

CABINET

**Tuesday, 15th January, 2013
at 5.00 pm**

Committee Rooms 1 and 2 - Civic Centre

This meeting is open to the public

Members

Councillor Dr R Williams, Leader of the Council
Councillor Stevens, Cabinet Member for Adult Services
Councillor Bogle, Cabinet Member for Children's Services
Councillor Rayment, Cabinet Member for Communities
Councillor Noon, Cabinet Member for Efficiency and Improvement
Councillor Thorpe, Cabinet Member for Environment and Transport
Councillor Payne, Cabinet Member for Housing and Leisure Services
Councillor Letts, Cabinet Member for Resources

(QUORUM – 3)

Contacts

Cabinet Administrator
Judy Cordell
Tel: 023 8083 2766
Email: judy.cordell@southampton.gov.uk

Head of Legal, HR and Democratic Services
Richard Ivory
Tel: 023 8083 2794
Email: richard.ivory@southampton.gov.uk

BACKGROUND AND RELEVANT INFORMATION

The Role of the Executive

The Cabinet and individual Cabinet Members make executive decisions relating to services provided by the Council, except for those matters which are reserved for decision by the full Council and planning and licensing matters which are dealt with by specialist regulatory panels.

Executive Functions

The specific functions for which the Cabinet and individual Cabinet Members are responsible are contained in Part 3 of the Council's Constitution. Copies of the Constitution are available on request or from the City Council website, www.southampton.gov.uk

The Forward Plan

The Forward Plan is published on a monthly basis and provides details of all the key executive decisions to be made in the four month period following its publication. The Forward Plan is available on request or on the Southampton City Council website, www.southampton.gov.uk

Key Decisions

A Key Decision is an Executive Decision that is likely to have a significant

- financial impact (£500,000 or more)
- impact on two or more wards
- impact on an identifiable community

Decisions to be discussed or taken that are key

Implementation of Decisions

Any Executive Decision may be "called-in" as part of the Council's Overview and Scrutiny function for review and scrutiny. The relevant Overview and Scrutiny Panel may ask the Executive to reconsider a decision, but does not have the power to change the decision themselves.

Southampton City Council's Seven Priorities

- More jobs for local people
- More local people who are well educated and skilled
- A better and safer place in which to live and invest
- Better protection for children and young people
- Support for the most vulnerable people and families
- Reducing health inequalities
- Reshaping the Council for the future

Procedure / Public Representations

Reports for decision by the Cabinet (Part A of the agenda) or by individual Cabinet Members (Part B of the agenda). Interested members of the public may, with the consent of the Cabinet Chair or the individual Cabinet Member as appropriate, make representations thereon.

Smoking policy – The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones – Please turn off your mobile telephone whilst in the meeting.

Fire Procedure – In the event of a fire or other emergency, a continuous alarm will sound and you will be advised, by officers of the Council, of what action to take.

Access – Access is available for disabled people. Please contact the Cabinet Administrator who will help to make any necessary arrangements.

Municipal Year Dates (Tuesdays)

2012	2013
19 June	29 January
17 July	19 February
21 August	19 March
18 September	16 April
16 October	
13 November	
18 December	

CONDUCT OF MEETING

TERMS OF REFERENCE

The terms of reference of the Cabinet, and its Executive Members, are set out in Part 3 of the Council's Constitution.

RULES OF PROCEDURE

The meeting is governed by the Executive Procedure Rules as set out in Part 4 of the Council's Constitution.

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Personal Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PERSONAL INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

a) the total nominal value for the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or

b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having a, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are now available via the Council's Website

1 APOLOGIES

To receive any apologies.

2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

3 DISCOUNTS AND EXEMPTIONS FOR SECOND HOMES AND EMPTY PROPERTIES

Report of the Cabinet Member for Resources, seeking approval of the policy for discounts for empty homes (to replace the existing Class A and Class C exemptions), long term empty homes and second homes to be implemented from 1 April 2013, attached.

4 COUNCIL TAX DISCOUNTS FOR PERSONS OVER THE AGE OF 65 AND SPECIAL CONSTABLES

Report of the Cabinet Member for Resources, seeking approval to delegate authority to Senior Manager Property Procurement and Contract Management to approve the final detailed terms of purchase, attached.

Monday, 7 January 2013

Head of Legal, HR and Democratic Services

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Agenda Item 3

DECISION-MAKER:	CABINET COUNCIL		
SUBJECT:	DISCOUNTS AND EXEMPTIONS FOR SECOND HOMES AND EMPTY PROPERTIES		
DATE OF DECISION:	15 JANUARY 2013 16 JANUARY 2013		
REPORT OF:	CABINET MEMBER FOR RESOURCES		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Andrew Lowe	Tel: 023 8083 2049
	E-mail:	Andrew.Lowe@southampton.gov.uk	
Director	Name:	Mark Heath	Tel: 023 8083 2371
	E-mail:	Mark.Heath@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
N/A			

BRIEF SUMMARY

New regulations contained in the Local Government Finance Act 2012 allow the Council to make significant changes to the discounts and exemptions that are currently offered on Council Tax. These technical reforms are in line with the Government's stated policy aims to promote localism and address the housing shortage by encouraging owners of unoccupied properties to bring them back into use more quickly; either through sale or renting. This report sets out for approval the policy for discounts for empty homes (to replace the existing Class A and Class C exemptions), long term empty homes and second homes to be implemented from 1 April 2013, and also the introduction of a discretionary hardship relief scheme.

Due to technical changes resulting from the outcome of the local government funding review, which are also contained within the Local Government Finance Act 2012, the approval process for the National Non-Domestic Rates (NNDR) Return which sets out the estimated level of NNDR income the Council will collect in the coming year (the NNDR 1), needs to be formally delegated by Council.

RECOMMENDATIONS:

CABINET

It is recommended that Cabinet:

- (i) Recommends that Full Council
 - a) Approves the policy that the empty homes discount is left at 100% for Class C empty properties but that the discount is reduced from six months to one month from 1 April 2013.
 - b) Approves the policy that the empty homes discount is reduced from 100% to 50% for Class A empty properties from 1 April 2013.
 - c) Approves the introduction of a long term empty properties premium set at 50% from 1 April 2013.

- d) Approves the removal of the second home discount so that Council Tax will be payable in full on these properties from 1 April 2013.
- e) Approves the introduction of discretionary hardship support under section 13A of the Local Government Finance Act 1992 with effect from 1 April 2013 as set out in Appendix 1.
- f) Delegate authority to the Chief Financial Officer (CFO) following consultation with the Cabinet Member for Resources to approve the NNDR 1 return for the City Council from 2013/14 and for future years.

COUNCIL

It is recommended that Council:

- a) Approves the policy that the empty homes discount is left at 100% for Class C empty properties but that the discount is reduced from six months to one month from 1 April 2013.
- b) Approves the policy that the empty homes discount is reduced from 100% to 50% for Class A empty properties from 1 April 2013.
- c) Approves the introduction of a long term empty properties premium set at 50% from 1 April 2013.
- d) Approves the removal of the second home discount so that Council Tax will be payable in full on these properties from 1 April 2013.
- e) Approves the introduction of discretionary hardship support under section 13A of the Local Government Finance Act 1992 with effect from 1 April 2013 as set out in Appendix 1.
- f) Delegate authority to the Chief Financial Officer (CFO) following consultation with the Cabinet Member for Resources to approve the NNDR 1 return for the City Council from 2013/14 and for future years.

REASONS FOR REPORT RECOMMENDATIONS

1. The new regulations contained in the Local Government Finance Act 2012 allow the Council to make significant changes to the discounts and exemptions that are currently offered on Council Tax.
2. Having considered the options presented by these changes the proposed changes will raise additional revenue for the Council and preceptors to help protect local services at a time when national funding for local Councils is being withdrawn, and should encourage bringing empty homes back into use.
3. Due to technical changes resulting from the outcome of the local government funding review, which are contained within the Local Government Finance Act 2012, the approval process for the NNDR Return which has previously been a responsibility of the CFO now needs to be formally delegated by Council to the CFO.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. Clearly there are a huge number of variables and alternative options that could be implemented. Alternative packages have been considered and the key factors that have been taken into account in reaching this final set of proposals are set out in paragraph 14.

