

COUNCIL
24 JANUARY 2013
TECHNICAL REFORMS OF COUNCIL TAX

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Summary

The purpose of this paper is to provide Council with details of the Government's technical Reforms to Council Tax. The report also sets out the recommended changes to council tax exemptions for Council approval in the light of the new powers.

1. Budget and Policy Framework

- 1.1 It is the Cabinet's responsibility to propose a budget to be agreed by Council. The technical changes to Council Tax will have an impact on both the taxbase calculation and the budget requirement that underpin the budget proposal. The consequences of dealing with these issues will directly impact on the level of council tax.
- 1.2 The level of discounts to be awarded is a matter for Council.

2. Background

- 2.1 On 31 October 2011, the Government published its consultation document 'Technical reforms of council tax'.
- 2.2 The reforms were reported to the Cabinet on 4 September 2012 as part of the report on localising council tax support.
- 2.3 The Cabinet noted the intention to amend the level of certain discounts and exemptions to mitigate against part of the cost of the localised council tax support scheme (decision number 148/2012).
- 2.4 On 31 October 2012 the Local Government Finance Act received royal assent, providing the framework for the technical reforms of council tax.
- 2.5 On 30 November 2012 The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 and The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 were laid before parliament.

2.6 On 18 December 2012 The Council Tax (Administration and Enforcement) (Amendment) (No.2) (England) Regulations 2012 were laid before parliament.

2.7 In summary, the changes are:

- (i) giving billing authorities power to levy up to full council tax on second homes
- (ii) replacing exemption Class A (major repairs/structural alterations) and Class C (Empty for up to 6 months) with discounts, the amount of which would be for billing authorities to determine
- (iii) abolishing Class L exemption, and making mortgagees in possession of empty dwellings liable to council tax in respect of them
- (iv) allowing billing authorities to levy an 'empty homes premium' in respect of dwellings which have been left empty for two years or more
- (v) allowing payment of council tax instalments over twelve months rather than (as is currently the case) ten.
- (vi) allowing authorities to publish online the 'Information to be supplied with demand notices', but with a duty to supply it in hardcopy to any council tax payer requesting it – as an efficiency measure, and to encourage the take-up of electronic billing
- (vii) changes to eliminate potential tax complications from arrangements involving third party suppliers where solar panels are placed on the roofs of dwellings without coming into the paramount control of the resident.

3. Options

3.1 Empty Homes

3.1.1 There are currently four different types of empty homes discount in Medway, these being:

- (i) A second home (i.e. furnished but not the main dwelling) – discount of 10% (399 properties as at 30 November 2012)
- (ii) A pitched caravan or mooring – discount of 50% when unoccupied (2 properties as at 30 November 2012)
- (iii) A second home, where either the first or second home is job related – discount of 50% (5 properties as at 30 November 2012)
- (iv) Long term empties (i.e. unoccupied / unfurnished dwelling) – discount of 0% once any period of exemption has passed (1,382 properties as at 30 November 2012)

- 3.1.2 The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 gives the Council the power to remove the remaining 10% in respect of 3.1.1 (i) above, of which approximately a quarter are holiday homes in Allhallows.
- 3.1.3 The discount for this particular group of properties was reduced to 10% at Council on 13 January 2011 having previously stood at 50%.
- 3.1.4 The opportunity to remove the remaining 10% discount would provide an additional £45,000 of liability based on figures as at 30 November 2012.
- 3.1.5 Adopting these changes does create a potential issue regarding the current formula grant calculation. At present, the system encourages the taxpayers to identify properties of second homes (to receive between a 10% and 50% discount).
- 3.1.6 The fact that the Government assumes that all second homes receive a 50% discount for formula grant purposes allows Medway Council to benefit from the increased council tax revenues when offering a discount of less than 50%.
- 3.1.7 If Medway Council were to reduce the second home discount to nil, there would be no incentive for taxpayers to identify second homes resulting in a danger that the additional formula grant would be lost.

3.2 Exemptions

- 3.2.1 **Class A:** At present, an exemption is given to vacant dwellings (undergoing major repair work) for one year, with billing authorities having discretion over the rate of discount after one year.
- 3.2.2 The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 removes Class A from the list of exempt classes of property. However, The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 allows authorities to replace the exemption with a discount between 0% and 100%. Local authorities retain any additional council tax raised, without a corresponding adjustment to the formula grant.
- 3.2.3 In 2011/12 Class A exemptions in Medway totalled £119,531. As at 30 November 2012, 63 properties were subject to a Class A exemption with the amount of exemption awarded totalling £117,269 for the period up to 31 March 2013.
- 3.2.4 Although the amount of the discount is at the Council's discretion, the length of discount must remain at 12 months.
- 3.2.5 Whilst reducing the discount may act as a positive incentive to bring some properties back into use more quickly, it may also put developers off more complex renovations/repair works altogether which would be against the Council's own objectives of bringing properties back into use.
- 3.2.6 **Class C:** At present, an exemption is granted for a period of up to 6 months after a property becomes vacant (that is unoccupied and unfurnished).

