



SECTION 13A

“The best kept secret in council tax law”¹

By Alistair Chisholm, Head of Advice Sector Policy and Partnerships, PayPlan
and Andrew Martin, Debt Advisor, South West London Law Centres



AT A TIME OF INCREASING FINANCIAL HARDSHIP FOR MANY, AND WITH TAXPAYERS SUFFERING EVERYTHING FROM BENEFIT STOPPAGES TO THE EFFECTS OF FLOODING AND STORM DAMAGE, THE POWER TO AWARD A REDUCTION UNDER SECTION 13A IS AN IMPORTANT MECHANISM WHEREBY SUMS OF COUNCIL TAX CAN BE REDUCED.²



INCREASING DEMAND FOR ADVICE ON COUNCIL TAX DEBT

The demand for advice on council tax debt has grown in recent years. It is well known among money advisers that these debts can be hard to resolve. They can expose people affected to the threat of harsh and expensive enforcement measures including bailiff action and even imprisonment.

Local authorities have the power to reduce council tax bills on grounds of hardship. These powers are rarely used.

BACKGROUND

The Institute of Money Advisers and PayPlan are campaigning to end the use of imprisonment against people with council tax debt.

In 2017, our report on council tax imprisonment revealed data from 270 local authorities in England and Wales.³ Just 64 authorities reported that they had remitted council tax debt on the grounds of hardship. [Council tax debt imprisonment is not practised in Northern Ireland or Scotland and so we didn't collect data from those jurisdictions].

THIS BRIEFING

This briefing is designed to help money advisers support their clients to make applications for a reduction in council tax bills on the grounds of hardship when this is appropriate.

We would welcome feedback on this document – please email us at alistair.chisholm@payplan.com and/or office@i-m-a.org.uk to comment and let us know how you get on.

We would like to thank Alan Murdie who has worked for decades to make the local tax system fairer in this country. This briefing draws on his work and insights –although of course he is not responsible for this text. Our thanks are also due to Raynor Risbridger, Steven Halton, Teresa Bell, Lesley Groves and Robert Wilson.

¹ Front cover: The Benefits Legal Group, Has your home been flooded? 19/1/14 URL: <http://benefitslegalgroup.org.uk/2014/01/discretionary-council-tax-reduction/> Note: This group is not longer active.

Alan Murdie is the Director of Council Tax Legal Services which can be found here: <https://counciltaxlegalservices.uk/>

² Report of a Valuation Tribunal 11/2/15 cited by The Benefits Legal Group. Arguing the law on council tax, 24/2/15 <http://benefitslegalgroup.org.uk/2015/02/counciltaxreductionhearing/>

³ Alistair Chisholm I can't believe we still do that. The Case for Ending Imprisonment for Council Tax Debt in England and Wales" IMA/PayPlan, November 2017.

The powers of Section 13A

The power that local authorities have to reduce council bills is a discretionary power. This means that they do not have to award a reduction, but they do have to consider the application for this kind of help. They must act reasonably and treat the case on its individual merits.⁴

The power is known as the Section 13A power because it is derived from Section 13A of the amended 1992 Local Government Finance Act. It gives local authorities the power to reduce a council tax bill in part or in full.

These reductions are not paid for with a fund set aside for the purpose, the reduction reduces the amount of council tax that the authority collects. In this way, the power is different from other discretionary payments made by many local authorities that often draw on a special fund.

Although not well known, Section 13A powers did gain some publicity in 2014 following serious flooding in various parts of the country. The government of the time provided national funding to local authorities to help them use their Section 13A powers to reduce council tax bills for people affected.⁵

This was helpful – but the exercise of Section 13A powers does not rely on grants being made to local authorities by central government. That was exceptional assistance.

REDUCING A COUNCIL TAX BILL USING SECTION 13A

Local authorities that issue council tax bills – billing authorities – should accept Section 13A applications on either a standardised form or by letter. The authority has 4 months to reach a decision once an application has been received by them.

An application to reduce council tax liability should include:

- an individual's full details,
- a clear explanation of the causes and effects of the hardship, providing evidence where suitable.

