

Report to CABINET

Local Taxation and Benefits Discretionary Policies 2019/20

Portfolio Holder: Councillor Jabbar MBE, Deputy Leader and Cabinet Member for Finance and Corporate Resources

Officer Contact: Anne Ryans, Director of Finance

Report Author: Adam Parsey, Exchequer Client Manager (Revenues) and Caroline Lee, Head of Revenues, Benefits and Business Support

Ext. 1656

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Reason for Decision

The purpose of the report is to seek approval for Local Taxation and Benefits Discretionary Policies for 2019/20 covering discretionary Council Tax discounts, discretionary Business Rate relief, Local Welfare Provision and Discretionary Housing Payments.

Executive Summary

This report provides the full detail of proposed updates to the discretionary policies used to support Local Taxation and Benefits administration i.e. Council Tax, Business Rates, Housing Benefits and Council Tax Reduction administration. The policies and proposed changes are:

- **The Discretionary Council Tax Discounts Policy**
 - To widen the Council Tax discount for care leavers to support care leavers up to the age of 25
 - To introduce criteria to set out the circumstances in which the Council will support those experiencing exceptional financial hardship in paying their Council Tax
 - To incorporate these two areas of discretionary support into one overarching Discretionary Council Tax Discounts Policy

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- **The Discretionary Rate Relief Policy**
 - To incorporate details of the new Retail Discount Policy
 - Revision of the policy to reflect the removal of Central Government funded Pub Relief and the extension of the Local Newspaper Relief scheme
 - An adjustment to the Discretionary Revaluation Relief policy to re-introduce the requirement for businesses to apply for this relief and to reflect reduced Government funding in the third year of the scheme.

 - **The Local Welfare Provision Policy**
 - To include reference to supporting care leavers up to the age of 25 via this scheme

 - **The Discretionary Housing Payment Policy**
 - To include reference to supporting care leavers up to the age of 25
 - To adjust the criteria setting out the period of time for which an award will be granted to support those needing help in meeting their housing costs. This will normally be 26 weeks.

Recommendations

It is recommended that the Local Taxation and Benefits' Discretionary Policies for the 2019/20 financial year (as presented at Appendices 1 to 4) are approved, including revisions to address legislative and local issues.

Local Taxation and Benefits Discretionary Policies

1 Background

1.1 The Council has a number of local taxation and benefits discretionary policies and practices. These are subject to periodic review and updating in response to legislative changes and/or revisions to local policy. This paper covers proposals to amend four discretionary policies as follows:

- a) Discretionary Council Tax Discounts Policy
- b) Discretionary Rate Relief Policy
- c) Local Welfare Provision Policy
- d) Discretionary Housing Payments Policy

1.2 The legislative framework, current arrangements in Oldham and proposed amendments to these policies for 2019/20 are set out in this report. The updated policies for 2019/20, having regard to the proposed amendments, are presented at Appendices 1 to 4 with Equality Impact Assessments at Appendices 5 to 9.

2 Current Position

2.1 Discretionary Council Tax Discounts Policy

2.1.1 Local Authorities can reduce the amount of Council Tax payable by granting locally defined discounts under provisions contained in Section 13A of the Local Government Finance Act 1992. The Local Government Act 2012 inserted a new section 13A in the Local Government Finance Act 1992, and this created two discounts, one of which is the statutory requirement to operate a Local Council Tax Reduction Scheme (CTRS). The implications under 13A (1)(a) and (b) are considered and agreed on an annual basis when deciding the CTRS. The CTRS for 2019/20 was approved at Council on 27 February 2019.

2.1.2 The other discount, under Section 13A (1)(c) allows for a discretionary reduction which can be used in relation to any individual on a case by case basis or by determining a class of case for which the charge should be reduced. The intention behind this legislation is to allow billing authorities the discretion to create local discounts or exemptions to cater for local circumstances, for example, flooding. This discount must be funded from the Council's own Revenue Budget (General Fund) and can amount to anything up to 100% of the Council Tax charged.

2.1.3 The Council currently makes use of Section 13A (1)(c) of the Local Government Finance Act 1992 to define care leavers aged 18, 19 and 20 as a class of case under the Council Tax Discount for Care Leavers policy approved by Cabinet on 24 April 2017. As such the approved policy is to provide a 100% Council Tax Discount for Care Leavers aged 18, 19 and 20.