5. These proposals aim to balance increases in Council Tax income against the risk of non-collection and any possible loss of grant funding and also consider the housing needs of the City.
6. There are no alternative options to the delegation of the approval of the NNDR 1 return as the return must be completed in line with regulations. The ability of Members to directly influence the estimate of NNDR is very limited.

DETAIL (Including consultation carried out)

CONSULTATION

7. Whilst there is no requirement to consult on these changes to discounts and exemptions, which will be effective from 1 April 2013, the changes were set out in the General Fund Revenue Budget 2013/14 to 2015/16 report which was approved by Cabinet on 20 November 2012.
8. The publication of this report marked the start of an extensive consultation process on the initial draft budget and therefore included these proposals.

BACKGROUND

9. The new regulations contained in the Local Government Finance Act 2012 allow the Council to make significant changes to the discounts and exemptions that are currently offered on Council Tax. These technical reforms are in line with the Government's stated policy aims to promote localism and address the housing shortage by encouraging owners of unoccupied properties to bring them back into use more quickly; either through sale or renting.

Empty Dwellings

10. The regulations allow Councils to change discount awards relating to a number of classes of empty property, which were subject to statutory limitations. These discretions will be available from 1 April 2013 when the Council will be able to reduce the discount currently awarded to a property where it qualified for a discount under the legislative classifications of Class A and C:
 - Class A – A dwelling is exempt for a maximum of 12 months if it requires or is undergoing major structural repair or alterations. The property must be unoccupied and substantially unfurnished. Exemptions for this class have been replaced by a discount that local authorities will set. The discount can be between 0% and 100% based on local discretion.
 - Class C – A dwelling is exempt for a maximum period of six months from the date it is both unoccupied and unfurnished irrespective of any change of ownership. Exemptions for this class have been replaced by a discount that local authorities will set. The discount can be between 0% and 100% based on local discretion.

In 2011/12 approximately £0.7M was granted for these exemptions impacting on up to 1,680 properties on average.

Empty Homes Premium

11. Long-term empty homes are properties that have been empty longer than two years and the new regulations give Local Authorities the option to levy a premium of 50% on top of the full Council Tax charge on these properties. A snapshot at the end of May showed that 191 properties had been empty for more than two years which could theoretically generate approximately £112,000 of additional Council Tax income

Second Homes

12. Local Authorities were able to give a discount of between 10% and 50% on second homes which are not job related, and the new regulations now allow a discount of between 0% and 50% to be granted. Southampton currently allows a 10% discount and in 2011/12 approximately £93,000 was granted for 840 properties on average.
13. Removing in full the discount from Classes A and C, the remaining 10% discount on second homes and charging an empty property premium on properties that are long-term empty of up to 50% on top of the full Council Tax has the potential to generate an additional £0.9M in gross Council Tax income, impacting on approximately 2,700 properties.
14. However, these figures take no account of a number of other factors which need to be considered:
 - a) Currently the formula for calculating government grant assumes exemption on some classes of empty properties. If empty properties were not notified to us by residents, it would result in a loss of grant to the Council. Any proposal therefore needs to consider offering an incentive for notification.
 - b) If a person notified as a sole adult resident claiming 25% discount, it would result in a loss of grant and mean that a discount of at least 25% would be claimed. A differential between empty property and single person discount would help to avoid this issue.
 - c) Charging Class C properties for a short empty period would create additional costs (bills, disputes, postage, administration, bad debt etc), for small periods in between moving out and tenancy ending or sale of property.
 - d) The Council's own properties will be affected by any reduction in discounts.
 - e) The legislation does not allow for flexibility in the length of the exemption granted for Class A properties only in the percentage granted.
 - f) The Council needs to consider if it should provide a reasonable but not excessive discount in order to promote property development, particularly supporting major upgrading and improvements to poor quality housing stock.
 - g) These figures take no account of the additional challenge of collecting Council Tax on empty properties.

- h) The legislation includes a provision whereby a dwelling which is genuinely on the market for sale or letting should not be made liable to the empty homes premium. This effectively means that very few premiums would be charged and therefore limited if any additional income would be raised.

Proposals

15. Taking these factors into consideration, along with the need to get empty properties back into use quickly and the Council's financial position, the proposed changes are as follows:
- Empty homes discount left at 100% for Class C empty properties but the discount to be reduced from six months to one month.
 - Empty homes discount to be reduced from 100% to 50% for Class A empty properties.
 - Long term empty properties premium set at 50%.
 - Removal of the second home discount so that Council Tax will be payable in full.

These discounts will be allowed under section 11A of the Local Government Finance Act 1992 as amended by clause 9 of the Local Government Finance Act 2012.

Discretionary Hardship Support

16. In addition to these changes, the Executive recognises that there may on occasion be particular cases of hardship which are not adequately covered by the existing and proposed exemptions and discounts.
- The Executive are therefore also proposing to put in place discretionary hardship support under section 13A of the Local Government Finance Act 1992, although it is anticipated that this would only apply in limited exceptional circumstances.
17. The details of the discretionary hardship support which is to be approved are contained in Appendix 1.

Summary

18. These proposals aim to balance increases in Council Tax income against the risk of non-collection and any possible loss of grant funding and also consider the housing needs of the City. As a consequence the potential savings from the allowable changes would not reach the maximum possible figure of £0.9M and these recommendations were forecast to raise additional Council Tax income of £0.5M which was built into the forecast position as set out in paragraph 52 of the report approved by Cabinet on 20 November 2012 entitled General Fund Revenue Budget 2013/14 to 2015/16.
19. Approval is needed for the proposals in order that the impact can be factored into the Council Tax base calculations for 2013/14 which in turn will impact on the final general fund revenue budget proposals.

20. With the exception of the level of discounts the ability of Members to influence the estimate of the Council Tax Base is very limited and for that reason this was delegated to the CFO following consultation with the Cabinet Member for Resources by Council in January 2006.
21. Due to technical changes resulting from the outcome of the local government funding review, which are contained within the Local Government Finance Act 2012, the approval process for the NNDR Return which sets out the estimated level of NNDR income the Council will collect in the coming year (the NNDR 1), now needs to be formally delegated by Council to the CFO. This is because under the new funding arrangements the estimated level of NNDR income for the coming year has the potential to impact on the Council's budget position in a similar way to the Council Tax Base. Going forward Councils will be able to retain a proportion of their growth in business rates and will also be taking the risk for reductions in business rates, although there are 'safety net' arrangements in place to protect against large reductions.
22. This return has to date been approved by the CFO. Given that the return must be completed in line with regulations and that the ability of Members to directly influence the estimate of NNDR is very limited, it is proposed that this is treated in the same way as the approval of the Council Tax Base and that approval is delegated to the CFO following consultation with the Cabinet Member for Resources.

RESOURCE IMPLICATIONS

Capital

23. None

Revenue

24. The changes were forecast to generate additional Council Tax income of £0.5M and this was built into the forecast position as set out in paragraph 52 of the report approved by Cabinet on 20 November 2012 entitled General Fund Revenue Budget 2013/14 to 2015/16.

25. The final financial impact of these changes which will be assumed within the revenue budget for 2013/14 is set out below:

	Estimated Additional Income	
	£	£
Empty Dwellings Class A	43,100	
Empty Dwellings Class C	458,600	
Empty Homes Premium	0	
Second Homes	72,600	
Loss Due to Other Discounts	(66,200)	
Subtotal		508,100
Assuming 2% Council Tax Increase		518,300
Collection Rate @ 97.9%		(10,900)
Discretionary Hardship Support		(20,000)
Net Total		487,400

26. There are no additional financial implications from the delegation of the approval of the NNDR 1 to the CFO following consultation with the Cabinet Member for Resources.

