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<b>REPORT TO:</b>	<b>FINANCE AND MANAGEMENT COMMITTEE</b>	<b>AGENDA ITEM: 10</b>
<b>DATE OF MEETING:</b>	<b>5<sup>th</sup> SEPTEMBER 2013</b>	<b>CATEGORY: RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>DIRECTOR OF FINANCE and CORPORATE SERVICES</b>	<b>OPEN</b>
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<b>SUBJECT:</b>	<b>COUNCIL TAX – OVERVIEW OF LIABILITY, EXEMPTIONS &amp; DISCOUNTS</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: FM 08</b>

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## **1.0 Recommendations**

- 1.1 That the various provisions applying to the level of Council Tax are noted and the Committee highlight any local discounts and exemptions for further review.

## **2.0 Purpose of Report**

- 2.1 At its meeting on 27th June 2013, the Committee updated the Council's local discount scheme for levying Council Tax on empty properties. Following discussion at that meeting, this report sets out all discounts and exemptions currently applied and how that affects the total amount of Council Tax income.
- 2.2 The report also provides a brief overview of Council Tax and the Council's obligations regarding its collection.

## **3.0 Detail**

### **Background**

- 3.1 Council Tax is a system of local taxation to help finance local services. Primarily, it is a tax on domestic property (or dwelling) and not a person, although some people do not have to pay whilst others are entitled to discounts. In addition, some properties, meeting certain conditions, are completely exempt.
- 3.2 A Council Tax band can be assigned to a caravan pitch or mooring for a boat if it is occupied by a caravan or boat that is used as the main or sole residence of the occupier and therefore treated as a dwelling.

## Valuation Bands

- 3.3 All properties (including those exempt) are categorised into bands depending on the valuation of the property. This exercise is undertaken by the Valuation Office (VO) independent of local councils. The VO also deals with the first stage of any challenges/changes to banding and bands new properties.
- 3.4 The banding is based on the value of a property as at **1<sup>st</sup> April 1991**. Bands range from **A** (properties valued at up to £40,000 – as at April 1991) to **H** – properties valued at over £320,000.
- 3.5 Each Band is fairly broad and new properties (since 1991) are banded relative to similar properties in the immediate location. The bandings are regionally based and for South Derbyshire, this is the East Midlands.
- 3.6 Although the 1991 valuation is designed to ensure consistency, it may not reflect changes to house prices in individual areas that will have taken place over the last 20 years. Previously, there has been some debate, nationally, on whether there should be a revaluation of Council Tax banding, but this is not currently under consideration.
- 3.7 The lower the band, the lower the amount of Council Tax payable. Areas with a greater number of properties in higher bands potentially have greater tax raising capability, compared to areas with properties in the lower bands.
- 3.8 The profile for South Derbyshire compared to the average across England is shown in the following table.

### Percentage of Properties in each Band

	England	SDDC
Band A	22%	28%
Band B	20%	23%
Band C	21%	17%
Band D	18%	16%
Band E	9%	8%
Band F	5%	5%
Band G	4%	2%
Band H	1%	1%

- 3.9 The table shows that the Council has a higher number of properties in the lower bands and a fewer number in the higher bands compared to average of English authorities.

### Properties Exempt from Council Tax

- 3.10 Some property is exempt altogether from Council Tax, although this may not be indefinitely if circumstances change. A list of exemptions with the number of Council properties currently classed as exempt is shown in **Appendix 1**.

- 3.11 There are currently around 41,000 domestic properties in the District potentially liable for Council Tax. Of these, 866 are currently exempt from Council Tax as shown in Appendix 1, of which approximately 50% are empty properties less than 3 months (**Class C**). Many of these properties are due to the turnover in the property market, including those recently built and due to be occupied.
- 3.12 The Council does have discretion to change this exemption under its local discount scheme, including not having it altogether and/or setting the charge levied from nil to the full amount. In January 2013, the Committee approved to reduce the exemption from the previous statutory term of 6 months to 3 months and levy 100% Council Tax thereafter.