2.1.4 However, in 2018, the Government extended the Council's corporate parenting responsibility to the age of 25 so an extension to the support given by the Council

to care leavers to this age would be appropriate. It is therefore proposed to revise the current policy to provide a 100% Council Tax discount to care leavers (as defined in the policy at Appendix 1) up to the age of 25. It is important to note that other Greater Manchester Authorities have indicated that they will extend their Council Tax care leavers discount up to the age of 25.

2.1.5 An application for support under Section 13A (1) (c) (other than for care leavers) is considered on a case by case basis. An assessment is made to consider whether a resident is experiencing exceptional financial hardship in paying their Council Tax and a discretionary reduction is appropriate. However, the Council does not currently have a published policy to cover such discretionary awards. The policy at Appendix 1 therefore sets out a formal protocol for the consideration of Exceptional Hardship Payments (EHP) and presents:

- The criteria for an application
- What an EHP does not cover
- How to make an application
- How an award is made including the right of appeal

2.1.6 The proposed policy document at Appendix 1 will provide a clear framework around which applications for discretionary Council Tax discounts can be assessed and approved.

2.2 Discretionary Rate Relief Policy

2.2.1 The Local Government Finance Act 1988 (LGFA 1988) and the Localism Act 2011 require the Council to maintain a Discretionary Rate Relief Scheme to award Non-Domestic Rate Relief (more commonly known as Business Rates Relief) of up to 100% to certain organisations who operate within specified criteria. These criteria cover:

- Charitable bodies already in receipt of Mandatory Rate Relief of 80% – the Council has further discretion to ‘top up’ this relief to 100% of the rates due;
- Registered community amateur sports clubs (CASCs) already in receipt of Mandatory Relief of 80% – the Council has further discretion to ‘top up’ this relief to 100% of the rates due;
- Non-profit making organisations – the Council has discretion to grant Discretionary Rate Relief of between 0% -100% of the Business Rates due.

2.2.2 The Government has in recent years, introduced a number of temporary Business Rate Relief schemes. Any support provided under these schemes is awarded under Section 47 of the LGFA 1988 i.e. under the provision enabling Councils to make discretionary payments. However, the Council is fully reimbursed by Central Government by way of grants provided under the powers of Section 31 of the Local Government Act 2003. These temporary reliefs include:

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- The permanent doubling of Small Business Rate Relief (SBRR) with a rise in the threshold to rateable values of up to £12,000, tapering to £15,000.
 - Full business rate relief for rural businesses serving populations of under 3,000 in cases where the business is the only:
 - village shop or post office with a rateable value of up to £8,500
 - public house or petrol station with a rateable value of up to £12,500
 - Supporting Small Business relief scheme for ratepayers who are losing some or all of their small business rate relief as a result of a large rateable value increase following the 2017 revaluation. The scheme is available for 5 years from April 2017.
 - Revaluation Relief. This is a discretionary rate relief scheme to support those businesses that have experienced a large increase in rateable value following the 2017 revaluation.

2.2.3 The Council also has the power to reduce or remit the Business Rates charged in certain circumstances where the business is enduring temporary financial difficulties. This is known as Hardship Relief (HR) and may be awarded where the Council is satisfied that:

- The ratepayer would sustain financial hardship if the Council did not do so and;
- It is reasonable for the Council to grant relief with regard to the interests of its Council Tax payers.

2.2.4 The Council also receives requests from ratepayers asking that the rateable value of premises subject to Business Rates is split between the occupied and unoccupied portions. This means that the Council would only apply and charge Business Rates on the occupied portion of the property. The Council has discretion to accept or refuse a request that the rateable value is split between the occupied and unoccupied portions under Section 44a of the Local Government Finance Act 1988. If the request is accepted, then the Valuation Office Agency is asked to supply a certificate indicating the relevant values for the occupied and unoccupied portions and this certificate is binding upon the Council.

2.2.5 The Council's existing Discretionary Rate Relief Policy was approved by Cabinet at its meeting of 26 March 2018. It outlines the areas of local discretion and the Council's approach to the various discretionary awards. This approach takes into account the impact:

- of granting Discretionary Rate Relief on the Council's wider financial position and Council Tax payers;
- on the organisations and businesses that currently receive or may apply for relief in the future;
- for Oldham residents if relief is awarded and also the regeneration benefits to the borough.

