

## Second Homes Council Tax Agreement

**EXECUTIVE MEMBER:** Councillor E Woodburn  
**LEAD OFFICER:** Fergus McMorrow, Acting Chief Executive  
**REPORT AUTHOR:** Julie Crellin, Head of Finance and MIS

### **Summary and Recommendation:**

To advise Members of the agreement reached between the Cumbria District Councils and Cumbria County Council regarding the distribution of income arising from the Council Tax on second homes levied by Copeland Borough Council.

### **Recommendation:**

Executive is asked to ratify the agreement.

## 1. INTRODUCTION

- 1.1 Since April 2004, Billing Authorities (district Councils in two tier areas) have had the power, under the Local Government Finance Act, to levy a rate of discount upon Council Tax homes from between 50% to a minimum of 10%. The extra income raised is, in the absence of any agreement to the contrary, split pro-rata to the precept between the District, the County and the Police. CBC's share of the total precept for 2009/10 is 12%.
- 1.2 In 2004, Cumbria County Council entered into an agreement, that in return for reducing the discount to 10%, to share 50% of their income with the relevant district council from which the income arose. The additional monies would support the Community Strategy and the agreement was for a rolling period. Two years ago the County Council gave notice that it wished to terminate the agreement with effect from 31<sup>st</sup> March 2009.
- 1.2 Resource Planning Working Group were informed during the budget planning preparations for 2009/10+ that discussions were underway to determine the successor agreement and that County Council had indicated an initial share of 25% to the Districts.

- 1.3 Negotiations were entered into, led by Eden District Council on behalf of the Districts with the County Council. The result of the negotiations was that the period of the agreement was increased to ten years and the share of the County's element of the Council Tax on second homes to be received as a grant by the Districts was increased to 33%, from the original position. The agreement was approved by the Joint Districts meeting at its meeting on Friday 8<sup>th</sup> May, and Executive is recommended to ratify this decision.
- 1.4 The new agreement confirms that in each financial year, starting from 1<sup>st</sup> April 2009 (for ten years) the County Council will pay the Districts 33% of the enhanced precept in return for the District Council setting a 10% council tax discount on second homes. The additional monies received will be spent on delivering the objectives of the Local Area Agreement.
- 1.5 Every District will be required to provide a statement to the County Council to show how the income from the enhanced precept has been spent towards achieving the Local Area Agreement targets. This statement will be required within six months of the end of the financial year. A return pro-forma is being prepared through the Chief Finance Officers Group in the County.
- 1.6 Copeland will be able to clearly show that in spending the (approx) £100,000 of grant from the County Council, LAA targets are being supported. There are LAA targets in relation to areas where the Council has significant discretionary expenditure - e.g. provision of homes, recycling, sustainability, worklessness, crime and disorder etc.

## **2. FINANCIAL AND HUMAN RESOURCE IMPLICATIONS**

- 2.1 The Revenue Budget 2009/10 assumed that the payment to the Districts would be 33% of the enhanced precept and therefore, the Revenue Budget agreed by Council in February is consistent with the agreement. This is included in the Revenue Budget 2009/10. It was set out in Appendix G of the Revenue Budget 2009/10 – 2011/12 report.
- 2.2. The ten year agreement provides the basis of long term budget and service planning and the income can be assumed to be part of the base budget for the Medium Term Financial Strategy.

## **3. IMPACT ON CORPORATE PLAN**

- 3.1 The resource will help deliver those parts of the corporate plan that support the Local Area Agreement Targets.

**List of Appendices :**  
**Appendix A – Final Proposed Second Homes Agreement**

**List of Background Documents: None**

**List of Consultees:**

Councillor Elaine Woodburn, Leader  
Leader of Council  
Head of Development Strategy.  
Head of Legal and Democratic Services  
Head of Policy and Performance

**CHECKLIST FOR DEALING WITH KEY ISSUES**

Please confirm against the issue if the key issues below have been addressed.  
This can be by either a short narrative or quoting the paragraph number in the report in which it has been covered.

