

South Derbyshire District Council

Council Tax S13A (1)(c) Local Government Finance Act 1992 Policy 2024/2025

1. Introduction
2. Legislation
3. Finance
4. The Flood Recovery Framework
5. Council Tax Reduction Discretionary Fund
6. Derbyshire County Council Care Leavers
7. Empty Properties difficult to rent
8. Applications for S13A (c)
9. Delegated Powers
10. Notification
11. Review of Decisions
12. Duration of Reduction
13. Changes in Circumstances and Misrepresentation

1 Introduction

The following policy outlines the Council's approach to granting discretionary reductions in liability for Council Tax under S13A (1) (c) of the Local Government Finance Act 1992 (as amended) . The Council has the ability to reduce the liability for Council Tax in relation to individual cases or classes that it may determine where national discounts and exemptions cannot be applied.

This policy is divided into two areas.

The Flood Recovery Framework this part covers situations outlined by the Government where any parts of the Councils area are designated as flood areas

Granting of reductions in Council Tax liability in all other circumstances where an application is made to the Council for a reduction in Council Tax liability under S13A (c) of the Local Government Finance Act 1992

2 Legislation

S13A (1) (c) of the Local Government Finance Act 1992 as amended states that

Reductions by billing authority

- (1) The amount of council tax which as person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to q13);
 - (a) In the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority's council tax reduction scheme;
 - (b) Not applicable
 - (c) In any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.
- (2) The provisions stated in (c) above, allows the Council to reduce the Council Tax liability for any taxpayer in addition to any application for Council Tax reduction under the Councils scheme. This is a general power that has always been available to the Council.

3 Finance

Any amounts granted under S13A (1) (c) are normally financed through the Council's general fund and do not form part of the collection fund. In certain circumstances Central Government provides funding directly to the Council to compensate for specific events and in the case of severe flooding. Where this is available, the Council will look to use all the funding available.

Any additional assistance, outside the funding, would fall to be paid by the Council itself.

4 The Flood Recovery Framework

In a severe weather event with significant wide area impacts, local authorities may need central support to help their communities and businesses return to normal. Building on these principals, a core package of business and community recovery support has been developed by Central Government to serve as a framework for flood recovery funding when needed.

It will be for Government Ministers to determine when this support will be made available. Weather incidents with localised impacts will not normally trigger a recovery support package.

Who is eligible for a discount?

Where the Council Tax Discount Scheme is activated following severe weather, MHCLG will refund eligible local authorities for granting discounts in the following circumstances:

- (a) 100% discount for a minimum of three months, or while anyone is unable to return home if longer, for primary residences whereas a result of relevant weather event:
 - Flood water entered into the habitable areas; or,
 - Flood water did not enter into the habitable areas, but the local authority regards that the residence was otherwise considered unliveable for any period of time

- (b) 100% discount on temporary accommodation for anyone unable to return to their home, in parallel with the discount on their primary residence where applicable.

Second homes and empty homes will not be eligible.

Instances where households might be considered unliveable could include

- Where access to the property is severely restricted, for example upper floor flats
- Key services such as sewerage, drainage and electricity are severely affected
- The adverse weather has resulted in other significant damage to the property that it would be, or would have been, advisable for the residents to vacate the premises for any period of time, regardless of whether they did vacate or not
- Flooded gardens or garages will not normally render a household eligible but there may be exceptions where it could be demonstrated that such instances mean effectively that the property is unliveable

It will be for the Council to determine eligibility under the scheme.

Properties affected by multiple instances of flooding

Residences impacted in multiple flood events will not be precluded from repeat support where this is made available by Government in respect of separate weather events.

Where the scheme is activated for two separate instances of flooding within three months of each other, the two discount periods will run concurrently.

Funding

In such cases, Central Government will make payment to the Council via a Section 31 grant

The Councils policy in respect of the Flood Recovery Framework

The Council shall operate the scheme strictly in accordance with Central Government guidelines

5 Council Tax Reduction Discretionary Fund

The Council has allocated £20,000 for the 2024/2025 year as a support fund for those suffering hardship as a result of changes made to the local Council Tax Reduction Scheme for working age council tax payers in 2024/2025.

