

Proposals for Council Tax Technical Reforms 2013/14

EXECUTIVE MEMBER: Cllr G Troughton
LEAD OFFICER: Darienne Law, Head of Corporate Resources
REPORT AUTHOR: Angela Brown, Finance Manager

WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND RESIDENTS

The proposals will generate additional income from changes to discounts on empty properties and second homes. This could be used to offset the costs of the new Local Support for Council Tax (LSCT) scheme and other budget savings the Council is required to make. It will also assist Cumbria County Council and Cumbria Police authority in meeting the costs that will fall to it under the proposed LSCT scheme.

RECOMMENDATION:

The Executive are asked to consider the final proposals following consultation and receipt of final Government Regulations set out in the report at paragraph 3.5 – recommendations (i) to (v), and recommend these to Council on 22nd January 2013. This will enable the Tax Base implications to be taken into account in the Tax Base Calculation which is statutorily required by 31st January 2013.

1. INTRODUCTION

- 1.1 The Local Government Finance Act 2012 contains a number of ‘technical’ changes which give councils greater freedom to vary existing discounts and exemptions. The government consider that this would be a suitable means of helping to offset the cost of a Local Support for Council Tax Scheme (LSCT) as the additional income, would be shared between the precepting authorities in the same proportions they are funding the LSCT.
- 1.2 Both the proposed LSCT scheme and the proposed technical changes to discounts and exemptions have been considered by the Executive and have been subject to consultation. The proposed LSCT scheme will be considered for formal approval by Council on 22nd January 2013 for final approval once the Government Regulations have been received. This report considers the Technical Reforms to Council Tax proposals which will also be considered by Council on 22nd January 2013.
- 1.3 A number of other changes are to be made to Council Tax, the main ones are:

- (i) Council Taxpayers will be given a legal right to pay by twelve instalments on request, although the default will still be ten instalments
- (ii) Councils will no longer need to provide each Council taxpayer with a hard copy of the information that supports the Council Tax Bill.

2. COUNCIL TAX TECHNICAL REFORMS

- 2.1 The Executive considered a full report on the Council Tax Technical reforms at its meeting on 2nd October 2012. Details of the issues considered by the Executive are attached at **Appendix 1**. The Executive made a number of changes to the report recommendations as set out in Appendix 1. Copeland Borough Council as Billing Authority is empowered to make the decisions on changing the Council Tax discounts without the need for consultation; however it was agreed that the Council would consult on these proposals as part of the wider public consultation on the budget. Details were included within the October edition of Copeland Matters for consultation with further information available on the Council's website.
- 2.2 Since the report to the Executive in October detailed analysis and further government consultation have changed some of the proposals and in particular the estimated financial impacts as follows:
- (i) Class C exemptions – upon detailed analysis of the exemptions, certain discounts that had been awarded under Class C were found to be Class B (i.e. charitable discounts). The Government have not given approval to amend Class B discounts and so this reduces the amount of money that could be generated by reducing this discount.
 - (ii) Identification and classification of long term empty – currently because standard empties and long term empties get the same discount, information on the period of the empty was not always readily available.
 - (iii) Long Term Empty Premium. Since the original proposals the Government have carried out a further consultation as to when it would or would not be acceptable to levy the long term empty premium. The consultation was in respect of 3 main types of empty property as follows:
 - Sole or main residence of a member of the armed forces – following the consultation the government have determined that this will not be liable to the premium and this will be set out in secondary legislation.
 - An annex deemed unoccupied because it is being treated by the occupier of the main dwelling as part of the main dwelling – following the consultation the government have determined that a dwelling in this circumstance will not be liable to the premium and this will be set out in secondary legislation.

- A dwelling which is genuinely on the market for sale or letting – following the consultation the government has accepted the concerns raised by responders and have decided not to prescribe for this circumstance in legislation. It does however still consider that Councils should not automatically charge in these circumstances and will instead ‘issue guidance to help local authorities in their decision making process for administering the premium’. The guidance is awaited and it is not known how this might affect the current financial estimate for this category, but it could be substantially affected.

2.3 A further issue that requires to be addressed is the issue of discounts on flooded properties. Council already have discretion to award local discounts and it is recommended that a local discount is awarded for properties affected by flooding. Currently we are exercising some discretion in these matters by awarding exemptions in accordance with Current Class A or C properties (i.e. existing exemptions for empty properties). To grant Class A or C, the property has to be vacant i.e. unoccupied and substantially unfurnished. Sometimes flooded properties may not be completely emptied as furniture may have been moved upstairs. It would be preferable therefore to have a specific exemption for flooded properties whereby the Council has local discretion to give the exemption.