Property/Other

27. None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

28. The Local Government Finance Act 2012 amends the Local Government Finance Act 1992 allowing local discretion over the implementation of certain discounts and charges applied within the Council Tax regime.

29. ***Second Homes and Discounts replacing the existing Class A and Class C Exemptions***

Amendments have been made to the legislation from 1 April 2013 in respect of second homes and the replacement of the existing Class A and Class C exemptions (granted under the Council Tax (Exempt Dwellings) Order 1992). The amendments have been made by the Local Government Finance Act 2012 which inserts new legislation within the existing Local Government Finance Act 1992 as follows;

(4A) For any financial year for which a class of dwellings is prescribed for the purposes of this subsection, a billing authority in England may by determination provide;

(a) in relation to all dwellings of that class in its area, or

(b) in relation to such description of dwellings of that class as it may specify in the determination, that the discount under section 11(2)(a) shall not apply or shall be such percentage (which may be 100) as it may so specify.

(4B) Where a class of dwellings is prescribed for the purposes of subsection (4A) by reference to the period of time for which a condition is met, a billing authority may not, under paragraph (b) of that subsection, specify a description of dwellings of that class by reference (wholly or partly) to a shorter such period.”

30. **Long term Empty Properties**

For long-term empty premises, the legislation (Local Government Finance Act 1992) has been amended to allow for a ‘premium’ to be added to any existing charge up to a maximum of 50% based on classes of premises defined by the local authority. Section 11b of the Local Government Finance Act 1992 has been inserted as follows;

11B Higher amount for long-term empty dwellings: England

(1) For any financial year, a billing authority in England may by determination provide in relation to its area, or such part of its area as it may specify in the determination, that if on any day a dwelling is a long-term empty dwelling —

(a) the discount under section 11(2)(a) shall not apply, and (b) the amount of council tax payable in respect of that dwelling and that day shall be increased by such percentage of not more than 50 as it may so specify.

(2) The Secretary of State may by regulations prescribe one or more classes of dwelling in relation to which a billing authority may not make a determination under this section.

(3) A class of dwellings may be prescribed under subsection (2) by reference to such factors as the Secretary of State thinks fit and may, in particular, be prescribed by reference to —

(a) the physical characteristics of, or other matters relating to, dwellings;
(b) the circumstances of, or other matters relating to, any person who is liable to the amount of council tax concerned.

(4) Where a determination under this section has effect in relation to a class of dwellings;

(a) the billing authority may not make a determination under section 11A(3), (4) or (4A) in relation to that class, and (b) any determination that has been made under section 11A(3), (4) or (4A) ceases to have effect in relation to that class.

(5) A billing authority may make a determination varying or revoking a determination under this section for a financial year, but only before the beginning of the year.

(6) A billing authority which makes a determination under this section must publish a notice of it in at least one newspaper circulating in its area and do so before the end of the period of 21 days beginning with the date of the determination.

(7) Failure to comply with subsection (6) does not affect the validity of a determination.

(8) For the purposes of this section, a dwelling is a “long-term empty dwelling” on any day if for a continuous period of at least 2 years ending with that day —

(a) it has been unoccupied, and (b) it has been substantially unfurnished.

(9) In determining for the purposes of this section whether a dwelling has been unoccupied for any period, no account is to be taken of any one or more periods of not more than 6 weeks, or such longer period as the Secretary of State may by regulations specify, during which it was occupied.”

31. Discretionary Hardship Support

Section 13A of the Local Government Finance Act 1992 as amended by section 76 of the Local Government Act 2003 provides the Billing Authority (Southampton City Council) with the power to reduce or remit council tax where it is considered that “hardship” would otherwise be caused.

Other Legal Implications:

32. The City Council, in accordance with the legislation, will publish the changes to the Council Tax regime within 21 days of making such a resolution.

POLICY FRAMEWORK IMPLICATIONS

33. This report sets out the Executive’s proposed changes to Council Tax discounts and exemptions which is forms part of budget and policy framework.

KEY DECISION? Yes/No

WARDS/COMMUNITIES AFFECTED:	ALL
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SUPPORTING DOCUMENTATION

Appendices

1.	DISCRETIONARY COUNCIL TAX SUPPORT POLICY
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Documents In Members’ Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes/No
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1. General Fund Revenue Budget 2013/14 to 2015/16 – Approved by Cabinet on 20 November 2012	

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DISCRETIONARY COUNCIL TAX SUPPORT POLICY

Introduction and Policy Requirements

The Council is aware of its duties and powers in accordance with section 13A of the Local Government Finance Act 1992 as amended by section 76 of the Local Government Act 2003 in respect of Council Tax. This Policy sets out how the Council will use its powers and the criteria that must be satisfied. Section 13A of the Local Government Finance Act 1992 as amended by section 76 of the Local Government Act 2003 provides the Billing Authority (Southampton City Council) with the power to reduce or remit council tax where it is considered that “hardship” would otherwise be caused. In order to be considered for the relief the Council must be satisfied that there is evidence of financial hardship and personal circumstances that justifies a reduction in Council Tax Liability.

Criteria

The Council recognises that there may on occasion be particular cases of hardship which are not adequately covered by the existing and proposed exemptions and discounts, although it is anticipated that this would only apply in limited exceptional circumstances

Each case will be considered on ‘its merits’ however all of the following criteria should be met:

- All applications for reductions in Council Tax Liability will be required in writing from the customer, their advocate/appointee or a recognised third party acting on their behalf.
- All applications are only intended as short term assistance and will not extend beyond the current financial year, and should not be considered as a way of reducing Council Tax Liability indefinitely.
- There must be evidence of hardship or personal circumstance that justifies a reduction in Council Tax Liability.
- The Council must be satisfied that the customer has taken reasonable steps to resolve their situation prior to application.
- The Council’s finances allow for a reduction to be made and it is reasonable to do so in light of the impact on other council tax payers.
- In the case of an unoccupied property it must **not** be the sole or main residence of a customer.
- The customer does not have access to other assets that could be realised and used to pay Council Tax.
- The customer is not entitled to Council Tax Benefit.
- All other eligible discounts/reliefs have been awarded to the customer.

Responsible Officer

The responsibility for making discretionary decisions will rest with the Section 151 Officer (the Chief Financial Officer). In exercising this discretion the Chief Financial Officer (CFO) may decide to refer individual applications to the Council's Governance Committee.

The Revenues and Benefits Manager will liaise with the applicant in each case to obtain sufficient detail (in line with the criteria as laid out in this policy) in order that a decision can be made.

Decision Making Process

The decision making process will involve:

Stage 1 - The Revenues and Benefits Manager making a recommendation to the CFO after considering the application against the criteria set out in this policy, based upon the information provided by the applicant.

Stage 2 - The CFO will consider the application and the recommendation of the Revenues and Benefits Manager and determine whether to award a discretionary discount.

Notification of Decision

The Council will notify the applicant of its decision within 21 days of receiving sufficient information to make a decision.

Review of Decision / Re-determination Requests

Under the Local Government Finance Act 1992, there is no right of appeal against the Council's use of discretionary powers. However, the Council will accept an applicant's request for a redetermination of its decision.

Notification of Review / Re-determination Decision

The Council will notify an applicant of its decision within 21 days of receiving a request for a review / re-determination.