2.2.6 It is important to note that when deciding whether to award any Discretionary Rate Relief, the principal consideration is that in making the award there should be a resultant positive impact for residents and Council Tax payers of Oldham. This consideration also includes long term benefits to both the community and the Council Tax payer, such as increasing employment or improving amenities available to the local community.

2.2.7 The document (attached as Appendix 2) sets out the proposed policy for 2019/20 which incorporates amendments to the 2018/19 Discretionary Rate Relief policy. These amendments are:

- The introduction of guidelines to support the administration of the new Retail Discount scheme from April 2019. This is a new 2 year scheme introduced by the Government supporting businesses with a rateable value of up to £51,000. The value of the discount offered to qualifying businesses will be one third of the bill after mandatory reliefs and other discretionary reliefs have been applied. The Council will be re-imbursed by the Government for the cost of the scheme through grants under Section 31 of the Local Government Finance Act 2003.
- A revision to the policy to reflect the removal of the Central Government funded Pub Relief and the one year extension of the Local Newspaper Relief scheme for 2019/20. These two schemes are time limited schemes introduced by the Government.
- An adjustment to the policy to reintroduce a requirement for potentially eligible ratepayers to submit an application for Discretionary Revaluation Relief in 2019/20. Revaluation Relief, which is also a Government scheme, will enter its third year of operation in 2019/20 and funding allocations to support the scheme will reduce to £60k in 2019/20 (from £301k in 2017/8 and £146k in 2018/19). An application process will ensure that the limited funds available to support affected businesses are assessed on a first come, first served basis.

2.2.8 Other than in respect of the issues outlined above, the policy is unchanged from 2018/19.

2.3 Local Welfare Provision Policy

2.3.1 The Welfare Reform Act 2012 ended the provision of Community Care Grants and Crisis Loans for living expenses under the Discretionary Social Fund administered by the Department for Work and Pensions (DWP).

2.3.2 There was no statutory duty requiring Local Authorities' to deliver a scheme but Oldham Council considered it to be in the best interests of the residents of the Borough to do so.

2.3.4 Oldham's Local Welfare Provision (LWP) scheme has been operating since 1 April 2013, providing vulnerable residents, who meet the criteria of the policy, with furniture, beds, white goods and more in order to establish or maintain a home in the community. Each application is treated strictly on its merits and all applicants are treated equally and fairly.

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- 2.3.5 Oldham's residents access the LWP scheme by making a claim online or by telephone. In most circumstances a decision is made within 24 hours. The assessor will then notify the applicant of the outcome and order any items awarded from the relevant suppliers.
- 2.3.6 All applicants are signposted to other external agencies or internal avenues of support such as the Department for Work and Pensions (DWP) or Welfare Rights Service as appropriate. This approach supports residents to address the longer-term issues which might have contributed to their crisis situation in the first place, helping to ensure that they have the tools they need (e.g. such as budgeting skills) to be able to manage an unexpected crisis in the future.
- 2.3.7 The policy has been subject to regular reviews to ensure it is fit for purpose, but has been largely unchanged since its introduction. It is proposed to that the scheme is amended to include care leavers under 25 in the categories of residents the policy is designed to support. The revised policy, including the amendment for care leavers, is set out at Appendix 3.
- 2.4 Discretionary Housing Payment Policy
- 2.4.1 The Discretionary Housing Payment (DHP) scheme gives Local Authorities power to make Discretionary Housing Payments (DHPs) to residents who are most in need, to top up Housing Benefit or the housing element of Universal Credit.
- 2.4.2 Central Government provides funding for the scheme. The Department for Work and Pensions (DWP) allocation for DHPs in 2018/19 was £654,359. In 2019/20, the Council will receive £638,046. The Council can add additional resources of its own to support the DHP budget up to a ceiling of 1.5 times the DWP allocation, should it wish to do so. The Council has not allocated any top-up resources to the DHP scheme for 2019/20.
- 2.4.3 Awards of Discretionary Housing Payments are focused on enabling people to secure, retain and pay for appropriate and sustainable accommodation to support them through temporary difficulties (i.e. where Housing Benefit or the housing element of Universal Credit doesn't cover all the rent payable). This is in order to reduce the risk of homelessness and support the stability of families and communities.
- 2.4.4 All applicants are signposted to other external agencies or internal avenues of support such as the Department for Work and Pensions (DWP) or Welfare Rights Service as appropriate. This approach supports residents to address the longer-term issues which might have contributed to their crisis situation in the first place, helping to ensure that they have the tools they need (e.g. such as budgeting skills) to be able to manage an unexpected crisis in the future.
- 2.4.5 The current policy specifies how the Council operates the Discretionary Housing Payment scheme and details some of the factors that are taken into account when considering if a DHP can be made. Each case is treated strictly on its merits and all applicants are treated equally and fairly.
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2.4.6 It is proposed to amend the DHP policy for 2019/20 to address two issues:

