

**CABINET MEETING – 11<sup>th</sup> January 2012**

**EXECUTIVE SUMMARY SHEET – PART I**

**Title of Report:**

Review of Discretionary Council Tax Discount on Long Term Empty Properties and Second Homes

**Author(s):**

Executive Director of Commercial and Corporate Services

**Purpose of Report:**

To review the current policy on Council Tax discounts for Long Term Empty Properties and Second Homes and to detail the response to the Governments recent consultation paper 'Technical Reforms of Council Tax'

**Description of Decision:**

Cabinet is recommended to

- Amend the current policy on Council Tax discounts for Long Term Empty Properties, by removing the discount of 50% and for Second Homes by reducing the discount from 50% to 10%, both with effect from 1<sup>st</sup> April 2012.
- Note the Council's response to the consultation paper 'Technical Reforms of Council Tax' which deals primarily with proposed changes to discounts from April 2013.

**Is the decision consistent with the Budget/Policy Framework?** N/A

**If not, Council approval is required to change the Budget/Policy Framework**

**Suggested reason(s) for Decision:**

To benefit from the proposed changes (financial and regeneration) in 2012/13 from the changes that may become a statutory requirement from 2013/2014, the policy of which is also in keeping with most other local authorities in the area.

**Alternative options to be considered and recommended to be rejected:**

None.

**Is this a "Key Decision" as defined in the Constitution?**

No

**Relevant Scrutiny Committee:**

Management

**Is it included in the Forward Plan?**

No



## **Cabinet – 11th January 2012**

### **Review of Discretionary Council Tax Discount on Long Term Empty Properties and Second Homes**

#### **Report of the Executive Director of Commercial and Corporate Services**

#### **1. Purpose of Report**

- 1.1. To review the current policy on Council Tax discounts for Long Term Empty Properties and Second Homes.
- 1.2. To detail the response to the Governments recent consultation paper 'Technical Reforms of Council Tax'

#### **2. Description of Decision**

- 2.1 Cabinet is recommended to
  - to amend the current policy on Council Tax discounts for Long Term Empty Properties, by removing the discount of 50% and for Second Homes by reducing the discount from 50% to 10%, both with effect from 1<sup>st</sup> April 2012.
  - note the Council's response to the consultation paper 'Technical Reforms of Council Tax' which deals primarily with proposed changes to discounts from April 2013.

#### **3. Background**

- 3.1 Section 75 of the Local Government Act 2003 and the subsequent Regulations; the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 gives local authorities the powers to reduce the 50% Council Tax discount on long term empty properties and second homes. Long term empty properties are defined as unfurnished domestic properties that have been unoccupied for more than six months. Second homes are defined as furnished domestic unoccupied property. The more detailed definitions of the classes of dwelling to which these provisions apply are set out in Appendix 1.

- 3.2 Council Tax legislation stipulates that long term empty properties and second homes, not subject to an exemption, attract a minimum 50% charge. The Council adopted a policy to charge 50% on long term empty properties and second homes, which was consistent with the regulations and also with most other councils in the area at the time.
- 3.3 There are over 1,740 long term empty properties and 738 second homes in Sunderland where the owners are currently being charged 50% council tax.
- 3.4 To retain a discount at 50% after the initial six months empty period can provide a perverse incentive for owners to leave their domestic properties empty and to remove the discount could provide an additional impetus for owners to sell or let their properties, which could see more properties becoming occupied which would be more in line with the Council's Housing Strategy.
- 3.5 With regard to second homes this category is misleading as it is not holiday homes in Sunderland, rather furnished empty property owned by investors which they are not renting out. The reduced discount may also help to improve the renting out of these properties in the future.

#### **4. Discretionary Relief**

- 4.1 Section 13A of the Local Government Finance Act 1992 (as inserted by Section 76 of the Local Government Act 2003), gives the Council power to reduce the amount of tax payable for example where it can be demonstrated by the liable person that they are suffering from financial hardship, or a particular class of case determined by the local authority.
- 4.2 In such cases, a reduction in liability of up to 100% can be granted.
- 4.3 This discretionary power could be used to alleviate problems to individual council tax payers, but only in exceptional cases.
- 4.4 There will be a potential loss of income associated with this policy, dependent upon the number of successful applications. A prudent estimate will be built into the Medium Term Financial Plan in recognition of this.

#### **5. Benefits to Reduce the Discount on Long Term Empty Properties and Second Homes**

- 5.1 To reduce the level of discounts as recommended would increase council tax income by around £1.1m a year from 2012/13. In 2012/13, the Council would receive the full benefit of the £1.1m income, however, in subsequent years, based upon the current formula grant distribution mechanism, there would be a corresponding reduction of a similar amount of Revenue Support Grant received by the Council.
- 5.2 The Government is currently consulting on proposals to review the local government finance system (Local Government Resource Review –

Proposals for Business Rates Retention). This would represent a fundamental change to the current system, effective from 1<sup>st</sup> April 2013, and result in the Revenue Support Grant and Redistributed Non-Domestic Rates payable to the Council in 2012/13 being fixed / guaranteed, with no adjustment for taxbase changes in 2012/13 and beyond. If these proposals were enacted the possibility exists for the additional council tax income generated in 2012/13 to become a permanent ongoing saving however, at this stage it is considered prudent to assume that the benefit will only be received in 2012/13.