Agenda Item 4

DECISION-MAKER:	CABINET COUNCIL			
SUBJECT:	COUNCIL TAX DISCOUNTS FOR PERSONS OVER THE AGE OF 65 AND SPECIAL CONSTABLES			
DATE OF DECISION:	15 JANUARY 2013 16 JANUARY 2013			
REPORT OF:	CABINET MEMBER FOR RESOURCES			
<u>CONTACT DETAILS</u>				
AUTHOR:	Name:	Andrew Lowe	Tel:	023 8083 2049
	E-mail:	Andrew.Lowe@southampton.gov.uk		
Director	Name:	Mark Heath	Tel:	023 8083 2371
	E-mail:	Mark.Heath@southampton.gov.uk		

STATEMENT OF CONFIDENTIALITY

N/A

BRIEF SUMMARY

In 2009 Council approved the introduction of a discretionary Council Tax reduction scheme under S13A of the Local Government Finance Act 1992 which was updated and extended in 2010. The purpose of this report is to update Council policy in regard to the Older Persons council tax discount of 10% for households where all occupants are over 65 and the 100% discount for Special Constables where a special constable resides and serves in the city of Southampton, from 1 April 2013.

RECOMMENDATIONS:

CABINET

It is recommended that Cabinet:

- i) Considers the issues set out in this report and determines whether or not they wish to update the current discretionary Council Tax reduction scheme which is in place under S13A of the Local Government Finance Act 1992.
- ii) Recommends that Full Council
 - a) Notes and considers the responses from the consultation process and the Equalities Impact Assessment as set out in paragraphs 7 to 13 and Appendix 1.
 - b) Applies any changes resulting from an update of the Council Tax reduction scheme in respect of the “pensioners” element of the Scheme, to all persons who meet the current qualifying criteria which is that it is available to persons who are:-

- (a) liable to pay Council Tax either jointly or in their own right, by being an owner occupier or a tenant of a dwelling within Southampton, which is their sole or main residence;
 - (b) aged 65 or over and all other residents of the household are 65 or over; and
 - (c) not in receipt of Council Tax Benefit.
- c) Applies any changes resulting from an update of the Council Tax reduction scheme in respect of the “Special Constable” element of the Scheme, to all persons who meet the current qualifying criteria which is that it is available to persons who are:-
 - (a) Special Constables: and
 - (b) reside in a property within Southampton where there is a liability for Council Tax and serve as a Special Constable within Southampton.
- d) Updates the current discretionary Council Tax reduction scheme and reduces the level of reduction in respect of the “pensioners” element to zero
- e) Updates the current discretionary Council Tax reduction scheme and reduces the level of reduction in respect of the “Special Constable” element to zero
- f) Authorises the Chief Financial Officer (CFO) to take any further action necessary to give effect to the recommendations in this report

COUNCIL

It is recommended that Council:

- a) Notes and considers the responses from the consultation process and the Equalities Impact Assessment as set out in paragraphs 7 to 13 and Appendix 1.
- b) Applies any changes resulting from an update of the Council Tax reduction scheme in respect of the “pensioners” element of the Scheme, to all persons who meet the current qualifying criteria which is that it is available to persons who are:-
 - (a) liable to pay Council Tax either jointly or in their own right, by being an owner occupier or a tenant of a dwelling within Southampton, which is their sole or main residence;
 - (b) aged 65 or over and all other residents of the household are 65 or over; and
 - (c) not in receipt of Council Tax Benefit.
- c) Applies any changes resulting from an update of the Council Tax reduction scheme in respect of the “Special Constable” element of the Scheme, to all persons who meet the current qualifying criteria which is that it is available to persons who are:-
 - (a) Special Constables; and

- (b) reside in a property within Southampton where there is a liability for Council Tax and serve as a Special Constable within Southampton.
- d) Updates the current discretionary Council Tax reduction scheme and reduces the level of reduction in respect of the “pensioners” element to zero
- e) Updates the current discretionary Council Tax reduction scheme and reduces the level of reduction in respect of the “Special Constable” element to zero
- f) Authorises the Chief Financial Officer (CFO) to take any further action necessary to give effect to the recommendations in this report

REASONS FOR REPORT RECOMMENDATIONS

1. The current discretionary Council Tax reduction scheme which is in place under S13A of the Local Government Finance Act 1992 was implemented for pensioners in 2009 in response to specific circumstances, as set out in paragraph 14, with the objective of mitigating the impact of Council Tax increases on those whose annual income levels were limited to inflation factors. It is appropriate to review this given that Council Tax increases have been low with several years of no increases whilst inflation has been rising more quickly and wages have been increasing more slowly and in some cases falling.
2. The scheme was extended in 2010 to offer a discount to Special Constables to address specific objectives, which had been identified originally in 2009, through the achievement of increased recruitment. When approved it was also acknowledged that the success of the discount in meeting this aim should be reviewed periodically.
3. The proposed changes will raise additional revenue for the Council and therefore help protect local services and so better meet current objectives at a time when national funding for local Councils is being withdrawn.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. Members need to consider whether the objectives and aims which were identified in 2009 in response to specific circumstances have changed.
5. Having considered this then the discounts could be retained or amended with changes made to the individuals to which the discounts apply, the level of the discounts or both.
6. These options have been rejected for reasons which are set out in the main body of the report.

DETAIL (Including consultation carried out)

CONSULTATION

7. These proposed changes, which will be effective from 1 April 2013, were set out in the General Fund Revenue Budget 2013/14 to 2015/16 report which was approved by Cabinet on 20 November 2012.
8. The publication of this report marked the start of an extensive consultation process on the initial draft budget and therefore included these proposals.
9. Feedback from consultation has been limited and as of the 4 January 2013 the only feedback that had been received through the consultation process, relating to these proposals, was in support of the proposal to remove the Council Tax discount for Special Constables.

EQUALITY IMPACT ASSESSMENT

10. The Equality Duty is a duty on public bodies which came into force on 5 April 2011 and requires the Council to show that it has 'had regard' to the impact of its decisions on its equality duties and the need to advance equality of opportunity between people who have protected characteristics and those who do not.
11. While the Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment (EIA), it does require public bodies to show how they considered the Equality Duty and that they have been consciously thinking about the aims of the Equality Duty as part of the process of decision-making. To comply with these requirements as well as the Community Safety legislation, the Council has used its existing Impact Assessment framework so that it can ensure the use of a consistent, council wide mechanism to evidence how decision making took into account equality and safety considerations.
12. The Equality Impact Assessments are set out in Appendix 1 and the key issues to be mitigated relate to the financial impact on the two groups affected by the increases in Council Tax to be paid.
13. To mitigate the potential negative impacts of the proposals the EIA's identify the need to encourage eligible residents to claim benefits that they are entitled to.

BACKGROUND

14. In 2009 there was some concern on a National basis about the impact annual increases in Council Tax levels were having on pensioners, increases in whose annual income levels were limited to inflation factors. Officers were requested by the Executive to look in to how this impact could be mitigated and the outcome was the introduction of a 10% discount for households where all occupants are over 65.
15. Officers were also requested by the Executive to look in to how a 100% Council Tax discount could be offered to Special Constables in order to increase recruitment within Southampton. The outcome was the introduction of such a 100% discount where a special constable resides and serves in the city of Southampton.

