

<h1>BRIEFING</h1>	TO:	Councillor Read (Leader)
	DATE:	26 th June 2023
	LEAD OFFICER:	Robert Cutts Service & Development Manager Finance & Customer Services 01709 823320
	TITLE:	Council Tax Empty Charges

1. Background to Council Tax empty charges

- 1.1** As a result of a change in Council Tax legislation the decision whether to allow a reduction on empty properties, and if so, what percentage to award, became a local decision from 1st April 2013.
- 1.2** The flexibilities around the changes in discounts and exemptions were introduced so that Local Government were able to mitigate some of the reductions in central government funding.
- 1.3** With effect from 1/4/2013, Rotherham revised the empty property discounts removing the 2nd home discount and reducing the discounts for vacant and unfurnished properties and homes undergoing major structural repairs.
- 1.4** Due to continued funding cuts all empty property discounts were removed with effect from 1/4/2016.
- 1.5** The changes to the discounts are detailed in the table below.

Relief	Discounts up to 31/3/13 (national with some local discretion)	Discounts from 1/4/13 (local)	Discounts from 1/4/2016 (local)
Vacant & Unfurnished	100% for 6 months 50% thereafter ¹	25% for 6 months	Nil
2 nd homes	50% ²	Nil	Nil
Homes undergoing major structural repair	100% for 12 months	25% for 12 months	Nil

- 1.6** Although there are still a large number of specific circumstances where national rules exempt properties from empty Council Tax charges, for the vast majority of empty properties in Rotherham full Council Tax is charged immediately the property becomes empty. These empty exemptions range from the more common such as properties where the owner is in permanent residential care or probate has not been granted to the more obscure such as a dwelling held empty for occupation by a minister.

¹ Councils could set the level of discount after six months between 0% and 50%

² While a 2nd home discount was mandatory up to 31/3/2013 councils could set the level between 10% and 50%

2. Background to Council Tax Premium Charges	
2.1	A further discretion introduced by the Government on 1 st April was for properties unoccupied and unfurnished for over two years to be charged an additional 50% premium on top of the Council Tax from April 2013 and this was increased to a 100% premium from April 2019.
2.2	In addition to the increase of the standard premium to 100% further discretions were allowed for properties empty for over 5 and 10 years. As part of this discretion a Council can choose whether to apply the premium and if it does whether it will exclude certain types of properties within its policy.
2.3	Rotherham chose to apply the maximum premiums allowed in each case and chose not to exclude any types of property, such as those undergoing renovation, from the premium.
2.4	A full list of the current premiums, which were approved by Cabinet in January 2018 and December 2018 is as below. <ul style="list-style-type: none"> • A 100% empty property premium for properties that have been unoccupied and unfurnished for over 2 years; • From 1 April 2020 a 200% empty property premium for properties that have been unoccupied and unfurnished for over 5 years; • From 1 April 2021 a 300% empty property premium for properties that have been unoccupied and unfurnished for over 10 years.
2.5	Legislation to allow Councils further discretion regarding the Premiums is contained within The Levelling up and Regeneration bill which is currently making its way through the Parliamentary process.
2.6	The proposed changes, although these are not final until legislation is passed, would mean that <ul style="list-style-type: none"> • The 100% premium could become effective for properties that have been unoccupied and unfurnished for over 1 year. • Second homes would become eligible for premiums. This does not include those second homes which currently receive a 50% job related discount.
2.7	As things stand at the moment with the progression of the legislation through Parliament, Cipfa have advised that they expect the proposed changes would come into effect from April 2024, although the second home discount would require a decision to be made by the Council at least 12 months before it comes into effect which would mean that unless a decision is made by March 2024 this discount could not come into effect until April 2025.
2.8	A recent benchmarking round robin was in unanimous agreement that they were not going to approve anything until the full legislation was known with no apparent commitment one way or another as to whether they would take up the new discretions. Leicester commented in their response that the IRRV technical panel had advised <i>“no resolution can be passed to implement what may be s.76 until it is an Act otherwise the local authority will be acting ultra vires so any plan to introduce the higher premiums will not be lawful.”</i>