- 5.3 The revised policy would impact upon Social Housing and private landlords as their costs would potentially increase to reflect the amended lower discounts offered by the Council from 1<sup>st</sup> April 2012.
- 5.4 The Council owns relatively few domestic properties that would be affected by the loss of discount at a potential cost of £10,000.

## **6. Policy in Neighbouring Local Authorities and other influences**

- 6.1 Most neighbouring local authorities already offer only the 10% statutory minimum discount on second homes and members of the Association of North East Councils (ANEC) recently discussed the option to remove the discount on long term empty properties, with the consequence that the proposed review of Council Tax discounts by the Council will then become consistent with the majority of Councils in the North East region.
- 6.2 A consultation paper issued by the government 'Technical Reforms of Council Tax' published on 31<sup>st</sup> October with responses by 29<sup>th</sup> December 2011 may require Councils to implement the changes in discounts proposed from April 2013 in any event. A copy of the Questions from this technical consultation paper and the council's responses are set out in Appendix 2 for information.

## **7. Consultation**

- 7.1 Statutorily, there is a requirement to publish a notice in a local newspaper within 21 days of making such a determination should Cabinet and the Council choose to reduce the discount as recommended on long term empty properties and second homes with effect from 1<sup>st</sup> April 2012.
- 7.2 The proposed review also needs to be approved by Cabinet before the Council approves its Council Tax Base for 2012/2013 (a report of which, is elsewhere on this agenda) for the changes to become effective from 1<sup>st</sup> April 2012.

## **8. Suggested reason(s) for Decision**

- 8.1 To benefit from the proposed changes (financial and regeneration) in 2012/13 from the changes that may become a statutory requirement from 2013/2014, the policy of which will also be in keeping with most other local authorities in

the area and is also consistent with the views expressed in the response to the Government consultation paper.

**9. Alternative options**

9.1 None

**10. Background papers**

10.1 Local Government Act 2003 and the subsequent regulations; the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003

### Legal Implications

Section 75 of the Local Government Act 2003 and the subsequent regulations; the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 gives local authorities the powers to reduce the 50% Council Tax discount on various classes of dwelling.

Under S11A(3) of the Local Government and Finance Act 1992 ( as amended) a billing authority may specify that discount for all dwellings in a certain class shall be such lesser percentage of at least 10% as it may so specify. For these purposes the dwellings are those:

- (a) which are not the sole or main residence of an individual;
- (b) which are furnished; and
- (c) the occupation of which is restricted by a planning condition preventing occupancy for a continuous period of at least 28 days in the relevant year;

and those:

- (a) which is not the sole or main residence of an individual;
- (b) which is furnished; and
- (c) the occupation of which is not restricted by a planning condition preventing occupancy for a continuous period of at least 28 days in the relevant year;

S11A(4) of the Local Government and Finance Act 1992 also provide that a billing authority may by determination provide that in relation to the following class of dwellings the discount shall not apply or shall be a much lesser percentage:

These are dwellings:

- (a) which are unoccupied; and
- (b) are substantially unfurnished.

Unoccupied is defined in the regulations as a “dwelling in which no one lives”.

### Sec 13a Local Government Finance Act 1992

#### Billing Authority's power to reduce amount of tax payable

- 1) 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 repay as respects the dwelling and the day to such extent as it thinks fit.
- 2) the power under (1) above includes power to reduce an amount to nil.
- 3) the power under (1) above 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 determination.





## Technical Reforms to Council Tax – Consultation Response

### Question 1

Do you agree with the Government's proposal to extend the range of discount available to billing authorities in respect of second homes to 0 to 50 per cent?

***Yes although the extra income raised from the extra 10% (current range is 10 to 50 per cent) would be minimal.***

### Question 2

How might authorities choosing not to offer any discount on second homes identify them in order to report second homes as necessary for formula grant purposes?

***IT Software houses would need to write report programs to extract the data. There will be an additional set up charges and maintenance costs to councils.***

### Question 3

Do you agree with the Government's proposal to abolish Class A exemption and replace it with a discount which billing authorities may set in the range of 0 to 100 per cent?

***Yes – the Council would prefer to treat all empty properties on the same basis. Administering Class A properties is difficult and often leads to disputes and appeals, a standard approach would need to be agreed locally but the council welcomes the flexibility offered from this proposal. Councils could also provide other incentives via their empty homes strategy according to local need.***

### Question 4

If Class A exemption is replaced by a discount, for what period should the new discount apply before such properties are treated as long term empties? Should the one year time limit continue to apply or should the billing authorities have discretion about it?

***Billing authorities should have discretion.***

### Question 5

If Class A exemption is replaced by a discount, should billing authorities be empowered to give different levels of discounts for different cases?