16. Since that time the circumstances that prompted the introduction of the local “pensioner” discount have changed and there has been time to consider the effectiveness of the policy in achieving the desired objective with regard to the recruitment of Special Constables.
17. In addition, the financial landscape for the economy as a whole and the public sector has changed markedly since 2009. This is especially true for Local Government which is managing funding reductions of on average 28% over the current four year Comprehensive Spending Review (CSR) period as announced in October 2010, with further reductions in the next CSR already trailed.
18. The City Council is required by law to ensure that residents benefit from a wide range of local services and to set a balanced budget each year against a backdrop of limited resources, greater demand for services and higher expectations from stakeholders on the range and quality of services provided within the City. The cost of the current discretionary Council Tax reduction scheme which is in place under S13A of the Local Government Finance Act 1992 falls on the General Fund and is therefore met by all Council Tax payers whose needs must be considered.
19. The General Fund revenue budget position presented to Cabinet in November 2012 after taking into account base changes, inflation, changes in the Risk Fund, revenue pressures and assumptions for Government Grant was that the Council faced roll forward budget gap of approaching £20.2M in 2013/14 at an assumed increase in Council Tax of 2.0%. In arriving at this ‘base’ position a number of one off funding sources had been utilised which totalled almost £7.8M meaning that the underlying gap to be addressed was approaching £28.0M.
20. Given the scale of the financial challenge it is necessary to review and update Council policy in regard to the Older Persons council tax discount of 10% for households where all occupants are over 65 and the 100% discount for Special Constables where a special constable resides and serves in the city of Southampton, from 1 April 2013

“PENSIONERS ELEMENT” OF THE DISCOUNT

21. On the 18 February 2009, the Executive approved the introduction of a 10% council tax discount for persons over the age of 65 introduced in 2009/10 to limit the effect of future Council Tax increases on identifiable households whose incomes were fixed or only inflation linked.
22. The issues raised and considered by the Executive when they made their decision can be viewed in the 2009 report at:
[http://www.southampton.gov.uk/modernGov/Data/Council/20090218/Agenda/S howDocumentaspPKID9730.pdf](http://www.southampton.gov.uk/modernGov/Data/Council/20090218/Agenda/S%20howDocumentaspPKID9730.pdf)

In reaching their decision, the Executive considered five key questions in order to ensure that the decision was not only lawful, but that it was also taken for lawful reason and these questions are set out in the above report and summarised in Appendix 2.

23. In summary, the introduction of the discount for persons over the age of 65 was made with reference both to persons being in need of such a discount, and to households whose incomes are fixed or linked only to inflation. The thinking which prompted it was, in broad terms, that Council Tax rises over several years had been substantially above inflation and that because pensioners were more likely than others to be on fixed or inflation-linked incomes, they had suffered more than others from those rises.
24. It was considered impractical and/or disproportionately expensive to engage in means testing which might serve either to exclude better off pensioners from the reduction, or to extend the benefit of the reduction to less well off persons more generally. Thus pensioners are the only group on fixed or inflation-linked incomes which "could be satisfactorily identified."
25. However, it is also true that the system of national Council Tax Benefit (CTB) which is currently in place already provides financial assistance towards Council Tax for those pensioner households whose personal financial circumstances are assessed as being in a 'low income household'. Depending on personal circumstances, low income pensioner households can receive CTB between 10% and 100%.
26. The Welfare Reform Act 2012 abolishes both Housing Benefit (which will gradually be replaced by Universal Credit) and CTB. The Local Government Finance Act 2012 provides for the introduction of local Council Tax Reduction (CTR) schemes as a replacement for CTB to be administered by Local Authorities from 1 April 2013. The Council must adopt a CTR scheme by the end of January 2013 and the proposed scheme for Southampton is to be approved by Council on 16 January 2013.
27. CTB has previously been fully funded by the Department for Work and Pensions. However, under the new arrangements, that funding will be reduced by 10% based on anticipated expenditure in 2013/14. In Southampton this reduction is around £1.87M.
28. In designing the scheme the Council is not permitted to reduce council tax support for people of pensionable age. The Government is retaining default national rules for pensioners with eligibility and rates defined in broadly similar regulations as those for CTB. This means that any reductions in support to enable a scheme to be self-funding have to fall disproportionately on people of working age.
29. This also means that under the new system for Council Tax Reduction, that were the discretionary 10% pensioner discount not in place, pensioners deemed to be in a 'low income household' would still receive a reduction in their Council Tax liability in the range 10% - 100% depending on their personal circumstances.
30. One of the arguments put forward in favour of introducing the 10% discount back in 2009 was that annual Council Tax increases had been averaging around 5%, whereas incomes in households on fixed income (such as pensions) had only been rising in line with inflation which was at a much lower rate than 5%.

31. Since 2009 the level of Council Tax increases has been consistently low and the figures for Southampton are shown below with prior years information for reference:

Year	Council Tax Increase		
	%	£ Per Annum (Band D)	£ Per Week (Band D)
2006/07	3.96	48.38	0.93
2007/08	3.51	44.66	0.86
2008/09	3.95	51.99	1.00
2009/10	3.15	43.14	0.83
2010/11	2.51	35.46	0.68
2011/12	0.00	0.00	0.00
2012/13	0.00	0.00	0.00

32. Since 2009/10, the average increase in Council Tax has been 1.44% and for 2013/14 the increase in Council Tax is limited to a maximum of 2%.

33. The report setting out the rationale for a 10% pensioner discount in 2009/10 highlighted that an issue facing pensioners was that the link between increases in state pension and average earnings index had been severed. In June 2010, the Government announced it's 'Triple Lock Guarantee', which ensures that the basic state pension will now rise by the greater of:

- The rise in average UK earnings.
- The rise in inflation (as measured by the Consumer Price Index).
- A standard rise of 2.5 per cent.

Therefore, not only has the link to average UK earnings been restored, but the state pension can now actually rise by more than average earnings under the Triple Lock guarantee.

34. During the period since 2009 increases in incomes for those on pensions (and other incomes which are fixed or linked to inflation) have compared more favourably with those of the overall population than in the prior period. Since 2009, the basic state pension has increased as set out as follows, and is compared with the increase in the Average Weekly Earnings as shown below:

Year	Basic State Pension Increase %	Average Weekly Earnings Increase % *
2009/10	5.00	1.8
2010/11	2.50	0.0
2011/12	4.60	1.3
2012/13	5.20	N/A
2013/14	2.50	N/A

(* Median Gross weekly Earnings all jobs – ONS Annual Survey of Hours and Earnings))

35. 2 The latest national statistics on The Pensioners' Incomes (PI) Series produced by the Department for Work and Pensions were released on 12 July 2012 according to the arrangements approved by the UK Statistics Authority. The Pensioners' Incomes Series 2010-11 is the latest edition of the annual Pensioners' Incomes (PI) Series. It contains estimates and interpretation of trends in the levels and sources of pensioners' incomes in the UK, based on two household surveys. The key points from the latest release are:
- In 2010/11 the *average net income for all pensioner units* (pensioner couples and single pensioners together) was £340 after housing costs (£369 per week before housing costs).
 - Between 1998/99 and 2010/11, average net income after housing costs increased by 40%. Before housing costs the rise was 33%.
 - Average pensioners' income has grown faster between 1998/99 and 2010/11 than average earnings, which increased by 11% during the same period.
36. In 2010/11, income from private pensions accounted for a similar proportion of the average gross income of retired households as the state pension, 41% and 38% respectively. In his Autumn Statement the Chancellor announced that he would be seeking to limit the increase in most working age benefits and tax credits to 1% for three years from April 2013 - excluding disability and carer's benefits. However, this was not to apply to the State Pension which was to increase by 2.5%, thereby offering a degree of protection to incomes not afforded to all.
37. It is also true that the ability of Council's to increase Council Tax is now significantly constrained. In the past two financial years the increase in Council Tax has been zero percent, and for 2013/14 an increase above 2% can only be set following a local referendum. Whilst this does not provide an absolute cap on Council Tax increases, it is felt that the requirement to hold a referendum will limit the overall level of increase.
38. This is certainly likely to be the case in Southampton, and the Executives draft budget published in November 2012 proposes limiting the Council Tax increase for 2013/14 to 2%.
39. As set out in paragraph 33 above, a Council Tax increase at 2% would be below the rate at which the state pension will rise.

40. In summary, the current evidence shows that in the period 1998/99 to 2010/11 average pensioner income has grown faster than average earnings. One of the main reasons for the introduction of the 10% discount was due to a concern that pensioner income was fixed and not rising as quickly as incomes for those in work. The current evidence shows that this is no longer the case. In addition, at the time of the original decision in February 2009 Council Tax increases had on average been 5% and at a level above the increase in pensioner incomes. The evidence since that time is that the increase in pensions (the basic state pension) has exceeded the level of Council Tax increases and so this is no longer the case.

