

REPORT TO:	FINANCE AND MANAGEMENT COMMITTEE	AGENDA ITEM: 10
DATE OF MEETING:	19th FEBRUARY 2015	CATEGORY: RECOMMENDED
REPORT FROM:	DIRECTOR OF FINANCE AND CORPORATE SERVICES	OPEN
MEMBERS' CONTACT POINT:	KEVIN STACKHOUSE (01283 595811) Kevin.stackhouse@south-derbys.gov.uk	DOC: u/ks/revenues and benefits/section 13a/update of sec13a discounts
SUBJECT:	AMENDMENT TO LOCAL COUNCIL TAX DISCOUNT SCHEME (SECTION 13A LOCAL GOVERNMENT FINANCE ACT 1992)	REF:
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: FM 12

1.0 Recommendations

- 1.1 To amend the delegated scheme for the award of local discounts.
- 1.2 To approve the revised Guidance Framework set out at **Appendix A**, to include Council Tax Reduction Scheme Discretionary Payments.

2.0 Purpose of Report

- 2.1 To update the current scheme of discretionary local discounts, following two appeals to the Valuation Tribunal for England which have potential implications for the Council.

3.0 History

- 3.1 Currently the Council operates a scheme of local discounts that are entirely linked to its Council Tax Empty Property Policy, introduced in April 2009 and subsequently updated in April 2013.
- 3.2 This Policy provides for:
 - A free period with no Council Tax payable , of three months, after a property becomes empty, thereafter a full charge is made, and
 - An empty property premium of 50%, on top of the full charge is levied after a property remains empty for two years or more.
- 3.3 In a number of exceptional cases the local discount, which effectively returns properties to their pre April 2009 position, applies where there are unavoidable

circumstances that render a property impossible or extremely difficult to either let or sell. For example:

- Properties within retirement schemes where covenants/restrictions on sales and lets apply.
- Unused accommodation within commercial units that cannot be made available to let or sale for security reasons.

3.4 At present there are just seven such properties.

4.0 Impact of Recent Case Law

4.1 Members will be aware of the Discretionary Housing Payment Scheme that applies to Private and Councils Tenants in receipt of Housing Benefit in respect of which the Council received a government grant of £91,226, in 2014/5.

4.2 This grant is normally fully utilised in supporting tenants meeting a shortfall between rent payable and their Housing Benefit award, where exceptional circumstances apply. Although legislation allows the Council to 'top-up' the grant, it has historically chosen not to do so because of budgetary constraints.

4.3 The criteria for eligibility are stringent, owing to the limited availability of funds and the need to ensure consistency in assessment of applications. In all cases, the overriding concern has to be, and has been, to support, as far as possible, tenants to stay in their homes.

4.4 At present the Council does not have a similar scheme for Council Tax Reduction. Instead, it relies on existing service support provisions such as awards of statutory discounts and exemptions (including the Council Tax Reduction Scheme) together with budgeting advice and use of other support mechanisms, such as referral of cases to partner agencies including the CAB, Money Advice and the County Council Welfare Advice Team.

4.5 However, recent case-law has determined that a person aggrieved by a decision not to grant a discretionary Council Tax Reduction Scheme payment under Section 13A may appeal to the Valuation Tribunal. That body may deal with the matter in the same way as it would deal with other appeals against Council Tax decisions taken by the Billing Authority (SDDC).

4.6 This puts the Council at risk of a legal challenge because it has not formally adopted a Council Tax Reduction Scheme Discretionary Payment Policy. Equally it should be noted that there has not been a decision to adopt a scheme. At the time of the introduction of CTRS it was considered that the general nature of the local discount arrangements under Section 13A were sufficiently broad to allow individual cases to be considered on their merits by Officers following the general '*Wednesbury*' principles.

- 4.7 However, whilst it is considered that this approach still holds good it is nevertheless prudent, given the recent decisions of the Valuation Tribunal to formalise matters within a Policy agreed by Members, although it should be noted that no request has as yet been made for any discretionary Council Tax payment.
- 4.8 There are two extremely important factors that do need to be set down in the Policy, as a result of the judgement of the Valuation Tribunal. These are to ensure that the decision making process is unfettered. Namely that:
- Each case has to be considered entirely on its own merits.
 - No account may be taken of the Councils overall budgetary constraints.
- 4.9 Consequently, the proposed addition to the local discount (Section 2) scheme keeps the matter very simple and allows consideration of each application on a case by case basis, within an overall policy framework. Determination of eligibility will be by way of an individual income and expenditure assessment. It is considered that this approach meets the requirements propagated by the Valuation Tribunal.
- 4.10 As such the scheme comfortably sits alongside the Council's existing procedures for dealing with cases of this nature.

5.0 Community Implications

- 5.1 The very specific nature of the criteria for eligibility means that proposals will have a limited effect but will be available to support any residents who satisfy the criteria.

6.0 Financial Implications

- 6.1 The cost of current local discounts is less than £5,000 per year and is a charge to the Council's General Fund and not to the Collection Fund.
- 6.2 Any additional cases falling under the new arrangements will result in a cost to the Council, but the anticipated limited number of cases should mean that any impact will be absorbed within the normal budgetary provision.

7.0 Background Papers

- Local Government Act 2003
- Section 13A of the Local Government Finance Act 1992

- Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003
- Valuation Tribunal for England Appeal No 2001M113393 and 2001M117503
May 2014