The Anglia Revenues Partnership

Council Tax Reduction Scheme
Appeals Policy and Procedure

Benefits Service
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Council Tax Reduction Scheme
Appeals Policy and Procedure

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Council Tax Reduction Scheme Appeals Policy

ANGLIA REVENUES PARTNERSHIP

PRIMARY LEGISLATION
The Local Government Finance Act 1992 Section 16 (1)

SECONDARY LEGISLATION
Council Tax Reduction Scheme Regulations 2012

1. INTRODUCTION

1.1 This policy outlines the main areas to consider when dealing with appeals against decisions on the Council Tax Reduction Scheme (CTRS).

1.2 When the customer receives an initial Council Tax Reduction Scheme decision (Council Tax Support Scheme for Breckland Council), the notification will include their right to an explanation of the decision, their right to a reconsideration of the decision and an explanation of their rights of appeal.

1.3 Council Tax Reduction Scheme (CTRS) within this policy also refers to Council Tax Support Scheme (Breckland Council only) in this document.

1.4 For the purpose of this document ARP acts for the host Council. Legislation refers to “the Council”.

2. POLICY STATEMENT

2.1 Breckland Council, Forest Heath District Council, East Cambridgeshire District Council and St Edmundsbury Borough Council working together as Anglia Revenues Partnership (ARP) under authority of Section 16 (1) of The Local Government Act 1992, will deal with all stages of the appeals process in a professional manner which shows respect for customers, members of staff and anyone else involved in the process and deal with each appeal as stated in this Policy document.

2.2 This policy will be available to all internal and external stakeholders and will be on the Councils' websites.

www.stedmundsbury.gov.uk
3. OBJECTIVE & AIMS

3.1 This policy is provided to ensure that the Local Authorities through the ARP fulfil their statutory requirements. The appeals policy helps to ensure that the legislation is adhered to and that appeals are dealt with appropriately, in a fair and open manner.

3.2 The aim is to ensure that a correct decision is made and that a route of redress is open to the claimant for incorrect decisions to be amended.

4. EQUALITY

4.1 ARP is committed to equality of opportunity and valuing diversity in the provision of services.

4.2 We believe that everyone has the right to be treated with dignity and respect.

4.3 We are committed to the elimination of unfair and unlawful discrimination in all our policies, procedures and practices.

4.4 We are determined to ensure that no member of the public, employee or job applicant receives less favourable treatment on the grounds of their age, child care or other caring responsibilities, disability, gender, HIV status, language, marital status, race, religion, sexuality, membership or non-membership of a trade union, or by any requirement which cannot be shown to be justifiable.

5. DATA PROTECTION

5.1 This policy is compatible with Data Protection requirements; appeals procedures are set out in the legislation to which this policy applies.

6. APPEALS PROCESS

6.1 The legislation refers to the customer as an aggrieved person.

6.2 A request will be accepted for a redetermination in any written form which gives a clear indication that the customer is aggrieved as set out in the relevant legislation.

6.3 An appeal leaflet giving information on the appeal process and how appellants can get independent help and advice will be available to customers.

6.4 There is no time limit for the taxpayer to initiate a challenge/appeal after receiving confirmation of a Council Tax Reduction (CTR) but time limits apply once a grievance has been raised.

6.5 Before the taxpayer can appeal to the Valuation Tribunal for England (VTE) they must have written to the Council explaining the ground on which they are aggrieved by the calculation of the CTR. S 16 (7) of the 1992 Act.

6.6 ARP is required to respond to the aggrieved person within two months of receiving a challenge to the CTR calculation.

6.7 The Council may, within this period, respond by a) outlining the reasons why they believe the grievance is not well founded or b) confirming the steps taken to address the grievance.
6.8 If the Council fails to respond within two months the aggrieved person can take their appeal straight to the Valuation Tribunal Service.

6.9 After a reconsideration, if the appellant is still aggrieved and wishes to take the matter to a tribunal they must make an appeal directly to the Valuation Tribunal Service under section 16 of the Local Government Finance Act 1992, subject to the Valuation Tribunal Service requirements.

6.10 Evidence held will be supplied to the Valuation Tribunal Service by ARP on request.

6.11 If a decision cannot be appealed because it is “out of jurisdiction” the customer will be informed.

6.12 An appeal from the VTE to the High Court can be made on appoint of law within 4 weeks of the decision notice (if that notice did not contain a detailed statement of reasons, or within two weeks of the written statement of reason being issued following an application by a party under Procedure Reg 37, or whichever is the later: reg 43).