"SPECIAL CONSTABLE ELEMENT OF THE DISCOUNT

41. On the 17 February 2010, the Executive approved the introduction of a 100% council tax discount for Special Constables introduced in 2010/11 to assist in meeting the Council's objective of improving community safety and reducing crime and disorder through encouraging recruitment of Special Constables.
42. The issues raised and considered by the Executive when they made their decision can be viewed in the 2010 report at:
<http://www.southampton.gov.uk/modernGov/documents/s1422/Report.pdf>
- In reaching their decision, the Executive considered five key questions in order to ensure that the decision was not only lawful, but that it was also taken for lawful reason and these questions are set out in the above report and summarised in Appendix 2.
43. In summary, the scheme aimed to increase the recruitment of Special Constables within the City of Southampton. At the time there were 60 and the aim was to increase this to more than 85. This was planned to amongst other aims, assist with reducing crime and disorder by making more uniformed officers available and visible and assist with enhancing public re-assurance and act as a visual deterrent for anti social.
44. The current number of households in receipt of this discount was 41 as at the end of September 2012/13 and this number is broadly consistent with that achieved on average during 2011/12 and 2010/11.
45. When the discount was introduced it was believed that a Council Tax reduction was the best means of addressing the objective identified but the evidence does not support this with there being no material change in the numbers receiving the local discount.

FINANCIAL POSITION

46. When the discretionary Council Tax reduction scheme was introduced Members took into account the impact of granting the discount and clearly the financial position the Council is now in is a key consideration.

47. The General Fund revenue budget position presented to Cabinet in November 2012 after taking into account base changes, inflation, changes in the Risk Fund, revenue pressures and assumptions for Government Grant was that the Council faced roll forward budget gap of approaching £20.2M in 2013/14 at an assumed increase in Council Tax of 2.0%. In arriving at this 'base' position a number of one off funding sources had been utilised which totalled almost £7.8M meaning that the underlying gap to be addressed was approaching £28.0M.
48. The Executive's initial detailed proposals for efficiencies, income and service reductions that were put forward for consultation with stakeholders total almost £18.1M and will impact on the residents of the City. Changes to Council Tax discounts were also proposed and these include changes to the discretionary scheme.
49. It should be noted that even after allowing for the draft budget proposals there remain significant budget shortfalls in the medium term, with a forecast gap currently of £19.5M in 2014/15 rising to a cumulative gap of £32.7M in 2015/16. Significant further work is required to ensure that savings can be delivered to balance the budget for these future years. The budget for future years does not need to represent a balanced position by the time that Full Council set the 2013/14 budget on 13 February 2013, but Members should not lose sight of the need to ensure that work is ongoing to develop savings proposals for future years.
50. If the proposed changes are not made then the Council will need to find a further £1M of savings in order to balance it's budget in addition to the amounts set out above.

PROPOSALS

51. Taking these factors into consideration, along with the need to address the financial challenges facing the Council it is proposed that the current discretionary Council Tax reduction scheme which is in place under S13A of the Local Government Finance Act 1992 be amended such that with effect from 1 April 2013:
 - The level of reduction in respect of the "pensioners" element reduces to zero.
 - The current level of reduction in respect of the "Special Constable" element reduces to zero.
 - The proposed changes apply to all individuals currently in receipt of the local discounts.
52. The scheme was reviewed in February 2010 and whilst it was proposed that the scheme continued for 2010/2011, and onwards, it was recognised at that point that, the Executive may choose to vary or withdraw the scheme in future years.

SUMMARY

53. These proposals aim to balance increases in Council Tax income against the impact on individuals both in receipt of the discounts currently and more widely as recipients of services provided by the Council at a time when national funding for local Councils is being withdrawn. They also take into account the feedback received during the consultation process and the EIA.
54. Approval is needed for the proposals in order that the impact can be factored into the final General Fund Revenue budget proposals which will be presented to Cabinet and then to Council for approval in February 2013.

RESOURCE IMPLICATIONS

Capital

55. None

Revenue

56. The budget provision to meet the cost of the current discretionary Council Tax reduction scheme which is in place under S13A of the Local Government Finance Act 1992 in 2013/14 and future years is £1.0M.
57. The cost of the discounts in 2011/12 and the estimated cost in 2012/13 is shown below:

	2011/12 Actual		2012/13 Estimate
	£000's		£000's
Pensioners Element	924.4		940.6
Special Constable Element	51.7		52.2
Total	976.1		992.8

58. Removing these local discretionary discounts will result in a saving of £1.0M per annum and this saving has been built into the forecast position which was presented to Cabinet in November 2012. Even allowing for this saving at that point in time the Executive's proposed draft budget position did not yet represent a balanced budget.

Property/Other

59. None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

60. The powers to introduce the local discounts and thereby reduce the Council Tax liability of two classes of person are contained in Section 13A of the Local Government Finance Act 1992. This section, inserted by s 76 of the Local Government Act 2003, provides that where a person is liable to pay Council Tax in respect of any chargeable dwelling and any day, the billing authority:
- “...may reduce the amount which he is liable to pay...to such extent as it thinks fit.”*
- By s 13A(3) it is provided that the power:
- “... may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.”*
61. What the Council is now contemplating is that the policy introduced under s 13A power in 2009 should be reviewed and updated so as remove the reduction in the Council Tax liability of two classes of person. The first class may be loosely referred to as “pensioners”, but more precisely the reduction under Section 13A (referred to hereafter as a “discount”) was aimed at those aged 65 or over. The second class consists of those working as special constables within the city,.

Other Legal Implications:

62. As with any discretionary power, the power to make reductions and then review and update them is one which must be exercised consistently with *Wednesbury* principles. That is to say, it must be exercised in a manner which is rational, for a proper purpose, and having regard to all legally relevant and no legally irrelevant considerations. Were the decision to grant a reduction and then review and update it ever to be challenged by way of judicial review, it is likely that a considerable amount of judicial restraint would be exercised when considering that challenge, for two reasons. One is that s 13A itself is so very open-textured – it is a discretion expressed in the broadest possible terms, with nothing in either the language or the surrounding statutory context to suggest any particular limits upon the way in which the power is to be exercised. The other is that this is very much the field of policy decisions not apt for close judicial scrutiny, involving choices about how to allocate Tax burdens and how to strike the balance between Tax and services. Therefore, in principle the right way to challenge such a decision will normally be through the ballot box rather than the courts.

63. If a decision to review and amend any reduction under s 13A were rational in a *Wednesbury* sense, it is unlikely that it could be successfully challenged on any other basis. There are cases which indicate that a failure to treat like cases alike may be a ground of challenge. However, when regard is had to other cases, it is clear that in deciding whether cases are indeed alike, the decision-maker enjoys a margin of judgment which amounts to something not very (if at all) different from a conventional *Wednesbury* test. The cases cannot be taken as outlawing any policy which operates by way of broad classes for genuine reasons of practicality, even though that means that some cases will be treated alike, or differently, when that would not be justified if the decision had been based upon an examination of their individual facts.
64. There is also the question of the Human Rights Act 1998. It probably is the case that Article 1 of the 1st Protocol is engaged here, so that the article 14 anti-discrimination provision is in principle in play. However, it is undoubtedly also the case, on the authorities, that when it comes to the question of justification, a wide margin of discretion will be allowed to the Council in a matter such as this – essentially for the same reasons set out above. In practice, the application of the Human Rights Act in this will not mean anything more than that the decision may be scrutinised with slightly greater intensity than traditional *Wednesbury* reasonableness, but still falling a very long way short of the court substituting its own view of the matter.
65. Having said all that, there must of course be some proper justification for amending any policy with a resulting financial impact on a substantial class of local Taxpayers, but not on others, and for doing so in circumstances where the ultimate consequence must necessarily be either that others pay less, or that services are reduced by less than they might otherwise be, or both. That is bound to be so. Even if the saving is initially added to reserves, the fact is that those reserves could be used to fund better services or a reduced Council Tax for all in future years. These considerations apply with particular force in the case of the removal of the pensioners' discount, since the number of special constables is too small for the removal of their discount to have a significant impact on others. But even in relation to them a rational and proper justification is required.
66. The introduction of the discount for persons over the age of 65 was made with reference both to persons being in need of such a discount, and to households whose incomes were fixed or linked only to inflation. The thinking which prompted it was, in broad terms, that Council Tax rises over several years had been substantially above inflation and that because pensioners were more likely than others to be on fixed or inflation-linked incomes, they had suffered more than others from those rises.
67. It was considered impractical and/or disproportionately expensive to engage in means testing which might have served either to exclude better off pensioners from the reduction, or to extend the benefit of the reduction to less well off persons more generally. Thus pensioners were the only group on fixed or inflation-linked incomes which "could be satisfactorily identified."