The proposed scheme is to award a local discount of 100% for an indefinite period but subject to inspection at regular intervals. The cost of this proposal given that it is a local discount would fall to be met by CBC. Obviously the cost in any given year would depend on the incidence of flooding, but based on the current financial year is would be in the region of £7,000.

2.4 Following approval by Council, those affected by the changes set out above will be informed of the change affecting them.

2.5 Changes to discounts and exemptions impact on the Council Tax Base and these reductions in discounts will serve to increase the Council Tax Base, offsetting the reduction to the tax base caused by the LSCT scheme, which from April 2013 will also be treated as a discount. A separate report is considered elsewhere on the agenda setting out the implications for the Tax Base (including the impact on Parishes who are now affected directly by the impact of the LSCT scheme in their areas.)

3. FINANCIAL IMPACT

3.1 The changes set out above have changed the financial projections contained in the previous report.

Based on 2012/13 figures, the estimated shortfall for Copeland Borough Council from the LSCT scheme is estimated at c. £140,000. The anticipated savings that might be made from the changes to Council Tax discounts is summarised below:

Exemption / Discount	Proposed Reduction in Liability	Full financial impact £000	Impact on CBC £000
Class A Major repair	From 100% for 12 months to 50% for 12 months	50	6
Class C Unoccupied and unfurnished	From 100% for 6 months to 50% for 3 months	315	36
Second Homes	From 10% for an indefinite period to zero	105	12
Standard Empties	From 50% for an indefinite period to 10% for an indefinite period	185	21
Long Term Empties	From 50% discount for an indefinite period to a premium of 50% for an indefinite period	335	40
Flood Discount	From zero to 100% for an indefinite period but subject to inspection.	(7)	(7)
TOTAL		983	108

- 3.2 The above table is an estimation of the impact only as the figures are based on current levels of empty properties and second homes. The potential impact also does not take fully into account any collection / avoidance issues. Copeland Borough Council would receive c.11.5% of the above amounts saved directly with the balance going to the County Council (74.3%) and the Police (12.9%).
- 3.3 As can be seen from the Table above the estimated maximum amount that could be raised for CBC if discounts were set to the proposed levels would be c. £108k. Although this would go some way to meeting the estimated funding gap of c. £140k arising from LSCT, it should be stressed that there are a number of assumptions and unknown factors in the above figures such as number of empties / second homes and impact of any changes on potential 'avoidance' measures coupled with increased difficulty in collecting impact on collection rates. Also there is the impact of any further Government guidance to be received on long term empties. The situation will be closely monitored and fully reviewed for impact during 2013/14.
- 3.4 There will also be a potential positive effect on the New Homes Bonus payments from the Government which is impacted on by reducing the amount of empty properties in the area. Again this will be monitored to see if the new charges do indeed reduce the number of empty properties.

3.5 **Recommended Policy Decisions:**

The regulations and explanations regarding the setting of The Council Tax Prescribed Classes of Dwellings, for England, for the purposes of Section 11A and 11B of the Local Government Finance Act 1992 are contained in **Appendix 2** attached. It should be noted that the prescribed classes have existed in S11A of the LGFA since 2003 and are not to be confused with the exemption classes (from the exempt dwellings order) that are different things entirely.

Members are asked to agree the following recommendations:

(i) Classes A and B:

Class A - unoccupied and furnished properties (second homes).

Class B – unoccupied and furnished properties with a planning restriction of at least 28 days (second homes)

Classes A and Class B discount to be set at Zero.

(ii) Classes C & D:

Class C – unoccupied and unfurnished.

Class D – Unoccupied unfurnished properties requiring major repairs for a period up to 12 months.

Class C discount to be set at 50% for a period up to 3 months, then 10% thereafter.

Class D discount to be set at 50%

(iii) Classes E & F:

Class E – A property excluded from the long term empty premium due to the relevant person residing elsewhere in accommodation provided for and in connection with their employment with the Ministry of Defence.

Class F – A property which forms part of an annexe to another property and is being used as part of that main residence.

Class E discount to be set at 50% for a period up to 3 months, then 10% thereafter.

Class F discount to be set at 50% for a period up to 3 months, then 10% thereafter.

(iv) Long Term Empty Premium

A long term empty dwelling is a dwelling that has been unoccupied and substantially unfurnished for a continuous period of at least 2 years.

