

 Executive 14 November 2012		Agenda Item No. 7
Title	Response to Notice of Motion – Student Accommodation	
For further information about this report please contact	Mike Snow, David Leech	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	08 August 2012	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	Yes/No (If No state why below)

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	23/10/12	Andy Jones
Head of Service	23/10/12	Mike Snow
CMT	23/10/12	Chris Elliott, Andy Jones, Bill Hunt
Section 151 Officer	23/10/12	Mike Snow
Monitoring Officer	23/10/12	Andy Jones
Finance	23/10/12	
Portfolio Holder(s)	16/10/12	Andrew Mobbs
Consultation & Community Engagement		
Opinions sought from the Valuation Office Agency and the Institute of Rating, Revenues and Valuation. Consultation with Neighbourhood Services – Graham Folkes-Skinner		
Final Decision?		Yes/No
Suggested next steps (if not final decision please set out below)		

1. **SUMMARY**

- 1.1 This report is in response to the motion raised by Councillor Boad and Gifford at the 08th August Executive relating to the student property landlords and the refuse collection at those properties.
- 1.2 The motion sought an investigation into whether there was potential to reclassify student accommodation as commercial premises liable for business rates and consequently levy an appropriate commercial refuse collection charge upon such property.

2. **RECOMMENDATION**

- 2.1 That the Executive notes the findings of the report in relation to the motion that there is no legal basis upon which student accommodation can be reclassified as commercial and as a consequence no fee may be charged for refuse collection.

3. **REASONS FOR THE RECOMMENDATION**

- 3.1 As set out in more detail in section 7 factors that decide whether a property is valued as domestic or commercial are governed by legislation that has been established for many years. The legislation is quite clear in defining such properties as student accommodation as dwellings and therefore they attract a Council Tax banding/s as with any other domestic property. As a consequence of the domestic dwelling classification the Council are statutory obliged to collect refuse without charge.

4 **ALTERNATIVE OPTION(S) CONSIDERED**

- 4.1 There is no alternative option as there is no legal basis to do what is suggested.

5. **POLICY FRAMEWORK**

- 5.1 As a consequence of the conclusion of the findings there will be no policy framework implications.

6. **BUDGETARY FRAMEWORK**

- 6.1 As referred to below, students are exempt from council tax and so the Council receives no revenue from this source. As with any council tax exemptions or discounts, these reduce the Council's Council Tax Base. The Tax Base is an important component in the calculation of revenue support from Central Government, primarily Revenue Support Grant (RSG). With the tax base being reduced in respect of students, this serves to increase the amount of RSG that the Council receives, on the basis that is able to raise less council tax locally because of the student residences. Whilst the RSG calculations are very complex, and are not always amended annually to reflect the latest tax base, there is definitely an element of RSG that relates to students not paying council tax.
- 6.2 Whilst local authorities can provide and charge businesses for the collection of their waste, there is an established market for the provision of this service. The Council does not currently provide this service to any businesses. If student accommodation was able to be charged as a business (which, as discussed

below, is not possible), it would be likely that this service would be provided by the existing private sector operators for these premises, and so not generate the Council any additional income

- 6.3 As a consequence of the conclusion of the findings there will be no budgetary framework implications.

7. BACKGROUND

- 7.1 At the Executive meeting of 08 August 2012 the Executive considered a motion from Councillor Boad and Gifford in relation to student accommodation and refuse collection.

- 7.2 The Executive recognised that the provision of student accommodation in the District has progressively transformed into significant commercial businesses which currently make no apparent financial contribution to the local Council services that they consume by their activities. Furthermore this was deemed unfair on Council Tax payers who were in effect subsidising the profits made by landlords of student accommodation.

- 7.3 Consequently the Executive agreed to investigate the following;

1. the possibility of treating the providers of student accommodation as a business entity with the view to introduce a scheme to levy an appropriate commercial refuse collection charge for each of the premises concerned from April 2013.
2. the potential for the reclassification of student accommodation from domestic to commercial premises, similar to hotels and hostels, and the consequent introduction of a business rates liability on to the landlords at the earliest opportunity.