Customers may experience a reduction to their Council Tax Reduction because of

- the introduction of the banded income scheme
- the change to the calculation of non-dependant deductions
- the removal of second adult rebate.

Only reductions identified as being specific to the revised scheme will be considered and not those that pertain to changes in incomes, household details or increased council tax costs that would have caused a variation to award regardless of the scheme changes.

Anyone who no longer receives Second Adult Rebate will need to apply and qualify for the main scheme Council Tax Support, which will verify they are on a low income. A grant will then be considered against any net reduction in support received.

The CTR Discretionary Fund is not open to those of Pension Age

Decisions will be made by, or on behalf of, the Benefits, Subsidy and Compliance Manager.

Applications for support from the CTS Discretionary Fund should be made by email to CTR-DiscretionaryFund@southderbyshire.gov.uk stating the claim reference as found on the benefit notification letters and the reason why you are suffering hardship following the change to the local CTR scheme.

6 Derbyshire County Council Care Leavers

The Council has approved a discount/exemption from Council Tax for Derbyshire County Council Care leavers to assist in their transition from care into adult life and mitigate their chances of falling into debt.

Eligibility criteria is as follows;

- A Care Leaver is defined as a young person aged 18 to 25 who was formerly a child in the care of Derbyshire County Council and who then became a 'care leaver' as defined by The Children (Leaving Care) Act 2000 and is liable for Council Tax on a dwelling within the South Derbyshire District Council area. No reduction will be made for care leavers of other authorities living within the area.
- Applications must be made by the Leaving Care Team, or equivalent, for and on behalf of the care leaver previously registered with Derbyshire County Council in the financial year immediately preceding their 18th birthday.
- Applications may be backdated to 1 April in the year of application if the 18th birthday fell in the previous year.
- Council Tax Discount will be awarded on a single property occupied as the sole or main residence in the District Council's area, from the date of the care leavers 18th birthday until the day immediately preceding their 25th birthday, as follows:
- Sole occupation by a care leaver of 100% of residual balance of Council Tax payable after the award of any other discount relief or exemption.
 - a. Where a care leaver is jointly liable a proportionate award will be made according to their individual circumstances, e.g. if there's one other occupier then a 50% discount will apply.
 - b. Where the care leaver is not liable for Council Tax no discount will apply.
- Discounts will be subject to annual review of eligibility which will include financial circumstances.

7 Empty Properties difficult to rent

Where an application for reduction in Council Tax under S13A LGFA 1992 is received in respect of the level of empty property charge including the Premium set against an individual property, it should be tested against the following:

- Local discount will be considered in those cases where either a charge is levied on long term empty properties, i.e. where the empty period is over 3 months or where 100% is charged on Second Homes

So far as cases that are subject to a Council Tax Premium are concerned an application will take into account these cases until such time as Government regulation specifies exemptions from this additional element, as initially proposed within the consultative documentation, but not subsequently enacted.

- The discount will be a maximum of 50% in the case of long-term empties over three months but fewer than two years, where a 100% charge applies, and 50% for second homes where a 10% charge applies and this will be the maximum that can be applied in each class of property.
- The discount will be a maximum of 100% in the case of long-term empties over two years where the Premium of 50% applies in addition to the 100% empty charge.
- The criteria for the award of the discount will centre on the reason(s) why the property remains empty or is treated as a second home, the degree of choice made by the individual concerned in arriving at that situation and the residual capital value of that property. With these criteria in mind, there will be a higher likelihood of granting a reduction under S13A LGFA 1992 where the reasons put forward by the applicant show evidence of:
 - A significant inability to enjoy, or otherwise benefit from, use of or access to the property, and/or related amenities, to which the Council Tax liability relates.
 - A significant restriction on the ability to sell the property on the open market to a potential purchaser.
 - A significant restriction on, or prohibition of, the ability to let the property on the open market to a potential tenant. APPENDIX A There will be a lower likelihood of granting a reduction where:
 - The Council Tax liability is already, or can be, significantly reduced by other more specific discount or relief schemes.
 - The claimant has already received, or is receiving some form of compensation (financial or otherwise) relevant to the reasons put forward where the level of compensation appears broadly commensurate with the hardship or detriment experienced.
 - There remains sufficient equity in the property or availability of capital to allow the payment of Council Tax within a period of five years. In determining an application evidence shall be required of
 - any financial detriment experienced;
 - the reduction in, or loss of use or access to property and/or related amenities;
 - the reduction in, or loss of enjoyment or benefit from the use of property and/or related amenities;
 - lease, security or other details that restrict enjoyment or benefit from the use of property:
 - lease, covenant or other details that restrict the sale or let of the property on the open market:
 - Period over which the financial detriment or reduction or loss of access, use or enjoyment or benefit from use of the property and/or related amenities is experienced:
 - Value of property, if appropriate, less any residual encumbrance such as mortgage, registered charges or loans and of any other capital assets.

