

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

11 January 2012

Report of the Director of Finance and Cabinet Member for Finance

Part 1- Public

Executive Non Key Decisions

1 CONSULTATION ON TECHNICAL REFORMS TO COUNCIL TAX

A report advising Members of a consultation paper, issued by the Department for Communities and Local Government, concerning proposed technical reforms of council tax. The report sets out the proposed, technical reforms and our responses to the consultation questions. As the deadline for response to the consultation was 29 December 2011, we responded following liaison with the Leader and the Cabinet Member for Finance. The report therefore seeks Members' retrospective approval of our responses.

1.1 Introduction

1.1.1 The Department for Communities and Local Government issued a consultation paper, in October 2011, entitled 'Technical reforms of Council Tax'. The consultation paper is attached at **[ANNEX 1]**. Our responses to the consultation questions are attached at **[ANNEX 2]**. Subject to responses to the consultation, the government expects to include appropriate measures in a local government finance bill to be brought forward in this session of parliament. The latest information that we have is that any resulting measures will not come into effect until after the 2012/13 year.

1.2 The consultation

1.2.1 In its introduction to the consultation paper, the government states that, as part of its broad agenda, it wishes to look at changes that empower local communities. With a view to keeping down the level of council tax, it has considered ways in which local authorities can manage pressures on council tax. It sees the proposals in the consultation paper as forming part of that agenda.

1.2.2 As Members will observe, the proposed reforms are detailed within **Sections 2 and 3** of the consultation paper. **Section 2** deals with the subject of second homes and empty dwellings and **Section 3** deals with other technical reforms. In respect of some of the consultation questions, we believe that our answers to the questions are non-controversial. Accordingly, we do not give any further detail

below. However, some of the consultation questions, notably in respect of second homes and empty dwellings, do touch on matters of policy. As a result, we have expanded below upon our answers to the questions.

1.3 Second homes and long-term empty dwellings - introduction

- 1.3.1 Second homes, that is properties that are furnished but not used as the sole or main residence of an individual, attract a discount, from the council tax bill, of 50 per cent. Billing authorities have the statutory power to reduce that discount. However, the discount may not be reduced to below 10 per cent.
- 1.3.2 In respect of properties that are unoccupied and substantially unfurnished (long-term empty properties), billing authorities have the power to grant a discount of between 0 and 50 per cent inclusive.
- 1.3.3 This Council determined that, with effect from 1 April 2004, the discount should be 10 per cent in respect of both second homes and long-term empty properties. That decision was taken having regard to the Council's approach to tackling empty homes outlined in the housing strategy section of the Sustainable Community Strategy. The Council is also a signatory to the Kent "No Use Empty" campaign which targets long term empty properties.
- 1.3.4 **Specifically in relation to second homes**, the government asks, at **Question 1**, whether billing authorities should have the power to reduce the discount to 0 per cent. We have responded that authorities should have such power. If, in due course, such a power is given to authorities, it will be necessary for Members to determine whether they wish to exercise such power.
- 1.3.5 **Specifically in relation to long-term empty properties**, these are exempt from council tax for a maximum period of twelve months. After the end of the period of exemption, this Council currently charges council tax at a discounted rate of 90 per cent (see paragraph 1.3.3. above). The government proposes that the exemption should be abolished and replaced with a discount (**see Question 3**). The discount would be in the range of 0 to 100 per cent, at the discretion of the billing authority. As with our response to Question 1 (see paragraph 1.3.4. above), we have agreed that authorities should be given such discretion. However, as we remarked in relation to Question 1, if, in due course, such a power is given to authorities, it will be necessary for Members to determine whether they wish to exercise the power.

1.4 Other proposals in relation to empty properties

- 1.4.1 Members will be aware that, apart from the provisions relating to second homes and long-term empty properties, there are other circumstances in which owners of empty properties benefit from an exemption from liability to council tax.
- 1.4.2 **One of the most common exemptions (exemption class C) is in respect of properties that are unoccupied and unfurnished for a period of up to six**

months. The exemption is applied where the owner of a property moves to another property without previously selling his former property; or the owner moves to another property and the purchaser of the property does not move in immediately; or the owner of a property that is let out has gaps between lettings. The government is proposing that the exemption should be replaced with a discount set at between 0 and 50 per cent inclusive at the discretion of the billing authority. As with the proposals in relation to second homes and long-term empty properties, we believe that we should welcome such a discretionary power, albeit that, if, in due course, such a power is given to authorities, it will be necessary for Members to determine whether they wish to exercise the power.