68. It is a key principle of the law that any decision maker must have before them adequate information before making a decision. Such information must include comparisons of percentage increases in Council Tax and income, by household type and income, and information about qualifying households, as well as any additional relevant statistical or other information.
69. The decision whether or not to grant a reduction under s 13A is a Council function following the enactment of the Local Government Finance Act 2012 which amended the previous regulations under which this was an Executive function.

POLICY FRAMEWORK IMPLICATIONS

70. This report sets out the Executive’s proposed changes to Council Tax discounts for persons over the age of 65 and Special Constables which will impact directly on the Executive’s proposed budget to Council which is being developed in line with the constitution and forms an integral part of budget and policy framework

KEY DECISION? Yes/No

WARDS/COMMUNITIES AFFECTED:	ALL
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SUPPORTING DOCUMENTATION

Appendices

1.	EQUALITY IMPACT ASSESSMENT
2.	ISSUES FOR CONSIDERATION

Documents In Members’ Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes/No
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1. NONE	



Equality Impact Assessment

Name or Brief Description of Proposal	Removal of the 10% Council Tax Discount for Persons Over the Age of 65																																				
Volumes (numbers of customers) and Profile	<p>The 10% Council Tax Discount for Persons Over the Age of 65 was introduced on 1st April 2009. The discount is currently awarded to 8,256 households in Southampton. The current total value of the discount is £940,592.00.</p> <p>The table below provides a breakdown of the discount for 2012/13.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="text-align: center;">Council Tax Band</th> <th style="text-align: center;">Number of Households in Receipt of the 10% Discount</th> <th style="text-align: center;">Value of Current 10% Discount £</th> <th style="text-align: center;">Value of Current 10% Discount for those in receipt of Single Person Discount £</th> </tr> </thead> <tbody> <tr><td style="text-align: center;">A</td><td style="text-align: center;">1,252</td><td style="text-align: center;">96.46</td><td style="text-align: center;">72.34</td></tr> <tr><td style="text-align: center;">B</td><td style="text-align: center;">2,221</td><td style="text-align: center;">112.53</td><td style="text-align: center;">84.40</td></tr> <tr><td style="text-align: center;">C</td><td style="text-align: center;">2,647</td><td style="text-align: center;">128.61</td><td style="text-align: center;">96.46</td></tr> <tr><td style="text-align: center;">D</td><td style="text-align: center;">1,359</td><td style="text-align: center;">144.68</td><td style="text-align: center;">108.51</td></tr> <tr><td style="text-align: center;">E</td><td style="text-align: center;">487</td><td style="text-align: center;">176.84</td><td style="text-align: center;">132.63</td></tr> <tr><td style="text-align: center;">F</td><td style="text-align: center;">230</td><td style="text-align: center;">208.99</td><td style="text-align: center;">156.74</td></tr> <tr><td style="text-align: center;">G</td><td style="text-align: center;">60</td><td style="text-align: center;">241.14</td><td style="text-align: center;">180.86</td></tr> <tr><td style="text-align: center;">H</td><td style="text-align: center;">0</td><td style="text-align: center;">289.37</td><td style="text-align: center;">217.03</td></tr> </tbody> </table>	Council Tax Band	Number of Households in Receipt of the 10% Discount	Value of Current 10% Discount £	Value of Current 10% Discount for those in receipt of Single Person Discount £	A	1,252	96.46	72.34	B	2,221	112.53	84.40	C	2,647	128.61	96.46	D	1,359	144.68	108.51	E	487	176.84	132.63	F	230	208.99	156.74	G	60	241.14	180.86	H	0	289.37	217.03
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F	230	208.99	156.74																																		
G	60	241.14	180.86																																		
H	0	289.37	217.03																																		
Summary of Impact and Issues	<p>The 10% Council Tax Discount for over 65's is awarded to all Southampton residents aged over 65, who are liable to pay Council Tax, and are not in receipt of Council Tax Benefit (soon to be replaced by a Local Council Tax Support Scheme). All residents at the property must be 65+ and the discount is not automatic the customer has to apply for the discount.</p> <p>Currently 8,256 households benefit from the discount. The removal of this discount will mean that the majority of households currently in receipt of the discount will have to pay Council Tax in full. At the 2012/13 levels of Council Tax this would equate to additional costs of between £96.46 (Band A) and £289.37 (Band H) per household, per annum. The cost increase is less for those claiming</p>																																				

	<p>the 25% Single Person Discount.</p> <p>This proposal will not be compounded by the introduction of a Local Council Tax Support Scheme as people of pensionable age are protected from the changes.</p>
Potential Positive Impacts	<p>The withdrawal of the 10% Council Tax discount may encourage a number of eligible over 65's, who do not currently claim the Single Person's Discount or benefits that entitle them to Council Tax Benefit, or its' local successor from April 2013, to claim for the benefit. This may mitigate the impact of the proposal on the poorest over 65's in Southampton.</p>
Responsible Service Manager	
Date	

Approved by Senior Manager	Andy Lowe, Head of Finance and IT
Signature	
Date	

Potential Negative Impacts

Impact Assessment	Details of Impact	Possible Solutions
Age	<p>The 10% discount is only available to people aged over 65. Currently 8,246 households receive the discount. The proposal will lead to the majority of recipients having to pay an additional amount of Council Tax. At 2012/13 levels, excluding those receiving the single person discount, this equates to between £96.46 and £289.37 per annum depending on the band the property is in.</p>	<p>Encourage eligible residents aged over 65 to claim benefits that they are entitled to including; the Single Person Discount and benefits that entitle them to receive the local successor to Council Tax Benefit.</p>
Disability	<p>In general levels of disability increase with age. Disabled people aged over 65 who are not in receipt of Council Tax Benefit will be disproportionately affected by this proposal.</p> <p>However, as Council Tax Benefit, and its local successor, is means tested the poorest pensioners, including those with disabilities, are, and will continue to be eligible for benefits that contribute towards paying their Council Tax.</p>	<p>Encourage eligible residents aged over 65 to claim benefits that they are entitled to including; the Single Person Discount and benefits that entitle them to receive the local successor to Council Tax Benefit.</p>
Gender Reassignment	<p>No specific impact</p>	
Marriage and Civil Partnership	<p>The proposal would result in the increase in Council Tax for married and co-habiting people being proportionately less than for single people.</p>	<p>Encourage eligible residents aged over 65 to claim benefits that they are entitled to including; the Single Person Discount and benefits that entitle them to receive the local successor to Council Tax Benefit.</p>