### **Other Flexibilities**

- 3.13 The Council also has discretion over **Class A** exemptions, i.e. those dwellings undergoing structural repair. Under its local discount scheme, the Council could reduce the period these properties are exempt and/or the level of Council Tax payable. For example, this could include a level of Council Tax below the full amount for the full exemption period.
- 3.14 The Government have previously reviewed the exemptions for Classes L (repossessed dwellings) and W (granny annexes) but have not changed regulations as yet.

### **Discounts**

- 3.15 In addition to the exemptions, there is a range of statutory and local discretionary discounts that reduce the amount of Council Tax payable by a certain percentage from the full amount.

### **Reduction Scheme for Disabled People**

- 3.16 If there is someone living in the household (adult or child) who has been assessed as substantially and permanently disabled, the Council Tax bill for that property will be reduced. This reduction is made by charging Council Tax on the next valuation band down from the one the property is actually in.
- 3.17 For example, if the property is in Band D, the Bill will be calculated as if it were in Band C, although 100% of Band C is payable. If the property is in Band A, it becomes a Band X and Council Tax is payable at 5/9ths of Band D.
- 3.18 To be eligible for the reduction, the property has to satisfy at least one of the following criteria:
- An extra kitchen or bathroom has been installed to meet the needs of the disabled person.
  - Any other room (except a toilet) is mainly used by a disabled person to meet their needs.

- There is adequate space for a disabled person to use a wheelchair.

3.19 The Council currently has 220 properties that are eligible for this reduction scheme.

### **Single Person Discount (SPD)**

3.20 If only one adult, who is not otherwise, disregarded (see below) lives in a property, they get a 25% discount on their Council Tax liability. There are currently about 12,000 properties in the District that qualify for SPD.

3.21 The SPD has, from time to time, been subject to much debate and lobbying from various groups to enable councils to have some local discretion over this discount. To-date, this has always been resisted by successive Governments.

### **Discounts for Disregarded Persons**

3.22 Some people in a household are not counted for Council Tax and they are disregarded. This may then reduce the remaining occupiers to only one adult, in which case the Council Tax liability is reduced by 25%.

3.23 There are about 20 categories of disregarded persons. They mainly cover people less than 17 years of age who are not liable, mentally impaired persons, people being cared for, full time students, apprentices and people on recognised training courses, such as nurses.

3.24 If everyone who lives in a property is disregarded, there is still a Council Tax liability, but this is discounted by 50%. The Council currently has 242 properties that qualify for the 25% disregard and 29 that qualify for the 50% discount.

### **Second Homes Discount**

3.25 Second homes (unoccupied furnished lets or holiday homes) are subject to Council Tax, but a council has the discretion to apply a discount. Prior to 2009, these properties were subject to a statutory 50% liability.

3.26 Following a change to the Regulations in 2009, the Council reduced the discount to 10%, i.e. second homes in South Derbyshire are subject to 90% Council Tax.

3.27 The Council has the discretion to change this discount, including having no discount at all and charging the full Council Tax rate. The Council currently has 167 properties classed as second homes.

3.28 These properties are typically not the main residence of the owner as they occupy another property elsewhere. Although they may not be occupied on a regular basis, these properties are not classed as empty unless they are unoccupied and unfurnished.

3.29 In special cases, a council has no discretion the level of discount and a 50% charge applies. This is where the second home is owned by someone who cannot live there because they are required to live elsewhere in the UK as a condition of their job.

3.30 There are currently two of these cases in South Derbyshire.

### **Treatment of Empty Properties**

3.31 An empty property is one which is un-occupied and substantially unfurnished. The presence of a bed, table and chair is deemed sufficient for a property to be furnished and therefore liable for Council Tax.

3.32 Prior to this financial year, empty properties were statutorily exempt from Council Tax for a period of 6 months. From April 2013, councils were given full discretion over Council Tax applying to empty properties. Councils are now able to offer a discount (from nothing to 100%), change the exemption period, remove the exemption altogether or any combination.

3.33 In accordance with this discretion, the Council replaced the exemption from the previous statutory term of 6 months to 3 months, but to levy 100% Council Tax thereafter. Effectively therefore, empty properties in South Derbyshire are exempt from Council Tax for 3 months and as previously highlighted, the number is included in **Appendix 1**.