Impact on Crime and Disorder	Will help deliver LAA targets
Impact on Sustainability	Will help deliver LAA targets
Impact on Rural Proofing	Will help deliver LAA targets
Health and Safety Implications	Will help deliver LAA targets
Impact on Equality and Diversity Issues	Will help deliver LAA targets
Children and Young Persons Implications	Will help deliver LAA targets
Human Rights Act Implications	None
Monitoring Officer comments	No comments
S. 151 Officer comments	The grant from the County Council of £100,000 in respect of their share of the income from second homes council tax was included in the Base Revenue Budget 2009/10 agreed by Council in February.

Is this a Key Decision?      Yes

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**DATED**

**2009**

- (1) ALLERDALE BOROUGH COUNCIL**
- BARROW IN FURNESS BOROUGH COUNCIL**
- CARLISLE CITY COUNCIL**
- COPELAND BOROUGH COUNCIL**
- EDEN DISTRICT COUNCIL**
- SOUTH LAKELAND DISTRICT COUNCIL**
- (2) CUMBRIA COUNTY COUNCIL**

**AGREEMENT** relating to the raising of additional  
council tax income from second homes

Timothy Howes  
Head of Legal Practice  
Cumbria County Council  
The Courts  
Carlisle

**THIS AGREEMENT** is made the                      day of        **May**

Two thousand and nine

**BETWEEN:**

- (1)        **ALLERDALE BOROUGH COUNCIL** of Allerdale House Workington  
                  Cumbria CA14 3YJ **BARROW IN FURNESS BOROUGH COUNCIL** of  
                  Town hall Duke Street Barrow in Furness Cumbria LA14 2LD **CARLISLE  
CITY COUNCIL** of Civic Centre Carlisle Cumbria CA3 8QG **COPELAND  
BOROUGH COUNCIL** of the Copeland Centre Catherine Street  
                  Whitehaven Cumbria CA28 7SJ **EDEN DISTRICT COUNCIL** of Town Hall  
                  Penrith Cumbria CA11 7YG and **SOUTH LAKELAND DISTRICT  
COUNCIL** of South Lakeland House Lowther Street Kendal Cumbria LA9  
                  4UF ("the District Councils")
- (2)        **CUMBRIA COUNTY COUNCIL** ("the County Council") of The Courts  
                  English Street Carlisle Cumbria CA3 8LZ

**WHEREAS:**

- (A)        The District Councils are the Billing Authorities for the purposes of the Local  
                  Government Finance Act 1992 ("the LGFA 1992") for their respective Districts  
                  and Boroughs
- (B)        The County Council is a major precepting authority for the purposes of the  
                  LGFA 1992
- (C)        The District Councils and the County Council are members of the  
                  Cumbria Strategic Partnership and are working together to improve the  
                  Quality of Life in Cumbria through the Community Strategy
- (D)        The District Councils have resolved pursuant to its powers under section 11A  
                  of the LGFA 1992 that the council tax discount for all second homes in their  
                  areas for the term commencing on 1 April 2009 shall be 10%

- (E) The District Councils have agreed that they will supply taxbase figures to the County Council which identify the enhanced taxbase
- (F) The District Councils and the County Council have both agreed that they will increase the budget requirement that would otherwise be calculated for a particular financial year by an amount equivalent to the enhanced precept for that year, for the duration of the term
- (G) The County Council has resolved pursuant to its powers set out in Section 2 of the Local Government Act 2000 and all other powers in that behalf that one third of its enhanced precept will be paid to the District Councils on the terms hereinafter appearing

**NOW IT IS HEREBY AGREED AS FOLLOWS:-**

**1. DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement unless the context otherwise requires the following expressions (set out in alphabetical order) shall have the meanings respectively attributed to them:

**“Applicable Law” means**

- (a) any statute or delegated or subordinate legislation
- (b) any enforceable community right within the meaning of Section 2 (1) European Communities Act 1972
- (c) any applicable direction, order, notice or determination issued by any court with the relevant jurisdiction, or by any inspectorate, minister or statutory body

