

Cabinet

16 November 2011



Review of Discretionary Council Tax Discount on Long Term Empty Properties

**Report of Corporate Management Team
Don McLure, Corporate Director Resources
Councillor Alan Napier, Portfolio Holder for Resources**

Purpose of the Report

- 1 To propose an amendment to the current policy on Council Tax discount for Long Term Empty Properties, reducing the discount from 50% to nil with effect from 1 April 2012.

Background

- 2 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. Long term empty properties are defined as domestic properties that have been unoccupied for more than six months. The more detailed definitions of the classes of dwelling to which these provisions apply are set out in the legal section of Appendix 1. The proposal in this report relates to properties which are dwellings that are 'unoccupied and substantially unfurnished'.
- 3 Council Tax legislation stipulates that long term empty properties, not subject to an exemption, attract a minimum 50% charge. In April 2009, the Council adopted a policy to charge 50% on long term empty properties, which was consistent with the policies adopted by all seven former district councils
- 4 There are over 5,200 long term empty properties across County Durham where the owners are currently being charged 50% council tax. 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 in line with the Council's Housing Strategy.

Hardship Relief

- 5 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 where it can be demonstrated by the liable person that they are suffering from financial hardship.

- 6 In cases of demonstrable financial hardship, a reduction in liability of up to 100% can be granted where the local authority is satisfied that the liable person of an empty domestic property has made their best efforts to sell or let the property and to levy a council tax charge would cause them exceptional financial hardship.
- 7 This discretionary power could be used to alleviate problems to individual council tax payers, in exceptional cases. A new hardship relief policy will be drawn up to be used as guide for employees to consider where discretionary relief should be awarded and each application will be considered on its merits.
- 8 There will be a loss of income associated with the introduction of a hardship policy, dependent upon the number of successful applications. A prudent estimate will be built into the Medium Term Financial Plan in recognition of this.

Financial Incentive to Reduce the Discount on Long Term Empty Properties to Nil

- 9 To reduce the level of discount to nil would increase council tax income by around £2.1m a year from 2012/13, after allowing for potential hardship relief awards.
- 10 In 2012/13, the Council would receive the full benefit of the £2.1m income, however, in subsequent years, based on the current formula grant distribution mechanism, there would be a corresponding reduction of a similar amount of Revenue Support Grant received by the Council.
- 11 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 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.
- 12 If these proposals were enacted the possibility exists for the additional council tax income generated in 2012/13 to be a permanent feature of the MTFP. However, at this stage it is considered prudent to assume that the benefit will be in 2012/13 only.
- 13 The policy would have a relatively marginal impact upon Social Housing and general costs to the Housing Revenue Account (HRA) for the Council's housing stock are estimated at around £10,000 per year.
- 14 The Council also owns approximately forty other domestic properties that would be affected by the loss of discount at a potential cost of £20,000 to the General Fund. In the main, these properties have been declared surplus to requirements and are awaiting disposal.

Equality and Impact Assessment

- 15 An equality impact assessment has been carried out to screening stage for this proposal. Since the proposals will apply to all landlords and all areas, private and social housing, this can be viewed as an increase in a business charge, applicable to all. Equality monitoring information is not collected from landlords therefore it is not possible to quantify impact. In view of the fact that other Council Tax exemption categories for unoccupied properties remain, such as unoccupied dwellings previously the sole or main residence of a person who has moved into a hospital or care home, there are considered to be no adverse impacts in terms of equality.

Policy in Neighbouring Local Authorities

- 16 Neighbouring local authorities offer the following levels of discount for properties empty more than six months:

Authority	Discount %
Darlington	0
Newcastle	0
Northumberland	0
South Tyneside	0
Redcar & Cleveland	10
Gateshead	50
Hartlepool	50
Middlesbrough	50
North Tyneside	50
Stockton	50
Sunderland	50

Consultation

- 18 Statutorily, the Council is required to publish a Notice of Determination in a local newspaper within 21 days of making such a determination.

Recommendations and Reasons

- 19 Cabinet recommends to Council a policy of nil discounts on Long Term Empty Properties with effect from 1 April 2012.
- 20 Cabinet authorises the Corporate Director Resources in consultation with the Cabinet Member for Resources to introduce a new hardship relief policy.

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Background papers

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

Appendix 1: Implications

Finance

The adoption of a nil discount policy for Long Term Empty Properties would generate annual council tax income of around £2.1m per year, based on a collection rate of 98.5% after allowing for a prudent estimate for the granting of hardship relief applications.

In 2012/13, the Council would receive the benefit of the £2.1m income however, based on the current finance regime, in subsequent years there would be a corresponding reduction of a similar amount of Revenue Support Grant received by the Council.

There are proposals currently out to consultation on changes to the local government finance regime, including the retention of business rates from 1 April 2013. As part of these proposals the Revenue Support Grant payable in 2012/13 would be fixed and not adjusted for taxbase changes in 2012/13, therefore the potential exists for the £2.1m additional resource next year to be a permanent feature in the MTFP. A prudent approach to forecasts within the MTFP, based on current grant distributions formula / mechanisms, will be need to taken at this stage.

Staffing

None.

Risk

The sum collected will be dependent upon the success of collection and the application of the hardship relief policy in exceptional cases.

Equality and Diversity / Public Sector Equality Duty

An Equality Impact assessment Screening has been undertaken in line with corporate policy and with the support of the Equalities Team. The report details the Equality Impact Assessment outcomes.

Accommodation

None.

Crime and Disorder

None.

Human Rights

None.

Consultation

There are no proposals to consult on the changes put forward in this report. However, there is a requirement to publish a notice in a local newspaper within 21 days should Cabinet and the Council choose to reduce the discount on long term empty properties from 50% to nil with effect from 1 April 2012.

Procurement

None.

Disability Issues

None.

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”.