3. Council Tax Discretionary Relief (Section 13a)	
3.1	Section 13A(1)(c) of the Local Government Finance Act 1992 provides that: "The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day... in any case, may be reduced to such extent (or,... such further extent) as the billing authority for the area in which the dwelling is situated thinks fit."
3.2	This gives the Council the power to offer discretionary assistance to help individuals or classes/groups of people pay Council Tax, regardless of whether they already receive help towards their Council Tax under the Council's Council Tax Support Scheme or any other discount that they may be entitled to under Council Tax legislation.
3.3	Rotherham's Council Tax Discretionary Relief Policy requires that there are exceptional circumstances to justify an award and has a number of criteria under which it considers including evidence of financial hardship, whether the applicant has access to other assets which could be accessed to help pay Council Tax and whether any award would be reasonable having regard to the interests of other Council Tax payers.
3.4	Section 13a is not routinely offered to customers who are having difficulty making payments as it has always been considered to be for examples of exceptional financial hardship. However, this does mean that in a small number of cases where the Council may wish to offer relief it is unable to do so as the customer is not suffering exceptional financial hardship.
4. Constituent example	
4.1	A review of the policy was undertaken following a particular constituents contact with a councillor.
4.2	The constituent's property suffered a house fire and they moved into a rented property, but as there are no discounts for empty properties in Rotherham, they were liable for 100% Council Tax charge on both properties. Although their insurance covered most costs incurred because of the fire it did not cover the additional Council Tax.
4.3	If damage to a property makes it uninhabitable, the Valuation Office Agency (VOA) can remove the Council Tax band, meaning there is no charge, however damage has to be extensive. In this case the VOA did not remove the band despite the constituents request to do so. The Council does not have any influence over the VOA and is bound by their decision.
4.4	Prior to the fire there had been no application for Council Tax Support and the constituent and partner were in employment so did not meet the exceptional financial hardship criteria, meaning they had two full Council Tax payments to make.
5. Options for changes to the Council Tax Discretionary Relief Policy	
5.1	Should the Council wish to allow relief from Council Tax empty charges for people in such circumstances as that experienced by the constituent, the options would be as follows. 1. To amend the current Council Tax Discretionary Relief Policy to enable a slightly more flexible approach to awarding relief for those in similar circumstances to the constituent <ul style="list-style-type: none"> ○ It would be difficult to estimate the actual cost of such an approach as currently most enquiries to the Council Tax team will be advised that no relief

	<p>is available. However, it is considered that the cost would not be substantial and would be less than the other two options.</p> <ul style="list-style-type: none"> ○ Benchmarking feedback indicates that there is a wide variety of approaches from other Councils with some having an annual budget for 13a (one up to £200k). One council offers 13a for those with arrears if the customer starts paying their current years Council Tax while others adopt a strict policy such as ourselves and rarely if ever award relief. <p>2. To reintroduce the “Homes undergoing major structural repair” discount for a period sufficient to allow customers in such circumstances as the constituent time to renovate a property to a habitable state</p> <ul style="list-style-type: none"> ○ This would also allow discounts to others such as property developers who took on properties which they knew required structural repair. ○ In 2011/2012 the Council awarded £302k in discounts for this category. As this discount is no longer available and we therefore no longer record this data we are unable to estimate the current cost however it is reasonable to assume that it would be significantly more than £302k. ○ This would require Cabinet approval. <p>3. To introduce a class of properties which would receive a local discount under Section 13a</p> <ul style="list-style-type: none"> ○ This would allow a more specific classification of properties although the difficulty is that the more specific such a classification is the more likely that a certain scenario where the Council may wish to award will fall outside the criteria. ○ It would be difficult to estimate the cost of such an approach. ○ In accordance with the current policy the introduction of a class of properties would require Cabinet approval.
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3. Key Actions and Timelines

<p>3.1</p>	<p>The relevant legislative provisions are contained in the Local Government Finance Act 1992 and there is no requirement to consult with residents.</p>
<p>3.2</p>	<p>The new policy can therefore be implemented immediately after changes are approved and does not need to wait for a new financial year for it to come into force.</p>

4. Recommendations

	<ul style="list-style-type: none"> ● That the situation regarding the progress of legislation around changes to Council Tax empty property premiums be monitored and recommendations be brought forward once detail of the final legislation and timescales are known. ● That for changes to the Council Tax Discretionary Relief policy option 1 be adopted as this would allow the Council to award relief in specific cases where financial hardship was not experienced without opening relief to a wide range of empty properties.
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