- 3.2.7 The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 abolishes the Class C exemption. However, the Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012 allows authorities to replace the exemption with a discount between 0% and 100%. As with the proposals around Class A above, local authorities retain any additional council tax raised, without a corresponding adjustment to the formula grant.
- 3.2.8 In 2011/12 Class C exemptions in Medway totalled £1,937,872. As at 30 November 2012, 1,467 properties were subject to a Class C exemption with the amount of exemption awarded totalling £1,749,429 for the period up to 31 March 2013.
- 3.2.9 Both the amount of discount and the length of discount is at the Council's discretion.
- 3.2.10 It must be recognised that there is always likely to be a gap between occupations, and that to remove the discount could therefore accrue considerable additional expenditure for landlords, including MHS and the Council's own housing section. However, it is not considered unreasonable for changeovers to be completed within 3 months.
- 3.2.11 Based on 2011/12 figures it is anticipated that maintaining a 100% discount but for a reduced period of 3 months would create an additional liability of approximately £750,000. Were the 100% discount to be removed entirely it would generate approximately £1.9 million in additional liability, reflective of the fact that the majority of changeovers are completed within 3 months.
- 3.2.12 **Class L:** At present, an exemption is granted for mortgagors that have had their home repossessed by a bank or building society.
- 3.2.13 The Government propose to amend council tax legislation in order that the liability for council tax would fall on the owner of the property (if there is no resident), thereby making the institutions which have taken possession of the property liable for council tax. As yet no regulations have been laid to enable this change to come into force.
- 3.2.14 There is nothing to guarantee that the institutions would not pass this expense on in other charges.
- 3.2.15 In 2011/12 Class L exemptions in Medway totalled £73,863. As at 30 November 2012, 29 properties were subject to Class L exemption with the amount of exemption awarded totalling £49,548 for the period up to 31 March 2013.
- 3.3 **Empty Homes:** Local authorities currently have the discretion to provide up to a 50% discount on non-exempt long-term empty dwellings. Medway Council has awarded a zero discount since 1 April 2004.
- 3.3.1 The Council Tax (Administration and Enforcement) (Amendment) (No.2) (England) Regulations 2012 give billing authorities the power to levy an empty homes premium of up to 100% on council tax payable in respect of dwellings that have been left empty and unfurnished for two years or more.

3.3.2 As at 7 January 2013, the following number of properties had remained empty for the period shown:

- Up to 1 year 632
- 1 to 2 years 360
- 2 to 3 years 172
- 3 to 4 years 92
- 4 to 5 years 44
- 5 to 6 years 52
- 6 to 7 years 20
- 7 years or more 91

3.3.3 At current Band B rates, each property that has been empty for more than two years has a potential to raise an additional £870.45 if Medway Council chose a levy doubling the charge. This gives a total of £409,982.

3.3.4 However, raising the charge does not guarantee collecting the monies due. Many of the older cases have absent owners or unresolved probate issues.

3.3.5 As at 14 December 2012 there was a total of £589,897 outstanding on Prescribed Class C properties, £219,519 of which related to properties that had remained empty for more than two years.

3.4 Paying by instalments

3.4.1 Currently Council Tax is payable in ten monthly instalments, although billing authorities have discretion to adopt local schemes.

3.4.2 The Council Tax (Administration and Enforcement) (Amendment) (No.2) (England) Regulations 2012 allow council tax payers to pay over 12 monthly instalments if they so request with the default plan being to pay over 10 months. The Council is obliged to notify council taxpayers of this right.

3.4.3 As at annual billing for 2012/13 89,714 accounts were identified as payable by monthly instalments, and it is expected that the introduction of the local council tax support scheme will increase this by a further 9,000 accounts. By extending the scheme to 12 months there will be an inevitable effect on cash flow.

3.4.4 Another implication of changing to 12 months is that more people will, in effect, be paying in arrears and there will be an increase in the number of people left owing small amounts when they vacate properties. These amounts are often uneconomic to pursue.

3.4.5 Currently Medway Council offers three ten monthly instalment plans starting on 14 April, 28 April and 1 May. If these were changed to 12 monthly the first instalment would be due on 1 April. The current committee cycle would not provide sufficient time between the setting of the council tax and the first instalment date to print the annual bills.

3.4.6 General rates, community charge, business rate and council tax have always been payable over 10 months, and many people welcome the two 'free' months.

