision for clients who are struggling to pay their council tax bills. We are aware however that applications are not always straightforward and are often refused. This article provides you with a step by step guide to making an application under S13A including what to do if the council says no.

## What is a S13A Discretionary Reduction?

[S13A of the Local Government Finance Act 1992](#) says:

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

(a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority’s council tax reduction scheme (see subsection (2));

(b) in the case of a dwelling situated in the area of a billing authority in Wales, is to be reduced to the extent, if any, required by any council tax reduction scheme made under regulations under subsection (4) that applies to that dwelling;

**(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.'**

So this means that, in addition to having a council tax reduction scheme to cover certain groups of people, each local authority has the power to reduce an individual's council tax liability by as much as it 'thinks fit'.

S13A(6) specifically says that this discretionary power can be used to reduce the council tax payable to nil.

To claim the discretionary reduction, clients need to show that paying their council tax bill would cause them financial hardship.

## **What is Financial Hardship?**

Financial hardship was discussed in the case of [SC and CW v East Riding of Yorkshire Council \(2014\)](#) Two cases were considered. In the first one Mr and Mrs W were an unemployed couple with no savings. The couple had no surplus income and there was a shortfall of £72.34 per month in their budget. The tribunal commented " It is difficult to imagine a clearer case for discretionary assistance" It found that Mr and Mrs W were entitled to discretionary relief and there was no rational basis for limiting that to a twelve week period or any other period and that the full years' bill should be remitted.

Mr and Mrs C were also a couple who applied for discretionary relief. Mrs C was disabled and Mr C her carer. The tribunal found that although they were a 'household existing at the margins of viability' and 'in extremely hard pressed circumstances' they did have a very small surplus of income over expenditure. Because of the surplus the appeal was dismissed.

In [this case involving Coventry City Council](#) the tribunal found that as the appellant's outgoings were more than her income it was clear that she didn't have the ability to pay.

## **Who can apply?**

Anyone who is responsible for a council tax bill either in the current year or for arrears from previous years can apply if they can show that they are experiencing financial hardship and are unable to pay. This will include cases where the client has had an overpayment of council tax reduction and their council tax bill has been adjusted creating or adding to their arrears.

## **Does the client have to be entitled to council tax reduction?**

S13A (1)(c) clearly says that the discretion under S13A (1)(c) can reduce the bill to 'such extent' or 'such further extent' as the council thinks fit. So this can apply to people whose circumstances mean that they are not entitled to council tax reduction but are in hardship and can't pay their council tax bill. The Coventry case illustrates that S13A can be used to ask for council tax arrears to be written off even where the client is not getting means tested benefits. It is the hardship illustrated by a deficit budget which counts.

## How much can the bill be reduced by?

The council has the discretion to reduce the client's liability to nil (S13 A(6)).

## Can the reduction cover more than one year?

A reduction can be awarded to cover any council tax liability no matter when that liability arose and can be used to wipe out arrears of council tax going back several years. [Read Alan Murdie's article on the case of Morgan v Warwick DC 2015](#) which confirms this.

## How does my client get a S13A discretionary reduction?

### Step 1 Benefit check

Carry out a full benefit check for the person(s) responsible for the bill and check if they are entitled to any council tax discounts or if there are any other ways of [reducing their living costs](#).

### Step 2 Produce a financial statement

If your client's budget shows that they can't afford to pay their council tax or that paying it would put their budget into deficit they can ask for a discretionary reduction.

### Step 3 Gather evidence

Pull together evidence of any other priority debts and any medical conditions which affect your client's ability to pay.

### Step 4 Help your client to apply

Applications must be in writing. Some councils have an online form but your client does not have to use this. [The Local Government and Social Care Ombudsman \(LGSCO\) decided in this Northumberland CC case in February 2021](#) that the council tax payer does not need to

specifically apply for a discretionary council tax reduction. In it's finding the LGSCO commented:

"The Council said Mr X did not make an application for relief. This is not the case. His correspondence with the Council says he is experiencing financial hardship and asks if there is anything the Council can do to reduce the debt. This is an application for s13A relief. Failure to treat it as such is fault."

It will be helpful to keep a copy of the correspondence with the council even if applying using an online form. Send a full standard financial statement together with other supporting evidence. If you don't get a response send a copy to the Chief Executive of the council. If necessary get your client's local councillor involved.

Here is a template letter that your client can use:

**Date:**

**Dear Sir or Madam,**

**Re: Council Tax reference:**

**Name:**

**Address:**

**Application for Discretionary Council Tax Reduction**

***I am writing to apply for a discretionary reduction in my council tax under S13A (1) (c) of the local Government Finance Act 1992. This is separate to any entitlement that I might have under your council tax reduction scheme.***

***I am the occupier of [address] and am liable to pay council tax there.***

***My reasons for applying for a discretionary reduction under S13A LGFA are [provide details of the client's situation and reasons for hardship ]***

***Please find attached the following evidence [attach a financial statement, any medical evidence, supporting letters etc.]***

***In the event that you do not accept my application please take this letter as notice of appeal to the Valuation Tribunal for England/Wales.***

***I look forward to hearing from you within eight weeks of the date of this letter.***

***Yours faithfully***

**Step 5 What happens if the council refuses the application?**

Some councils will deny that they have discretion to reduce council tax bills, others may have a 'hardship fund' which will usually have set criteria and have a limited pot. You will need to explain that the power under S13A (1)(c) gives them a wide discretion and must be separate to any limited hardship fund. It might be helpful to meet with the council tax department at the council to discuss their approach. You can remind them of the approach that the LGSCO takes with complaints in this area.

Don't give up! If after all your efforts the council rejects or ignores your client's application they can appeal.

## **Step 6 Help your client to appeal**

Your client has a right to appeal to the [Valuation Tribunal England](#) or [Valuation Tribunal Wales](#). This is an independent tribunal and is free. The client does not need legal representation but will need to send in all their evidence and be prepared to answer questions about their finances. Both websites include guidance on how to appeal. Read the ['Success story' in our June 2019 Debt Update\\*](#) to see how this worked at Coventry Citizens Advice.

- please note that other items in this June 2019 Debt Update may now be out of date

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*The information in this article is correct as of the date of publication.*

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