1.4.3 Where a mortgagee is in possession, under a mortgage, of an unoccupied property, there is currently an exemption from liability to council tax. Were there no exemption, the mortgagor would be liable to the council tax. This would clearly be imposing a financial burden on a person already, apparently, in financial difficulty and, in addition, would be a debt that the billing authority would be unlikely to collect. The government suggests that the council tax legislation should be amended in order to make the mortgagee liable when in possession under a mortgage. The exemption would then become redundant. We have responded that such a change should be made to the legislation. It is our view that the mortgagee should take into account his potential liability to council tax when deciding whether to take possession. Hopefully such a change to the legislation would have a positive impact on the number of repossessions.

1.4.4 Perhaps one of the more controversial proposals in the consultation paper in relation to empty properties relates to an empty homes premium. Although the government has suggested, in the consultation paper, that billing authorities should have discretion to levy an empty homes premium, that question is not actually posed. Although we would welcome the ability to levy a premium, we do have our doubts as to how effective such a levy would be, as we can foresee that those liable for the premium would seek ways to evade it. We recall that there were similar provisions many years ago in relation to general rates and that the additional revenue raised was minimal.

1.5 Other proposed technical changes

1.5.1 These are contained in Section 3 of the consultation paper and there are two matters in that section that we would specifically draw to Members' attention.

1.5.2 Currently taxpayers have the statutory right to pay their annual council tax liability by ten instalments, unless they agree to some other schedule of payment, for instance payment by half-yearly instalments. The government is proposing that the default payment arrangement should be payment by twelve instalments. We have responded that the Council does not agree with the government's proposal. By far the majority of the taxpayers of the Borough are used to payment over ten months; budget accordingly; and do not have difficulty in paying over ten months. To amend the default to twelve instalments seems, to

us, unnecessary. Additionally, such a change would have a negative effect on the Council's cash-flow, albeit only for one year.

- 1.5.3 Although we agree with the statement in the consultation paper that payment over twelve months would provide more flexibility to individuals when managing their finances, the council tax staff already arrange to give taxpayers additional instalment payments if they are struggling financially. We believe that, if the default is twelve months, then taxpayers will be seeking to make payment over, perhaps, fourteen months and, as a result, not clearing their council tax debt within the financial year.
- 1.5.4 It should be noted that all councils commence the preparation of council tax bills for the following financial year in early/mid-March. This means that payments made during March might not be reflected on the annual demand for the following year, which will show brought forward arrears. We know, from experience, that this will be confusing for council taxpayers and significantly increase enquiries from customers.
- 1.5.5 If the legislation were to be amended in this respect, it would be imperative that the government amends the regulations surrounding the payment, from the collection fund, of council taxes due to precepting authorities. Presently, such payment arrangements are based on the cash flow assumptions arising from a default number of instalments of ten, as opposed to twelve. If this were not to happen, the billing authority (ie this Council) would be severely disadvantaged in its cash flow considerations.
- 1.5.6 Finally, we would point out that the government is consulting over whether the council tax leaflet should be provided electronically as the default. We have agreed with the suggestion, on the basis that experience tells us that very few taxpayers take notice of the leaflet.

1.6 Legal Implications

- 1.6.1 None at this stage

1.7 Financial and Value for Money Considerations

- 1.7.1 None at this stage

1.8 Risk Assessment

- 1.8.1 None at this stage

1.9 Equality Impact Assessment

- 1.9.1 See 'Screening for equality impacts' table at end of report

1.10 Recommendations

1.10.1 Members are **REQUESTED** to retrospectively **ENDORSE** the responses to the consultation document, drafted in liaison with the Leader and the Cabinet Member for Finance, as shown at **ANNEX 2**.

Background papers:

'Technical reforms of council tax – consultation',
consultation paper issued by the Department for
Communities and Local Government in October 2011.
ISBN: 978-1-4098-3213-3

contact: Paul Griffin
Tel: 01732 876083

Sharon Shelton
Director of Finance

Martin Coffin
Cabinet Member for Finance

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	N/A	Merely response to consultation paper.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	Merely response to consultation paper.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.