**“Budget Requirement”** is as defined in Section 32 of the LGFA  
1992

<b>“Community Strategy”</b>	means the Sustainable Community Strategy agreed by the Cumbria Strategic Partnership
<b>“Enhanced Precept”</b>	means, for each party, the amount calculated as the product of the enhanced taxbase multiplied by each party's own Band D council tax which would have been calculated if a 50% discount had been allowed to second homes and a Budget Requirement had been set without the additional revenue-raising capacity of the enhanced taxbase
<b>“Enhanced Tax Base”</b>	means the difference between the taxbase set by the District Council and the taxbase calculated as if a 50% discount had been allowed to second homes
<b>“Guidance”</b>	means any applicable guidance with which either party is bound to comply
<b>“Local Area Agreement”</b>	means the Cumbria Agreement (LAA) 2008-2011
<b>“Strategic Partnership”</b>	means the Cumbria Strategic Partnership

**“second homes”**

means all chargeable dwellings in the District Council’s area which fall within Class B as set out in the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 (“the 2003 Regulations”) and those chargeable dwellings in its area as set out in Class A of the 2003 Regulations for which it has determined a council tax discount less than 50%

**“the term”**

is a ten year period commencing on 1<sup>st</sup> April 2009.

2. This Agreement is made under section 2 of the Local Government Act 2000, and all other enabling powers
3. This Agreement is for the period of the term and further agreement may be agreed between the parties to extend the term unless terminated by either party in accordance with clause 6

**4. ENHANCED PRECEPTS**

- 4.1 The County Council has agreed with the District Councils that in each financial year of this agreement it will pay to the District Councils one third of the enhanced precept which is due to them as a consequence of the District Councils’ decision to determine a 10% council tax discount on second homes
- 4.2 Payments are to be made by the County Council in accordance with



Clause 4.1 on the dates and in the proportions agreed by the parties under Local Authorities (Funds) (England) Regulations 1992 these amounts to be offset by the District Councils against the precepts due to the County Council on those dates

- 4.3 The District Councils agree that they will add their enhanced precept for the financial year to the amount received from the County Council as provided in Clause 4.1
- 4.4 The District Councils agrees that they will only spend these monies held pursuant to Clause 4.1 towards achieving the Local Area Agreement targets in their respective districts and boroughs

## **5. ACCOUNTABILITY**

- 5.1 Within six months of the end of each financial year the District Councils agree to provide a statement to the County Council to show how the income from the enhanced precept has been spent towards achieving the Local Area Agreement targets.
- 5.2 The parties agree that if the District Councils are <sup>un</sup>able to spend the enhanced precept in the year in which it receives the monies then it will carry the unspent amount forward for use in accordance with the purpose of this agreement in subsequent years
- 5.3 The District Councils agree that they will not in any financial year enter into commitments in accordance with this Agreement that exceed their entitlement to the enhanced precepts for that financial year together with any unspent amounts from previous years

## **6. TERMINATION FOR BREACH AND VOLUNTARY TERMINATION**

- 6.1 This agreement will terminate if the County Council or the District Councils fails to meet its obligations under this Agreement and the District Councils

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reserve the right to amend the council tax discount on second homes in the event of such termination

**7. TERMINATION FOR CHANGE OF APPLICABLE LAW OR GUIDANCE**

- 7.1 In the event that there is a change in applicable law or a change in guidance which alters the basis on which this agreement was entered into or the calculation of the enhanced precept either party may notify the other as soon as practicable. The notification shall include details of the change including evidence of its effect on the obligations of either party and any actions proposed to mitigate its effect.
- 7.2 As soon as practicable following such notification the parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the change and facilitate the continued performance of the agreement.
- 7.3 If no such terms are agreed within six months of the notification given under 7.1, then either party may terminate this agreement by giving one month's Notice of Termination to the other.