- To include care leavers under 25 in the categories of residents the policy is designed to support.
- To more clearly define that the normal period of a DHP award to support residents is 26 weeks in line with the intention that DHPs were established to support residents to meet their housing costs on a temporary basis.

Although there will clearly be cases where longer awards are appropriate, and the policy accommodates some latitude around award periods where necessary, setting the normal award period of 26 weeks will enable the Council to better work with residents and landlords to support residents to become less reliant on DHPs over the long term.

2.4.7 The revised policy incorporating the amendments as set out above is included at Appendix 4.

3 **Options/Alternatives**

3.1 The following three options are available:

3.2 **Option 1 - Do nothing**

3.2.1 Members could choose to do nothing in relation to each of the proposed revisions to discretionary policies. The key issues in relation to this option for each policy are set out below:

Discretionary Council Tax Discounts Policy:

- The Council would not have transparent guidance in place for assessing requests for support based on exceptional financial hardship;
- As individuals requesting a discretionary discount have the right to appeal to the Valuation Tribunal if they are unhappy with the Council's decision, there may be criticism that the detailed policy was not in the public domain;
- The Council would continue to award a 100% Council Tax Discount for care leavers aged 18, 19 and 20 as set out in the Council Tax Discount for Care Leavers policy 2017/18. This would be out of alignment with the Council's Corporate Parenting Responsibilities to support care leavers up to the age of 25 and the policies of the other Greater Manchester (GM) Authorities.

Discretionary Rate Relief Policy

- The Council would continue using the current policy in place which would mean that:
 - The Council would not be able to introduce amendments to the Revaluation Relief scheme which require an application to cover the more limited pot of money in 2019/20;

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- The Council would still administer the Retail Discount as introduced by Central Government, however, the Discretionary Rate Relief Policy would not provide clear guidance to ratepayers about the operation of the scheme.
 - The policy document would make reference to Pub Relief which would no longer be available as a Government funded scheme.

Local Welfare Provision Policy

- Although the Council would continue to support Care Leavers under 25 through the LWP scheme, the policy would not explicitly include this provision.

Discretionary Housing Payment Policy

- Although the Council would continue to support Care Leavers under 25 through the LWP scheme, the policy would not explicitly include this provision;
- The policy would not reflect the intention to set the normal period of an award at 26 weeks and thus not make the normal period of the award clear to prospective applicants and landlords. As such it would be more difficult to manage expectations around future payments and re-inforce the temporary nature of the scheme.

3.3 **Option 2 – Approve the Local Taxation and Benefits Discretionary Policies**

3.3.1 Members could choose to approve all of the proposed revisions to discretionary policies. The key issues in relation to this option for each policy are set out below:

Discretionary Council Tax Discount policy

- The care leaver discount would extend to care leavers under the age of 25 in line with the Council's Corporate Parenting responsibilities and the approach being taken by other GM authorities.
- There would be clear and transparent guidelines to be used when assessing when a discretionary discount should be awarded for those residents experiencing exceptional financial hardship in paying their Council Tax.

Discretionary Rate Relief Policy

- Adopting the proposed revised policy for 2019/20 would ensure that the policy was up to date incorporating revisions and updates to Government policies.

Local Welfare Provision Policy

- The Council's discretionary policies would consistently reference the support provided to care leavers up to the age of 25 as part of the Council's corporate parenting responsibilities

Discretionary Housing Payment Policy

- As above, the Council's discretionary policies consistently reference the support provided to care leavers up to the age of 25 as part of the Council's corporate parenting responsibilities.
- There would be clarity to prospective applicants that the normal period of a DHP award will be 26 weeks.

3.4 **Option 3 – Approve some of the proposed changes to the Local Taxation and Benefits Discretionary Policies**

- 3.4.1 Members may choose to support some but not all of the proposed changes. This would require consideration of the issues set out at sections 3.2 and 3.3.