***Yes it should allow Billing authorities to decide what level of discount to award and for what period, this would then be more in line with the Government's proposed Localism agenda.***

### Question 6

Do you agree with the Government's proposal to abolish Class C exemption and replace it with a discount which billing authorities may set in the range of 0 to 100%?

***Yes – it is important that councils are allowed to set 100% discount to avoid small bills being produced for short periods that are uneconomic to collect.***

#### **Question 7**

If Class C is replaced by a discount, for what period should the new discount apply before properties are treated as long term empties? Should the six month time limit continue to apply, or should billing authorities have discretion about it.

***Yes it should allow Billing authorities to decide what level of discount to award and for what period, again this is seen as being more in line with the Government's Localism agenda.***

#### **Question 8**

If Class C exemption is replaced by a discount, should billing authorities be empowered to give different levels of discount for different cases

***Yes – Billing authorities should be allowed to set their own levels of discount (in line with the principles of Localism).***

#### **Question 9**

Should Government seek to make mortgagees in possession of empty dwellings liable to council tax.

***Properties that are repossessed usually mean that the owners have financial difficulties with no equity in the property and debts are therefore often written off. The council would agree to making the mortgagee liable however in most cases properties are repossessed under the Law of Property Act 1925 meaning that all costs of disposing of the property become the responsibility of the debtor (mortgagor) not the bank or building society. The Government would need to close this loophole before it would have any meaningful impact.***

#### **Question 10**

Would enabling local authorities to levy an empty homes premium on council tax have a significant impact on the number of homes being left empty?

***There is no evidence that the number of empty properties would reduce significantly with the introduction of an empty homes premium. Also the change in welfare benefits could have a negative impact on letting larger type properties. If a premium is implemented it should only be imposed after a minimum of one year of the property being empty. Excessive property taxes on empty properties have been difficult to administer and collect, the last of which was the standard community charge that charged double the personal community charge rate. The council also anticipates that avoidance measures will mean extra administration costs for the council. Also it should be noted that there are a number of properties that would remain empty regardless of the charges imposed for example flats above shops, properties in run down areas etc. Councils should therefore be given the discretion of determining when, at what rate, and in what circumstances the premium should be levied.***

#### **Question 11**

In terms of a percentage of normal council tax, what should the maximum permitted premium be?

***If a premium is introduced it should be a maximum of 200%.***

#### **Question 12**

How long should an empty dwelling have remained empty before the empty homes premium might be applied in respect of it.

***Suggest a minimum of one year.***

#### **Question 13**

Should constraints be placed on the purposes to which additional tax revenue generated from empty homes premium be devoted?

***No - it should be up to councils to decide.***

#### **Question 14**

What circumstances if any should be defined as being inappropriate for levying the empty homes premium and why?

***Properties with negative equity, properties in run down areas, or where the property is being modernised and work is actively being carried out up to a defined period.***

#### **Question 15**

What practical issues would have to be addressed if the premium were to be implemented (for example in the consistent identification of empty homes) and how should they be resolved?

***The higher the premium the more avoidance measures will be taken by charge payers which will create extra administration. Also because of individual circumstances some charge payers will find it difficult to make payments.***

#### **Question 16**

Do you agree that Sec 66(2c)(a) should be amended along the lines suggested?

***Yes - this closes a loophole.***

#### **Question 17**

Do you agree that the default pattern of council tax bill instalments should be payment over 12 monthly instalments (with other arrangements to be reached by agreement between taxpayer and billing authority).

***Yes – during these difficult times it is important to help household budgets as much as possible. Also most other household bills including gas electric and water are paid over 12 months however most organisations . There would also be a financial consideration in introducing this (loss of income from cash flow***

**and some changes to system software) which the government should assist with.**

**Question 18**

Do you agree that billing authorities should be able to discharge their duty to provide the information that must currently be supplied with demand notices by publishing it online (with the exception of information relating to penalty charges, and subject to the right of any resident to require a hard copy)

***Agree generally – there are very few charge payers who contact us in respect of the above, however the fact all taxpayers do not have access to the internet is a consideration – could councils be accused of not complying with the regulations in these instances? If so could lead to justification of non payment of Council Tax? This area would need to be further clarified. The council still has to produce the legally required details so the council would in effect be saving only the lower postage costs involved.***

**Question 19**

Do you agree that domestic scale solar photovoltaic installed on dwellings should be treated as part of those dwellings

**Yes**

**Question 20**

Do you agree that domestic scale solar photovoltaic should be defined as installations having a maximum generating capacity of 10KW

**Yes**

**Question 21**

In what circumstances if any do the rules requiring the separate banding of self contained units of accommodation within a hereditament give rise to unfairness

***No view as there are no issues in Sunderland***

**Question 22**

Should the Government seek to make changes to these rules, and if so, what changes?

***We would support any initiative that helps simplify the rules but this area is more of an issue for the Valuations Office where we would want consistency of treatment across the country.***