The higher amount for long term empty dwellings to be set at 50%

(v) Local Flood Discount

A local flood discount to be awarded under S13A of the Local Government Finance Act 1992 (as inserted by S76 of the LGFA 2003), and not S11A or S11B of the LGFA

1992 as per the recommendations above. **The proposed scheme is to award a local discount of 100% for an indefinite period but subject to inspection at regular intervals.**

4. OPTIONS TO BE CONSIDERED

- 4.1 Executive can decide to accept all or some of the proposed Council Tax Technical Reform proposals as set out in the report for recommendation to Council or reject / amend them and consider alternative options. It should be noted that any changes at this stage will impact on the Council Tax Base calculation and the figures included in the budget reports.

5. CONCLUSIONS

- 5.1 The decisions to be made around setting levels of discount and premium for the wider Council Tax Technical Reforms need to be carefully considered with regard to financial, economic and wider community impact. The recommendations in this report have taken these issues into account.

6. STATUTORY OFFICER COMMENTS:

- 6.1 The Monitoring Officer's comments are: Proposals are in accordance with the relevant legislation.
- 6.2 The Section 151 Officer's comments are: Included in the report.
- 6.3 EIA Comments: An initial EIA assessment was completed at an earlier stage. There are no negative impacts identified.
- 6.4 Policy Framework: "The Local Government Finance Act 2012 received Royal Assent on 1 November 2012. This Act contains a number of regulations which form a wider package of reforms of which Council Tax Technical Reform is just one. The policy context for Council Tax Technical Reforms (discounts on empty properties and second homes) is contained within the report alongside the technical details. Members will note that subject Full Council's agreement of the recommendations at section 3.5 of the report, this will set the Council's policy on this matter and support the revised future policy framework."
- 6.5 Other consultee comments, if any: A consultation has been carried out on the proposals as part of the wider budget service consultation. The consultation responses from the County Council and the Police are generally supportive of the LSCT scheme proposed by CBC but have asked that the Council consider mitigating measures to negate the financial impact, which has been done.

6.6 Once the proposals have been agreed by Council, anyone directly affected will be notified of the changes.

7. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?

7.1 The risk to the project is in monitoring the financial implications and monitoring procedures will need to be strengthened. It should be noted that Allerdale and Carlisle are proposing different levels of discounts as the issue is a locally determined one – this may have some minor implications for workload in the shared service who will administer all 3 schemes.

7.2 There will be an additional workload from monitoring the effect of the reduced discounts and particularly how this might impact in terms of debt recovery and monitoring and inspection of properties. How the monitoring and inspection of properties can be most efficiently carried out across the authority will be investigated further.

8. WHAT MEASURABLE OUTCOMES OR OUTPUTS WILL ARISE FROM THIS REPORT?

A new discount scheme for empty properties, flooded properties and second homes.

9. APPENDICES AND BACKGROUND DOCUMENTS:

- **Appendix 1: Detailed Proposals considered by Executive 2nd October 2012**
- **Appendix 2: Regulations**

Background documents:

- Council Tax Technical Changes – various Government consultation documents

DETAILED COUNCIL TAX TECHNICAL REFORM PROPOSALS
(considered by Executive 2nd October 2012)

Exemption Class A – these exemptions apply to uninhabitable properties which are unfurnished and in the course of renovation. These are generally properties in need of significant modernisation, requiring works to remedy structural defects or affected by natural disaster e.g. flood or fire.

- **Currently, these properties can receive a 100% exemption from Council Tax for a period up to 12 months.** They are primarily owned by private individuals, rather than builders, and allow the purchaser to acquire the property at a cheaper market value in lieu of the cost of work required to render it habitable. They also include owners who move out (e.g. live in a caravan on site) in order to remedy structural defects or substantially alter the dwellings e.g. add on another floor.
- Setting the discount at less than 100% would require the buyer/owner to factor in the additional costs of Council Tax when purchasing the property and could impact adversely on the first time buyer market or in any strategy to reduce the number of unfit homes within the City. Note, the Council can still introduce local discounts under S13A of the Local Government Finance Act 1992 (LGFA) e.g. properties rendered uninhabitable by localised flooding.
- There may be some impact on businesses involved in renovating properties.
- **Working Group Proposal: The Working Group considered that the current discount of 100% for 12 months should be reduced to 75%. There is no option to alter the time period on this exemption. The estimated value of this reduction is £25k of which CBC will receive c. £3k.**
- ***Executive Decision for consultation – the Executive decision was to reduce the discount to 50%.***

Exemption Class C – these apply to short term unoccupied and unfurnished properties.

- **Currently these properties can receive a 100% exemption from Council Tax for a period up to 6 months.** They are primarily properties that are changing owner or changing tenant and the six months allows for the exchange of contracts/new tenancy agreements to take place. They can also include property left under the terms of a will.
- This category includes all property that is rented as unfurnished and includes the majority of Registered Providers of Social Housing. It can

also apply to properties that have enjoyed Class A exemption for 12 months and qualify to transfer into Class C exemption for a further period of up to 6 months.