7. STATEMENT OF REASONS/ EXPLANATION OF DECISION

7.1 If a customer asks for an explanation of a decision on their claim, this can be done verbally.

7.2 The claim may be reconsidered at this stage but if the customer is not satisfied with the verbal explanation he or she can ask for a written explanation and reconsideration which will explain their right of appeal direct to the Valuation Tribunal Service.

8. REVISIONS

8.1 The ARP will revise a decision at any time if it believes a mistake has been made or new facts have come to light. This need not be at the request of the customer.

8.2 The ARP will revise the decision when it can.

8.3 If a decision is revised the original appeal lapses and the appellant has a new right of appeal on the new decision.

9. SUPERCEDING

9.1 If ARP can only amend the decision in part, it is called a supersession and again the customer will have appeal rights on the new decision.

10. OUT OF JURISDICTION APPEALS

10.1 There are some decisions that cannot be considered by The Valuation Tribunal Service for England (VTE):

- The contents of the Council’s scheme
- The disregard of War Disablement Pensions;
- Amounts used in calculations which are stated in regulations;
- Time and manner of payments;
- Discretionary housing payments.

These are referred to as Out of Jurisdiction.

11. TIME SCALES
11.1 ARP will normally be given approximately six weeks’ notice of a hearing by The Valuation Tribunal Service, in which time the ARP will be expected to provide evidence.

12. WHEN CONSIDERING A REQUEST FOR A RECONSIDERATION

12.1 ARP will:

- Consider each request separately;
- Not fetter its discretion.
- Base reconsiderations on legislation and Case Law.

12.2 Follow the provisions of the European Convention of Human Rights:

- Article 1 of the First Protocol: Protection of Property;
- Article 6: Right to a Fair Trial;
- Article 8: Right to Respect for Private and Family Life;
- Article 14: Prohibition of Discrimination.

12.3 Consider the background to the reconsideration:

1. Evidence that the customer had contributed to the overpayment or other issue of the appeal;
2. Previous claims or actions of the customer are relevant to the present issue;
3. There grounds for believing that the act is likely to be repeated, for example by a history of recurring conduct.
4. Evidence shows that the customer was aware of an oversight/misinformation – consider fraud:

12.4 The Reviewing Officer must:

1. Check records and make further enquiries to establish the facts.
2. Gather and collate information to enable the correct presentation of a case to a Tribunal;
3. Establish the amount of reduction incorrectly paid or not paid;
4. Consider exceptional circumstances which may include:
   - A person’s circumstances and mitigating factors that may result in an action or inaction;
   - Planning or deceit involved;
   - The requirement to repay an overpayment would cause unreasonable hardship.
5. Consider the length of time taken to request a reconsideration;
6. Consider if the problem has continued over a long period of time and how many opportunities there were for the customer to have known their reduction was wrong;
7. Identify if the person has previously made a similar request and ARP’s decision was not altered;
8. The effectiveness of the outcome of the reconsideration.

12.5 ARP will continue to make a reduction (or not make a reduction), for the relevant authority, as appropriate, using the information the ARP considers reasonable, until a hearing by the Valuation Tribunal Service finds otherwise.

12.6 The Reviewing Officer will request a full statement of reasons from the Chairman of the Tribunal where it appears that the legislation may have been incorrectly applied.
12.7 If after considering the statement of reasons the Appeals Officer still believes that the legislation has been applied incorrectly, they will discuss the matter with a Senior Manager and, if required, apply for leave to appeal to the Social Security Commissioners.

13. IMPLEMENTATION AND TRAINING

13.1 This policy will be made available to all staff.

13.2 This will be reinforced with training and management supervision of all staff involved.

14. COMPLAINTS

14.1 Each respective Council’s ‘Compliments and Complaints Procedure’ (available on the Councils’ websites) will be applied in the event of any complaint received about this policy.

15. POLICY REVIEW

15.1 This policy will be managed and reviewed every year and, from time to time, updates and re-issues will be circulated.

15.2 However, the policy will be reviewed sooner if a weakness in the policy is highlighted, in the case of new risks, and/or changes in legislation.

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<th>Sue Archer</th>
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