Where the Council receives an application for a reduction in liability in any other all applications will be treated on their individual merits.

Any reduction awarded in liability should be seen as a short term emergency fund. It is not and should not be considered as a way around any current or future entitlement restrictions set out within the Council's Council Tax Reduction scheme.

In such cases the Council will require the applicant (where appropriate) to :

- Make a formal application for a Council Tax Reduction
- Consider potential changes to payment methods and payment arrangements
- Assist the Council to minimise liability by ensuring that all discounts, exemptions, and reductions are properly granted
- Maximise their income through application for welfare benefits
- Have taken all reasonable steps to resolve their situation prior to application
- Provide evidence of financial hardship or exceptional personal circumstance that would merit a reduction in Council Tax liability; and
- Not have any assets, capital or other financial remedy that could be used to meet the Council Tax liability

Non-essential outgoings such as cigarettes, alcohol, subscription Tv etc and non-priority payments for example payments to catalogues will not be taken into account when determining their application

The circumstances affecting the ability to meet the Council Tax liability must not be intentional by the applicant and must be deemed to be out of the applicants control.

Decisions will be made by, or on behalf of, the Collection and Enforcement Manager.

9 Delegated Powers

This S13A (1) (c) policy has been approved by the Council. However, the Strategic Director, Corporate Resources is authorised to make some technical scheme amendments to ensure it meets the criteria set out by the Council an, for certain defined schemes, Central Government guidance.

10 Notification

The Council will issue a written decision letter to the applicant within one month of the request or as soon as practical thereafter. This will include

- The level of the award, if relevant
- Full reasons for the decision
- How it will be paid, if relevant and
- Information about how to request a review of the decision

11 Review of Decisions

Notwithstanding any reductions applied automatically to the Council Tax account, where any application is refused, the applicant will be notified that they can ask for the decision to be reviewed. Any request for a review must be made in writing within one month of the decision letter.

The review will be undertaken by the Head of Customer Services and shall respond within two months, and will have regard to any additional evidence supplied.

If the applicant is dissatisfied with the outcome of the review, they can, within two months of the reply, appeal to the Valuation Tribunal Service to consider their case.

12 Duration of reduction

The duration of award will depend on the circumstances of the case. However, the following principles will apply:

- (a) Where the reduction is applied under a Central Government Scheme, the reduction shall be applied to the Council Tax account for the period specified in Government guidance
- (b) In all other cases the application for reduction can only relate to the current council tax financial year in which the application is made unless the delay was due to exceptional circumstance and if the application is successful, the award period will be specific to the applicants circumstances, but it cannot exceed a period greater than the financial year it has been awarded in or exceed the total Council Tax charge of that period.

13 Changes in circumstances and misrepresentation

A reduction in liability under S13A (1) (c) can be recovered if it has been made because of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise. It can also be recovered because of the subsequent application of a national discount or adjustment in the banding by the Valuation office Agency.

Changes in circumstances that subsequently negate the need for a reduction in liability under this policy will be recovered by the Council and the taxpayer will be notified accordingly.

Reductions in liability are not transferable following a change of address.

The council reserves the right to recover any reductions in liability as a result of a change in legislation or regulation.

The council is mindful that it is important to protect public funds and, as such, will take action to prosecute any case where the applicant acts fraudulently in applying for a reduction in Council Tax liability