- All persons affected would have to factor any discount reduction/increase in liability into their budgets. It might encourage faster re-letting or re-occupation of empty homes. Conversely it may lead to more sub-standard housing where the cost of repairs/redecoration increases with the increase in liability.
- There may be some impact on businesses involved in house-building as a newly completed but unoccupied dwelling would normally enjoy a period of 6 months before liability arises. There will also be additional costs to Registered Providers of Social Housing in increased housing costs.
- **Working Group Proposal: The Working Group considered that the current discount of 100% for 6 months should be reduced to 50%. There is now an option to alter the time period on this exemption, however this was notified after the working group had met. If the time period was changed to (say) 3 months then there would be an impact on the financial benefit however at the moment our current modelling tool does not allow that to be estimated albeit Capita have assured us that it will be available shortly. The estimated value of this reduction based on the current 6 months is £240k of which CBC will receive c. £28k.**
- ***The Executive decision for consultation was to reduce the time period for the exemption to 3 months.***

Second Home Discount – this applies to furnished but unoccupied properties.

- **Currently these properties can receive a 10% reduction in Council Tax liability for an indefinite period.** They are generally 2nd homes or properties between tenancies that are let furnished.
- This category does not include properties which are unoccupied due to a planning condition restriction or properties which are unoccupied due to job-related contract provisions. These properties retain a 50% discount.
- There will be an incentive to turn round tenancy changes in a faster time period which could increase the local housing provision supply.
- The disadvantage of reducing the discount to zero is that there would be no incentive for owners to declare their houses as second homes and the record of second homes may therefore become less accurate over time.

- A further consideration is that there is also a ten year agreement (started April 2009) between the County Council and all the Cumbrian Districts. Under this agreement the County granted back to each District a third of the extra Council Tax raised for the County by the Districts (as Billing Authorities) of reducing the discount from 50% to 10%. For Copeland this is **£105,000 per annum**. The agreement was made to ensure that part of the total Council Tax raised by second homes was retained within the district in which it arose. Members will note that the County Council consultation response makes reference to this grant and that 'the current income sharing agreement may also require review late in the year as the legislation and regulations through which they are financed changes and the full impact becomes clearer'. The County have indicated informally that they are not planning to reconsider the income sharing agreement at this time however Members will need to be clear on the implications of a potential change in the grant back conditions before it makes any decision.
- **Working Group Proposal: The Working Group considered that the current discount of 10% should be reduced to zero, but that this should be dependent on Cumbria County Council confirming that it will not be reconsidering the current income sharing agreement. The estimated value of this reduction is £105k of which CBC will receive c. £12k.**
- *The Executive agreed the working group proposal*

Standard Empty Discount – applies to longer term unoccupied and unfurnished properties:

- **Currently these properties can receive a 50% reduction in Council Tax liability for an indefinite period.** Existing legislation allows the Authority to set this discount at a percentage it determines. Also to make a determination varying or revoking a determination but only before the beginning of the financial year.
- This category contains a mix of circumstances e.g.
 - Additional property acquired under the terms of a will
 - Additional property in need of modernisation but not bad enough to be classed as uninhabitable
 - Property which remains unsold or untenanted
 - Property which is an asset but where the owner does not want to be involved in the business of renting it out
 - Property being held for future occupation
- Reducing the discount may fit with wider Council strategy or policy objectives around increasing the local housing provision by bringing empty homes back into use or increasing funding through the New Homes Bonus Scheme.

- However, there may be a number of cases where the owner does not have the financial capacity to bring the home back into use and increasing the Council Tax liability could cause hardship.
- **Working Group Proposal: The Working Group considered that the current discount of 50% for an indefinite period should be reduced to 10%. There is no option to alter the time period on this exemption. The estimated value of this reduction is £320k of which CBC will receive c. £37k.**
- *The Executive agreed the working group proposal*

Long Term Empty Premium – this applies to long term unoccupied and unfurnished properties.

- **Currently these properties can receive a 50% reduction in Council Tax liability for an indefinite period.** The current proposal allow for a premium to be charged on these properties in future.
- Similar profiles to standard empty discount properties (detailed above), similar considerations and potential for greater impact if premium applied on top of erasing the current discount.

Figures on long term empties are not currently available as the authority does not treat them differently to other empty properties receiving a 50% discount and regulations do not require separate reporting. Investigations will be undertaken to identify the current and trend figures for the more detailed, separate report into the decisions regarding the implementation of the Council Tax technical reforms.