In cases of financial hardship, documents that will support a Section 13A application include:

- proof of income
- a financial statement and list of creditors
- supporting information from support workers, advisers, social workers and charities.

When drawing up a financial statement to include with the appeal letter, advisers may like to consider the use of a deficit budget if that is appropriate.

In his blog Luke Oliver (at the time working for the Expert Advice Team at Citizens Advice) explains:

One example where the use of deficit financial statements would be appropriate is for applications for discretionary reduction of council tax liability under S.13A(1)(c) of the Local Government Finance Act 1992. In the Valuation Tribunal England Presidential Decision SW & CW v East Riding of Yorkshire Council such an application was refused by the local authority and appealed to the Valuation Tribunal England.

The Tribunal commented at paragraph 54: 'The simple fact is that there is no surplus income to meet this bill. The respondent (the local authority) accepts that. It is difficult to imagine a clearer case for discretionary assistance ...' and 'only full remission of the residual council tax for the year makes any sense in view of the absence of any funds to meet their liability.'⁶

A pro-forma letter that was designed for applicants affected by flooding is available here and can be adapted, go to: <https://goo.gl/xyzbf>

⁴ This power dates back to 2003 when following flooding in Cumbria local councils were given the power to reduce bills of people in hardship. Since an amendment to the Local Government Finance Act 1992 passed in 2012, this power has been contained in Section 13A Local Government Finance Act 1992. [DCLG, Localising support for Council Tax: the collection fund (Council Tax reductions) (England) directions 2013, 2013. URL: <https://www.gov.uk/government/publications/localising-support-for-council-tax-the-collection-fund-council-tax-reductions-england-directions-2013>]

⁵ Benefits Legal Group In just 48 hours... 24/2/14 URL: <http://benefitslegalgroup.org.uk/2014/02/just-48-hours/>

⁶ Luke Oliver, Using deficit financial statements, Adviser Blog, Citizens Advice, 12/4/17 <https://medium.com/adviser/using-deficit-financial-statements-a74d20b5e61>. The valuation tribunal record cited in this piece can be found here: URL https://www.valuationtribunal.gov.uk/wp-content/uploads/2016/02/Judgment_-_SC_and_CW_v_East_Riding_of_Yorkshire_Council_-_discretionary_appeals_final_for_publishing_purposes-2.pdf

Challenging a local authority decision made using Section 13A

The process for challenging a rejected Section 13A application is an appeal to the Valuation Tribunal. These tribunals do not charge a fee.

In 2015, an important ruling by the Valuation Tribunal for England upheld the power and an applicant's right of appeal.

Alan Murdie, who acted in that case, commented:

"This ruling has preserved and upheld a very important power in council tax law to reduce sums owed in council tax, regardless of when the liability or debt arose. Any taxpayer in England, particularly those suffering financial hardship, is entitled to make an application and has a further right of appeal to a tribunal if the application for a reduction is refused".⁷

It would appear from the Valuation Tribunal's decision in the *SW & CW v East Riding of Yorkshire Council* cited above, that an appeal may be appropriate both where an individual has either a balanced budget or where they have a deficit budget.

If your client doesn't receive a reply within the four month time limit they may put in an appeal against the failure to consider your application to the Valuation Tribunal. If a reply is received an appeal form must be sent to the tribunal within 2 months.⁸ They can also make a formal complaint against the local authority before then for failing to reply.

It must be noted, however, that a complaint could hinder your appeal, if the local authority responds before your hearing, so this option should be taken with care.

In addition, your client may have grounds for an appeal⁹ if the authority's decision is:

- not explained
- is unreasonable

Or if the local authority:

- makes a mistake
- ignores key facts in the case
- uses a blanket policy
- considers the application as part of a limited fund

Advisers may seek specialist help with an appeal either from Shelter's Specialist Debt Advice Service and/or a from a specialist from their own organisation.

OTHER SOURCES OF INFORMATION

There is an excellent article published by the Benefits Legal Group that discusses the power. It was written to help people affected by flooding in 2014. Although this article focuses on events like flooding there is no reason at all for applications to be limited to flood victims only.

Other grounds that could be used for an application include: being a victim of crime, problems with the taxable property that make it hard to sell or live in, loss of benefits or failures in the benefits and council tax reduction systems and financial difficulty whereby an individual is unable to afford council tax arrears from previous years. The article can be found here: <https://goo.gl/xyzbzf>.