7.4 Current classification of student accommodation

The Valuation Office Agency (VOA) is an executive Agency of HM Revenues and Customs and they have the responsibility for valuing properties for the purposes of council tax and non-domestic rates. In respect of domestic properties a banding is placed upon the property whilst a commercial property will attract a rateable value. The billing authority issues bills in respect of these valuations.

Student accommodation generally falls under one of two circumstances. A single property occupied by students living effectively as one household where they live communally will have one council tax band placed upon the property. A property that is a purpose built block of self contained units occupied by the students will attract more than one council tax band within the property. Normally each self contained unit with cooking and washing facilities will have an individual council tax banding although it is possible that groups of 2 or more units will have one council tax banding if they share kitchen facilities. In either of these circumstances, if the property is solely occupied by students then it will be exempt from Council tax and the Council will receive no income from these properties.

The Council has responsibility to notify the VOA of any new domestic or commercial premises or any changes to these properties although it has no

power or authority to instruct the VOA on which properties should be commercial or domestic. The VOA is governed by legislation which dictates the classification of a particular property and whether it ultimately attracts a liability for Council Tax or Business rates. For the purposes of this report we have sought the view of the VOA to ascertain what potential there is for the reclassification of student accommodation

7.5 Legislation and VOA opinion

The VOA have advised that the key to whether a property is deemed domestic or commercial relies on the definition of a dwelling as defined within Section 3 of the local Government Finance Act 1992. A dwelling is referenced from the now repealed General Rate Act 1967 in which it is defined as a hereditament which is used wholly for the purposes of a private dwelling or private dwellings. There would seem to be no argument that student accommodation falls under the category of dwelling and therefore subject to a council tax banding.

Furthermore the legislation describes a particular category of property (akin to student accommodation) where a council tax banding is applicable as "a property which has been constructed, physically converted or structurally adapted, so as to provided separate units of accommodation for several occupiers with significant degrees of self containment".

This contrasts with that of a hotel where the bedrooms are used on a very temporary casual basis and not used solely for an individual's private accommodation. In this situation the hotel is classified as commercial as it does not meet the definition of a dwelling. If however the hotel contained accommodation where an on-site manager lived then this part of the hotel would attract a council tax banding.

In view of legislation the VOA will not entertain any notion that student accommodation should be reclassified as commercial and there does seem to be insufficient grounds with which to pursue the matter further.

A further opinion has been sought from the Institute of Rating, Revenues and Valuation (IRRV) who are the professional body for such matters. The West Midlands branch had been in contact with the Council as they had read reports that the Council had approved the motion and they were concerned that we had no legal basis for such a move. Their conclusion was that the VOA were correct in classifying student property as domestic.

7.6 Refuse Collection

Warwick District Council (WDC) as a Waste Collection Authority has responsibilities for the collection of domestic and commercial waste under Part II of the Environmental Protection Act 1990. Under the legislation WDC shall:-

- Arrange for the collection of household waste in its area at no charge
- Arrange for the collection of waste from any commercial premises in its area, if requested by the occupier of the premises at a reasonable charge.

Schedule 2 of the Controlled Waste Regulations 1992 sets out the wastes and the premises for which a local authority can make a charge for the collection of

household waste. These premises include charities, educational establishments etc, but it does not include student properties.

7.7 New Homes Bonus

As mentioned previously, students are exempt from Council tax and therefore bring in no revenue to the Council. It is worth mentioning however, that purpose built student accommodation such as being built within the area currently, will benefit the Council through our New Homes Bonus allocation. We receive money for each new dwelling built in the Warwick District area and we continue to receive that money for a further 5 years. To give some financial context to this – a conservative estimate of the new development close to the railway station suggests we shall have an additional 45 dwellings which over a period of 6 years would attract a sum of approx £400,000.