- **Working Group Proposal: The Working Group considered that the current discount of 50% for an indefinite period should be changed so that a 50% premium should be charged. The estimated value of this reduction is £335k of which CBC will receive c. £40k.**
- *The Executive agreed the working group proposal*

REGULATIONS

The Local Government Finance Act 2012 - Regulations published:

- The Council Tax (Exempt Dwelling) (England) (Amendment) Order 2012

SI 2012/2965 - coming into force on 1st April 2013

This amendment removes two of the classes from the order (Classes A and C) so they are no longer exempt from Council Tax.

- The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012

SI 2012/2964 - coming into force on 1st April 2013.

S11(2) of the LGFA 1992 ("The Act") makes provision for empty homes discounts of 50%. Section 11A of the Act makes special provision for England, in relation to the empty homes discounts, providing for the discounts to be reduced in relation to certain classes of dwelling prescribed by the Secretary of State.

Section 11B of the Act (inserted by the LGFA 2012) makes provision for an empty homes premium to be charged in relation to such classes of long term empty dwellings as the billing authority choose, subject to exceptions prescribed by the Secretary of State.

These regulations relate to England and prescribe one additional class of dwelling for the purposes of S11A of the Act and two further classes of dwelling for the purposes of Section 11B of the Act

The Prescribed Classes:

Class A - unoccupied and furnished properties (second homes).

Class B – unoccupied and furnished properties with a planning restriction of at least 28 days (second homes)

Paragraph (3) of regulation 2 prescribes Classes A and B in the 2003 Regulations for the purposes of Section 11A(4) of the Act. Billing authorities in England will be able to reduce or end the council tax discount for chargeable dwellings which are **unoccupied and furnished**, and the occupation of which is restricted by a planning condition preventing occupation for a continuous period of at least 28 days in the relevant year and therefore fall within Class A. Billing Authorities will also be able to reduce or end the Council Tax discount for chargeable dwellings which are **unoccupied and furnished**, and 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 and therefore fall within class B.

In relation to dwellings of any class prescribed by the Secretary of State for the purposes of Section 11A(4A) of the Act (inserted by section 11 of the Local Government Finance Act 2012) an English billing authority may determine that the Council Tax discounts applicable

where there is no resident of the dwelling shall be replaced by any percentage of Council Tax up to 100%.

Class C – unoccupied and unfurnished.

Class D – Unoccupied unfurnished properties requiring major repairs for a period up to 12 months.

Classes C and D are prescribed by paragraph (3) of regulation 2 for the purposes of section 11A(4A). Class D is an additional class inserted into the 2003 Regulations by paragraph (4) of regulation 2 of these Regulations. Billing authorities in England will be able to decide what percentage of Council Tax to charge in relation to these classes of dwelling instead of the discount, up to the full amount. Dwellings which are unoccupied and substantially unfurnished will fall into Class D where they are undergoing, or have undergone within the last six months, major repairs, but they will only fall into this class for a maximum period of 12 months. Dwellings, which are unoccupied and substantially unfurnished will fall into Class C.

Class E – Sole or main residence of an individual where:

That individual is a qualifying person in relation to another dwelling provided by the Secretary of State for defence for the purposes of armed forces accommodation and for which that individual is job-related (no empty homes premium)

Would be the sole or main residence of an individual if that individual were not a qualifying person in relation to another dwelling provided by the Secretary of State for Defence for the purposes of armed forces accommodation and for which that individual is job-related (no empty homes premium)

Class F – property which forms part of a single property which includes at least one other dwelling and which is being used by a resident of that other dwelling, or as the case may be, one of those other dwellings as part of their sole or main residence (no empty homes premium).

Classes E and F are prescribed by paragraph (3) of regulation 2 for the purposes of section 11B(2) of the Act. These classes are inserted into the 2003 Regulations by paragraph (4) of regulation 2 of these Regulations. Billing Authorities in England will not be able to charge an empty homes premium in relation to a dwelling which would be the sole or main residence of a person but which is empty while that person resides in accommodation provided by the Ministry of Defence by reason of their employment i.e. service personnel posted away from home (described by Class E and the definitions and schedule currently in the 2003 Regulations). Billing Authorities will also be prevented from charging an empty homes premium in relation to dwellings which form annexes in a property which are being used as part of the main residence or dwelling in that property (described by Class F in the Regulations).

Higher amount for a long term empty dwelling is prescribed by Section 12 of the LGFA 2012 which inserts Section 11B into the LGFA 1992. A long term empty dwelling is a dwelling that has been unoccupied and substantially unfurnished for a continuous period of at least 2 years.