3.5 Information to be contained in demand notices

- 3.5.1 At present council tax demand notices are issued in hard copies with regulations setting out information to accompany them.
- 3.5.2 The Council Tax (Administration and Enforcement) (Amendment) (No.2) (England) Regulations 2012 remove the need to produce the accompanying information in hard copy in the first instance. Billing authorities may publish the information on line, but retain a duty to produce a hard copy to any resident who requests it.
- 3.5.3 The total cost of printing the council tax leaflets for 2011/12 was £7,181. £1,197 was recovered from both Kent Police and Kent Fire leaving the balance of £4,787 to be paid by Medway.

3.6 “Rent a roof” solar photovoltaic installations on domestic properties

- 3.6.1 At present solar photovoltaic installations are treated by the valuation office as having no material impact on the value of a property (and therefore no impact on council tax).
- 3.6.2 However, the emergence of “rent a roof” schemes, where a third party takes part possession of the roof of a home, could see the need for individual business rate assessments on those particular properties.
- 3.6.3 In order to avoid this costly process (both in terms of assessment and the issuing of small business rates bills), the government has stated that all domestic scale (maximum generating capacity of 10kW) solar photovoltaic installations on dwellings should be treated as part of those properties.
- 3.6.4 The Council does not hold records of how many properties this might affect in Medway but there are no risks or issue for the council in relation to this decision.

3.7 Valuing annexes as part of the main dwelling

- 3.7.1 If parts of a building are in separate occupations, each part is a separate hereditament; and each is a dwelling liable to council tax.
- 3.7.2 Where part of a house has been physically adapted as a ‘granny annexe’, it will be separately banded for council tax purposes whether or not it continues to be occupied as a separate unit of accommodation.
- 3.7.3 The law requires that it should continue to be separately banded for council tax until such time as the physical adaptations are undone.
- 3.7.4 The Government is questioning whether these rules need amending so that where an owner of a property has a ‘granny annexe’ that is self contained but no longer occupied and has effectively been returned to the main residence as a joint home they should not have to continue to pay council tax for this separately. The Government have decided due to the complexities to undertake a broader review of the issue.

3.7.5 This is not material in terms of liability although policing occupation of this type of annexe would be difficult.

4. Risk management

Risk	Description	Action to avoid or mitigate risk
Failure to collect increased liability	Whilst modelling can determine fairly accurately the increased levels of liability, the sums still have to be collected	Monitoring and prompt enforcement action
Increased rents	Landlord may increase rents to offset the reduction in Class C though this is not perceived to be a high risk.	Monitoring of rent levels
Reputation	Increasing council tax liabilities may lead to reputational damage	Clear explanations to be given as to need to implement changes

5. Cabinet

5.1 The Cabinet considered the report on 15 January 2013 and recommended the following to Council:

- (a) notes the power to reduce the discount in respect of second homes from 10% to 0% but agrees not do so at this time.
- (b) notes the removal of Class A & Class C properties from the list of exemptions and agrees to replace them with new discounts of 100% for 12 months (Class A) and 100% for 3 months (Class C) respectively.
- (c) notes that no regulations have yet been issued to change the liable party in respect of properties where the mortgagee is in possession.
- (d) notes the power to levy an additional premium on those properties that have remained empty and unfurnished in excess of two years but agrees not do so at this time.
- (e) notes the changes to the instalment scheme for Council Tax and possible consequences for the timetabling of future tax setting meetings.
- (f) requests officers to publish the information to be contained in demand notices electronically, only supplying hard copy as and when requested.
- (g) notes the changes relating to the valuation of solar panels and granny annexes.

6. Financial and legal implications

6.1 These are contained within the body of the report.

7. Recommendations

7.1 That Council agrees the following:

- (a) notes the power to reduce the discount in respect of second homes from 10% to 0% but agrees not do so at this time.
- (b) notes the removal of Class A & Class C properties from the list of exemptions and agrees to replace them with new discounts of 100% for 12 months (Class A) and 100% for 3 months (Class C) respectively.
- (c) notes that no regulations have yet been issued to change the liable party in respect of properties where the mortgagee is in possession.
- (d) notes the power to levy an additional premium on those properties that have remained empty and unfurnished in excess of two years but agrees not do so at this time.
- (e) notes the changes to the instalment scheme for Council Tax and possible consequences for the timetabling of future tax setting meetings.
- (f) requests officers to publish the information to be contained in demand notices electronically, only supplying hard copy as and when requested.
- (g) notes the changes relating to the valuation of solar panels and granny annexes.

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Background papers

Technical reforms of council tax – Consultation

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8434/20192051.pdf

Local Government Finance Act 2012

<http://www.legislation.gov.uk/ukpga/2012/17/enacted>

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

<http://www.legislation.gov.uk/uksi/2012/2964/contents/made>

The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012

<http://www.legislation.gov.uk/uksi/2012/2965/contents/made>

The Council Tax (Administration and Enforcement) (Amendment) (No.2) (England) Regulations 2012

<http://www.legislation.gov.uk/uksi/2012/3086/made/data.pdf>