3.34 Some of these properties may be empty due to their condition. If the VO determines a property as being derelict, awaiting demolition or if the Council issues a notice prohibiting occupation due to its poor quality, health or safety issues, they will be exempt under Class G (currently 16 as shown in Appendix 1).

3.35 However, if a property has no running water or electricity for example, and the VO has assigned a Council Tax band to it, it will still be liable for Council Tax after 3 months if it doesn't meet the above conditions. As previously stated, properties undergoing structural repair are exempt under Class A for 12 months.

### **Empty Homes Premium**

3.36 In addition, an empty property is now liable for an additional premium of 50% on its Council Tax if it is empty for longer than 2 years. As previously reported, the Council has discretion to review and change this each year.

3.37 However, any properties which are already exempt from Council Tax cannot be charged the premium, together with the following properties:

- A property which would otherwise be the sole or main residence of a member of the armed forces who is absent from the property as a result of such a service (*Note: members of the armed forces serving overseas have their Council Tax Liability reimbursed by the Ministry of Defence*).

- A property which forms a substantial annex to a dwelling which is being used as part of the main residence in that dwelling, such as “granny” annexes.

### **Local Discounts**

- 3.38 Under Section 13A of the Local Government Act 1992, the Council provides a local discount in respect of properties where exceptional circumstances, beyond the control of the person liable for Council Tax, prevent the use by or sale/let of an empty property to a third party.
- 3.39 Consequently, this scheme applies under two scenarios. Firstly, where there is no independent access to the residential part of a property the result of which renders the sale or let of that part impossible for either legal or security reasons.
- 3.40 Secondly, for retirement schemes where covenants prohibit sale to anyone under a prescribed age (usually 55, 60, or 65) and/or either restrict letting in the same way or prohibit it altogether.
- 3.41 In these cases, after the initial 3 month exemption period, the Council Tax Empty Property charge is reduced from 100% to 50% and no premium is charged where a property is empty for longer than 2 years.

### **Council Tax Appeals**

- 3.42 Initially appeals against the Council Tax band and matters of liability for Council Tax, including discounts and exemptions, are dealt with by the VO and the Council respectively. Thereafter, in both instances, further appeals are dealt with by the Valuation Tribunal.
- 3.43 It should be noted that there is no appeal against the Council’s policy decision to change the level of, or set, a discount. The only way to challenge such a decision is by way of judicial review.

### **Local Council Tax Support Scheme**

- 3.44 Having established the net liability for Council Tax (after applying discounts and exemptions) the Council’s Local Support Scheme, which was implemented in April 2013, provides financial support to persons on low incomes in accordance with a needs assessment.
- 3.45 This scheme provides full protection to pensioners and other groups such as disabled households and is monitored and reviewed separately by the Committee during the year.

## **Paying Council Tax and Collection**

- 3.46 Council Tax bills are raised and sent out at the start of the financial year. Most households pay by 10 monthly instalments but there is an option of paying over 12 months. The collection of Council Tax is a statutory duty of local billing authorities such as South Derbyshire and they are expected under statute to make every effort to ensure that all income due is collected.
- 3.47 When an instalment is not paid, the Council must issue a reminder notice asking for payment within 7-days. If no payment is made, the Council has the right to withdraw paying by instalments and can demand a full year's Council Tax. In practice, this is unlikely to occur if the instalment is paid.
- 3.48 If no payment is made within a further 7-days, the right to pay by instalments is lost and the whole year becomes payable. If no payment is made within 14 days after that, the Council may issue a summons to the liable person and ask the local magistrate to issue a liability order. This allows a council to make arrangements for arrears to be paid by automatic deductions from income (including benefits) or to seize personal goods to the value of the amount owed.
- 3.49 Where arrears are paid on the first reminder but a subsequent instalment is missed a further reminder will be issued. Again, the right to pay by instalments is lost if the arrears are not paid within 7-days and a summons will be issued.
- 3.50 Where a further instalment is missed within the financial year a final notice, requiring payment of the full year's Council Tax, becomes due. The purpose of this is to restrict the number of reminders in the case of persistent late payment.
- 3.51 If arrears remain unpaid after the issue of a summons, the Council will obtain a Liability Order which allows it to take enforcement action such a referral to a bailiff, Bankruptcy, charging order and attachment to earnings and benefits.
- 3.52 In extreme cases, where there is a wilful refusal or culpable neglect to pay, a Magistrate's Court, on application by a council, has the power to send a liable person to prison. This course of action can be time consuming and costly.
- 3.53 Although the Council is statutorily required to pursue non-payment as outlined above, if a person is in contact with the Council, alternative arrangements can usually be agreed to make payment.
- 3.54 This is applicable where a person may be experiencing difficulties in making a full payment; this is considered a better and more cost effective solution to ensure that the liability is eventually paid in full. Additional money advice may also be provided such as assessing entitlement to financial support.
- 3.55 Where collecting payment becomes much more difficult, the Council employs bailiffs to trace people, collect arrears and to enforce Liability Orders.