For the most up-to-date information you can attend the Institute of Money Advisers course on council tax delivered by Alan Murdie. The course is titled: *Coping with Council Tax: Essential Knowledge and Expert Tips*¹⁰.

* The Valuation Tribunal's decision in the *SW & CW v East Riding of Yorkshire Council* cited above supports the view that demonstrating hardship is essential. Luke Oliver's article makes a strong case that this could be done with a deficit budget. It is possible to make the case for hardship with a balanced budget too.

⁷ Nucleus Legal Advice, Nucleus in test case on extending the rights to discretionary council tax reductions, 24/3/15. URL: <http://www.nucleus.org.uk/nucleus-in-test-case-on-extending-the-rights-to-discretionary-council-tax-reductions/>

⁸ The Valuation Tribunal, Council tax liability [<https://www.valuationtribunal.gov.uk/your-appeal-type/council-tax/council-tax-liability-2/>] Downloaded 01 May 2018."

⁹ This appeal is under section 16 of the Local Government Finance Act 1992. For details of the Valuation Tribunal go to http://www.valuationtribunal.gov.uk/Council_Tax.aspx

¹⁰ Institute of Money Advisers. About IMA Training. <https://www.i-m-a.org.uk/learning-development/training/>



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- explain how to respond effectively to liability order proceedings,
- describe how to commence appeals to the Valuation Tribunal,
- present arguments to local authorities for taking back debts referred to bailiffs,
- identify ways of challenging unfair and unlawful council tax decisions and enforcement practices.



It was the best money advice course I have ever attended. I was fully engaged throughout the day and learnt a lot from the course. When I enrolled on the course I expected it to be quite dry but Alan is a great tutor.... The training has given me a lot of confidence as an advisor.

Michael Egan, Citizens Advice St. Helens

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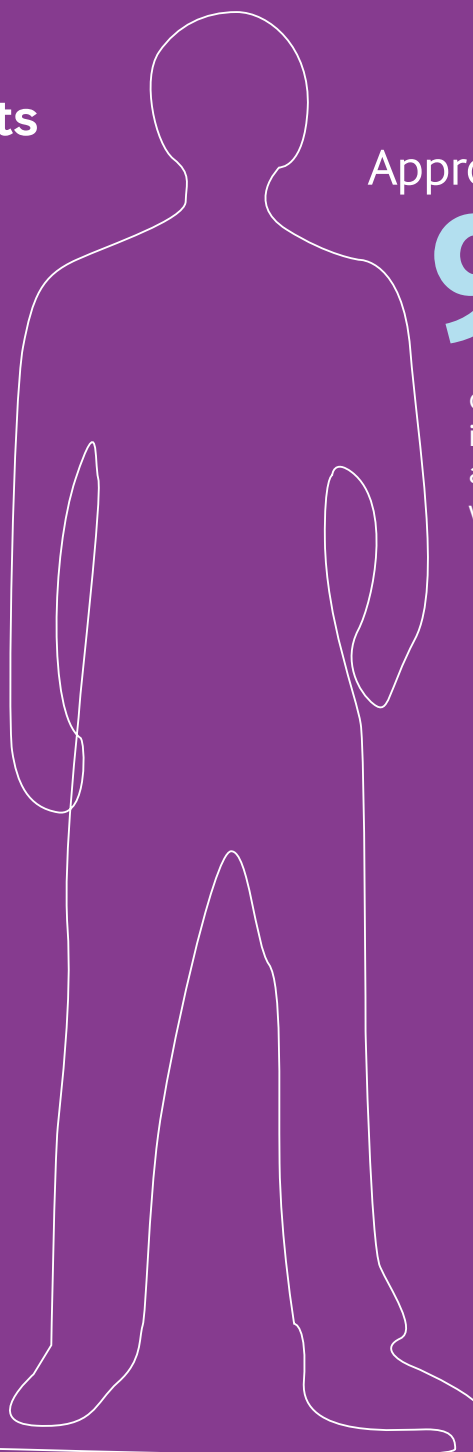
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