4 **Preferred Option**

- 4.1 The preferred option is Option 2 – Approval of all of the proposed changes included in the updated Local Taxation and Benefits Discretionary Policies and thereby the policies included at Appendices 1 to 4.

5 **Consultation**

- 5.1 During the review of each policy, feedback has been obtained from officers involved in the application process across the relevant services.
- 5.2 As there are no major deviations from existing procedures, it is considered that there would be no negative impact on residents or individuals and thus further or public consultation is not required.

6 **Financial Implications**

- 6.1 The proposed update to the policies outlined in this report will have the following direct financial implications:

Discretionary Council Tax Discounts Policy

The extended criteria for care leavers up to the age of 25 is estimated to increase from £30k to £60k in 2019/20 and the administering of the Exceptional Hardship Payments scheme is estimated to cost £50k. The additional cost can be met from the existing general fund budget for Revenues and Benefits.

Discretionary Rate Relief Policy

Any costs associated with the Retail Discount scheme will be reimbursed by the Government through Section 31 grants.

Discretionary Housing Payment Policy

Government resources of £638,048 are available to support DHPs. The Council has not allocated any top-up resources to the DHP scheme for 2019/20.

- 6.2 All other policy changes are required to fit within the existing budgetary provision. (Nicola Harrop – Finance Manager)

7 **Legal Services Comments**

- 7.1 The proposed policy is lawful and is considered to provide good practice, compliance with which will enable the Council and Stakeholders to comply with relevant statutory requirements. (Alex Bougatef)

8. **Co-operative Agenda**

- 8.1 Not applicable

9 **Human Resources Comments**

- 9.1 Not applicable

10 **Risk Assessments**

- 10.1 Not applicable

11 **IT Implications**

- 11.1 Not applicable

12 **Property Implications**

- 12.1 Not applicable

13 **Procurement Implications**

- 13.1 Not applicable

14 **Environmental and Health & Safety Implications**

- 14.1 Not applicable

15 **Equality, community cohesion and crime implications**

- 15.1 Not applicable

16 **Equality Impact Assessment Completed?**

- 16.1 In taking financial decisions the Council must demonstrate that it has given “due regard” to the need to eliminate discrimination, promote equality of opportunity and promote good relations between different groups.

16.2 Demonstrating that “due regard” has been given involves:

- assessing the potential equality impacts of proposed decisions at an appropriate stage in the decision making process - so that it informs the development of policy and is considered before a decision is taken;
- ensuring that decision makers are aware of the equality duties and any potential equality issues when making decisions.

NB – having due regard does not mean the Council cannot make decisions which have the potential to impact disproportionately, it means that we must be clear where this is the case and must be able to demonstrate that we have consulted, understood and mitigated the impact.

16.3 To ensure that the process of impact assessment is robust, it needs to:

- Be specific to each individual proposal;
- Be clear about the purpose of the proposal;
- Consider available evidence;
- Include consultation and involvement with those affected by the decision, where appropriate;
- Consider proposals for mitigating any negative impact on particular groups;
- Set out arrangements for monitoring the actual impact of the proposal.

16.4 The Equality Act 2010 extends the public sector equality duties to cover eight protected characteristics, namely: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion and belief and sexual orientation.

16.5 There is no duty to undertake an equality impact assessment (EIA) but an EIA is recognised as a useful tool in performing and recording the duty to have due regard. Given the nature of the proposed change a stage one EIA review is considered adequate. These are attached for reference at Appendices 5 - 9

17 **Key Decision**

17.1 Yes

18 **Key Decision Reference**

18.1 FCR-01-19

19 **Background Papers**

19.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

File Ref:	Background papers are provided in Appendices 1-9
Officer Name:	Caroline Lee
Contact No:	0161 770 4905

Appendices

Appendix 1 – Discretionary Council Tax Discount Policy

Appendix 2 – Discretionary Rate Relief Policy

Appendix 3 – Local Welfare Provision Policy

Appendix 4 – Discretionary Housing Payment Policy

Appendix 5 – Equality Impact Assessment - Exceptional Hardship Payments

Appendix 6 – Equality Impact Assessment - Care Leavers Discount

Appendix 7 – Equality Impact Assessment - Discretionary Rate Relief

Appendix 8 – Equality Impact Assessment - Local Welfare Provision scheme

Appendix 9 – Equality Impact Assessment - Discretionary Housing Payments