Pregnancy and Maternity	No specific impact	
Race	No specific impact	
Religion or Belief	No specific impact	
Gender	There are more women over 65 than men over 65 in Southampton. This proposal will therefore disproportionately impact on women; particularly single women (see marriage and civil partnership above).	Encourage eligible residents aged over 65 to claim benefits that they are entitled to including; the Single Person Discount and benefits that entitle them to receive the local successor to Council Tax Benefit.
Sexual Orientation	No specific impact	
Community Safety	No specific impact	
Poverty	<p>Currently the total value of the 10% discount for over 65's in Southampton is over £940,000 per annum. This proposal would remove this discount leading to the majority of existing recipients of the discount being charged more for their Council Tax.</p> <p>This increased cost will clearly impact on all those in receipt of the discount now. However, those residents in receipt of Council Tax Benefit, predominantly those with the lowest incomes in the City, will still receive a local Council Tax Benefit if this proposal is approved, thereby protecting them from the impact of this proposal.</p>	Encourage eligible residents aged over 65 to claim benefits that they are entitled to including; the Single Person Discount and benefits that entitle them to receive the local successor to Council Tax Benefit, such as the Pension Credit Guarantee.
Other Significant Impacts		

Name or Brief Description of Proposal	Removal of the 100% Council Tax Discount for Special Constables																											
Volumes (numbers of customers) and Profile	<p>The 100% Council Tax Discount for Special Constables was introduced on 1st April 2010. The discount is currently awarded to 41 households in Southampton. The current total value of the discount is about £50,000.</p> <p>The table below provides a breakdown of the discount for 2012/13.</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 25%;">Council Tax Band</th> <th style="width: 25%;">Number of households in receipt of the Special Constables Discount</th> <th style="width: 50%;">Annual Value of Discount £</th> </tr> </thead> <tbody> <tr><td>A</td><td>9</td><td>964.56</td></tr> <tr><td>B</td><td>15</td><td>1,125.32</td></tr> <tr><td>C</td><td>11</td><td>1,286.08</td></tr> <tr><td>D</td><td>5</td><td>1,446.84</td></tr> <tr><td>E</td><td>0</td><td>1,768.36</td></tr> <tr><td>F</td><td>0</td><td>2,089.88</td></tr> <tr><td>G</td><td>1</td><td>2,411.40</td></tr> <tr><td>H</td><td>0</td><td>2,893.68</td></tr> </tbody> </table>	Council Tax Band	Number of households in receipt of the Special Constables Discount	Annual Value of Discount £	A	9	964.56	B	15	1,125.32	C	11	1,286.08	D	5	1,446.84	E	0	1,768.36	F	0	2,089.88	G	1	2,411.40	H	0	2,893.68
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Summary of Impact and Issues	<p>The 100% Council Tax Discount for Special Constables is awarded to all Special Constables who reside in a property within Southampton where there is a liability for Council Tax and serve within Southampton.</p> <p>Currently 41 households benefit from the discount. The removal of this discount will mean that the majority of households currently in receipt of the discount will have to pay Council Tax in full. At the 2012/13 levels of Council Tax this would equate to additional costs of between £964.56 (Band A) and £2893.68 (Band H) per household, per annum. The cost increase is less for those claiming the 25% Single Person Discount.</p> <p>This discount is not offered by other councils in Hampshire. Removing the discount could discourage residents from applying to become Special Constables,</p>																											

	<p>although according to their website Hampshire Constabulary is not currently recruiting Special Constables.</p> <p>The proposal could encourage those currently volunteering to resign or serve outside the City. This could impact on levels of public reassurance across the City in relation to crime and anti-social behaviour.</p>
Potential Positive Impacts	If recruitment becomes an issue Southampton City Council could, with Hampshire Constabulary, encourage organisations across the City to consider how they can incentivise individuals to become Special Constables.
Responsible Service Manager	
Date	

Approved by Senior Manager	Andy Lowe, Head of Finance and IT
Signature	
Date	

Potential Negative Impacts

Impact Assessment	Details of Impact	Possible Solutions
Age	No specific impact	
Disability	No specific impact	
Gender Reassignment	No specific impact	
Marriage and Civil Partnership	No specific impact	
Pregnancy and Maternity	No specific impact	
Race	No specific impact	
Religion or Belief	No specific impact	
Gender	No specific impact	
Sexual Orientation	No specific impact	
Community Safety	<p>The removal of the Special Constable Council Tax discount may discourage residents from applying to become Special Constables and could encourage some existing Special Constables to resign or seek a transfer out of Southampton.</p> <p>This could decrease levels of public reassurance across the City in relation to crime and anti-social behaviour, and reduce the capacity to police Southampton especially if it is coupled with other issues like cuts to policing budgets impacting on the frontline.</p>	<p>Recruitment of Specials and other police volunteers is not problematic as many people want to do this as a route into the Force and therefore the actual impact of cutting this incentive may be balanced out with other reasons for volunteering.</p> <p>If recruitment becomes an issue Southampton City Council could, with Hampshire Constabulary, encourage organisations across the City to consider how they can incentivise individuals to become Special Constables.</p>
Poverty	No specific impact	
Other Significant Impacts		

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Agenda Item 4

Appendix 2

APPENDIX 2

ISSUES FOR CONSIDERATION

As with all decisions, the decision must not only be lawful, but it must be taken for lawful reasons. Councilors do not act improperly or unlawfully if, exercising public powers for a public purpose for which such powers were conferred, they hope that such exercise would earn the gratitude and support of the electorate and thus strengthen their electoral position. The law would indeed part company with the realities of party politics if it were to hold otherwise. However, a public power is not exercised lawfully if it is not exercised for a public purpose for which the power was conferred, to promote the electoral advantage of a political party. The power at issue in the present case is section 13A Local Government Finance Act 1992. Thus the local authority could determine to exercise this power so as to reduce Council Tax liability in respect of one or more classes of persons to promote any public purpose for which such power was conferred, but could not lawfully do so for the purpose of promoting the electoral advantage of any party represented on the council.

A very clear statement of this principle is to be found in Wade and Forsyth, Administrative Law (8th Edition, 2000) at pp 356-357.

“Statutory power conferred for public purposes is conferred as if it were upon trust, not absolutely – that is to say, it can validly be used only in the right and proper way which Parliament when conferring it is presumed to have intended.”

Therefore, the Council, and members making the decision, must apply its mind properly to relevant law, the relevant considerations and issues, and dismiss from its mind, irrelevant considerations and issues.

To assist the Council, and members making the decision to apply its mind properly to relevant law, the relevant considerations and issues, and dismiss from its mind, irrelevant considerations and issues, the Solicitor to the Council with the assistance of Leading Counsel, established the key questions that members should evaluate in reaching such a decision, and these are detailed below:

“PENSIONERS ELEMENT” OF THE DISCOUNT

‘Firstly, the Council needs to analyse whether it is factual that the council tax is placing a particular burden on pensioners in its area as compared with the rest of the council tax-paying population’.

‘Secondly, the Council needs to think about how far it is or is not practicable or desirable to limit any discount to those pensioners who are really or most in need of it’.

'Thirdly, the Council needs to think about whether it is indeed the case that there are not other classes of council tax-payers who are as much as or more in need of assistance of this kind'

'Fourthly, the Council needs to think about what the likely cost of the proposed discount will be, and the impact of granting that discount either upon the council tax generally, or upon the provision of services'

'Fifthly, the Council needs to think about precisely how the class to benefit from the discount should be defined'

"SPECIAL CONSTABLE ELEMENT OF THE DISCOUNT

'The Council needs to think about what the likely cost of the proposed discount will be, and the impact of granting that discount either upon the council tax generally, or upon the provision of services'

'The Council needs to think about precisely how the class to benefit from the discount should be defined'

'What is the evidence that there is a problem with the recruitment and retention of special constables to work in the city that needs attention?'

'Why is it thought that a council tax reduction is a better means of addressing that problem than whatever the available alternatives may be?'

'Is this an appropriate approach given that, by definition, the Council can only extend the benefit of a discount to special constables living in the city, whereas (it may be) significant numbers of actual or potential special constables may work in Southampton but live in other local authority areas?'

'Is the Council satisfied that sound reasons exist for singling out special constables as opposed to other persons in relation to whom there is a public interest in a sufficient supply of workers which may coupled with a recruitment and retention problem (say, for example, speech therapists or science teachers)?'