3.56 The Council’s statutory obligations, including its policies and procedures, regarding debt collection will be subject to a review by the Overview and Scrutiny Committee later in the year as part of their work programme.

#### 4.0 Financial Implications

4.1 The financial implications of the Council’s Tax Base have been included in the Council’s Base Budget. In principle, unless the Council is advised by the VO or a liable person, the system assumes a property is subject to a 100% Council Tax liability.

#### **The Council’s Property Base for Council Tax Purposes**

4.2 After allowing for exemptions and discounts, a summary of the Council’s current property base regarding liability for Council Tax is summarised in the following table.

Total number of Domestic Properties	40,149
Exempt Properties	-866
Disabled Reduction ( <i>see note</i> )	0
Properties with Single Person Discount	-11,911
Properties with 25% Disregard	-242
Properties with 50% Disregard	-29
Second Homes (10% discount)	-167
<b>Properties Liable for 100% Council Tax</b>	<b><u>26,934</u></b>

**Note:** Properties subject to Disabled Reduction are still liable for 100% Council Tax but in a lower Band as highlighted earlier in the report.

4.3 As previously highlighted, the Council has discretion to cease the current discount (10%) on second homes. This would generate approximately £7,500 additional income (£800 for SDDC).

4.4 Clearly, the biggest discount is that given to single person households. As highlighted earlier in the Report, this is still a national discount (of 25%) which has been subject to much debate and lobbying from various groups to enable councils to have some local discretion over this discount.

4.5 Recent research by the National Fraud Authority highlighted that significant sums across the country are potentially lost due to fraudulent activity around the SPD. Due to the numbers involved, the Council monitors the application of this discount on an annual basis, including an independent check using credit agency data, to verify entitlement.

4.6 The 25% discount in South Derbyshire is worth approximately £3.5m per year (£400,000 for SDDC) in Council Tax collectively across the 11,900 eligible households.

**5.0 Community Implications**

5.1 None Directly.

**6.0 Corporate Implications**

6.1 None Directly

**7.0 Background Papers**

7.1 None

## LIST OF EXEMPTIONS (as set out in Regulations)

<b>Class</b>	<b>Description</b>	<b>SDDC Number</b>
A	Undergoing Structural Repair (up to 12 months)	27
B	Owned by a Charity	0
C	Empty for up to 3 months	450
D	Liabe person in Detention	2
E	Person in Hospital or Care Home	66
F	Left Empty by Deceased Person – awaiting Probate	130
G	Condemned Dwelling or awaiting Demolition	16
H	Empty Clergy Dwelling	3
I	Person receiving Full Time Care	2
J	Person away providing Care	0
K	Left empty by a Student	0
L	Dwellings legally repossessed by Mortgage Lenders	19
M	Halls of Residence	0
N	All Student Occupiers	63
O	Armed Forces Accommodation	0
P	Visiting Forces Accommodation	0
Q	Property left Empty due to Bankruptcy	2
R	Unoccupied Pitch or Mooring	16
S	All Occupiers Aged under 18	14
T	Unoccupied Annexes	14
U	Occupied solely by a people with severe mental impairment	23
V	Diplomats in Residence	0
W	Self-contained Granny Annexes	19
	<b>TOTAL EXEMPT PROPERTIES</b>	<b>866</b>