

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE and PROPERTY ADVISORY BOARD

9 January 2013

Report of the Director of Finance

Part 1- Public

Matters for Recommendation to Cabinet - Council Decision

1 TECHNICAL CHANGES TO COUNCIL TAX AND CLARIFICATION OF THE COUNCIL'S COUNCIL TAX REDUCTION SCHEME

A report further to my report to Cabinet of 19 November 2012, in which it was recommended to Council of 21 November 2012 (and subsequently agreed by Council) that the period for which there is no council tax liability under Class C should be reduced from six months to three months and that the discount applicable to second homes and long-term empty properties should be reduced from 10 per cent to 0 per cent. This report also refers to the Cabinet's recommendation to Council of 21 November 2012 that other discounts and exemptions should be reviewed in the year 2013/14. Importantly, this report asks Members to adopt some important features of our local council tax reduction scheme.

1.1 Introduction

- 1.1.1 Members might recall that I stated in my report to Cabinet of 19 November last that there was a risk that the regulations permitting changes to the council tax discounts and exemptions would not be made in the form that had been promised. The regulations were duly made on 26 November 2012 and laid before Parliament on 30 November. Having studied the regulations, I have concluded that, for the avoidance of any doubt, it would be prudent for Members to re-state, in slightly different terms, their recommendations of 19 November to Council, in respect of Class C.
- 1.1.2 It is unnecessary for Members to re-state their recommendations in respect of second home and long-term empty properties.
- 1.1.3 With regard to Members' recommendation to Council that other discounts and exemptions be reviewed in 2013/14, it is technically necessary to ask Members to re-state the position that currently applies to properties requiring or undergoing major repair work, structural alteration etc.

1.2 Class C

- 1.2.1 As Members are aware, Class C currently exempts dwellings from council tax if they are unoccupied and substantially unfurnished and have been so for a continuous period of less than six months. With effect from 1 April 2013, Class C ceases to exist as an exemption. (The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 - SI 2012/2965)
- 1.2.2 In place of the Class C exemption, there is now the power, under Section 11A (4A) of the Local Government Act 1992, to grant a discount in respect of certain 'prescribed' dwellings. Dwellings that are unoccupied and substantially unfurnished are prescribed by reference to Class C in The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, as amended by The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012.
- 1.2.3 In view of the foregoing, the recommendation made by Members on 19 November would be better expressed as a recommendation to Council that dwellings within Class C should benefit from a discount of 100 per cent for the first three months that they fall within that Class and that thereafter there should be no discount.

1.3 Properties requiring or undergoing major repair work etc

- 1.3.1 These properties are currently exempt from council tax under Class A of The Council Tax (Exempt Dwellings) Order 1992 (SI 1992/558). They cease to be so exempt from 1 April 2013 (The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 (SI 2012/2965)) and become, instead, a prescribed class of dwelling (Class D) under the Prescribed Classes of Dwellings (England) Regulations 2003 as amended by The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012.
- 1.3.2 Council resolved on 21 November 2012 that there should be no change to the council tax payable in respect of these properties pending the review during 2013/14. Therefore, to maintain the position as to the amount of council tax payable, it is necessary to grant them, instead of an exemption, a discount of 100 per cent.

1.4 Council tax reduction scheme

- 1.4.1 This Council's reduction scheme was adopted by Council on 21 November 2012. In effect we have adopted a scheme that gives claimants the same level of 'benefit' that they would have received under the council tax benefit scheme, less a reduction of 18.5% at the end of the calculation (8.5% in the first year of the scheme).
- 1.4.2 Subsequently we have been asked by the Valuation Tribunal to supply it with a copy of our reduction scheme, as it will have to have sight of the scheme when determining any appeals relating to a person's application for a reduction. The

request drew to my attention the fact that, at Council last November, although Members agreed the way in which entitlement to a reduction should be calculated, there were some administrative matters that Members had not been asked to adopt.

- 1.4.3 To all intents and purposes, our scheme is the Government's default scheme with some slight adaptations relating to such matters as the procedure for applying for a reduction; the procedure for making an appeal; and the method of making an application for a discretionary reduction. Importantly, although our local scheme is fundamentally the default scheme, as explained in the previous paragraph, the essential difference is that the resultant entitlement to a reduction calculated using the default scheme, is reduced by 18.5% (8.5% in the first year).
- 1.4.4 The default scheme is contained within The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012 (SI 2012/2886). Subject to Member approval, I will send the Tribunal our scheme, which will basically be the default scheme suitably adapted for our purposes.
- 1.4.5 I shall present to Members on the evening of the meeting a paper showing which parts of the default scheme require amendment before adoption into our local scheme.

1.5 Legal Implications

- 1.5.1 A determination in respect of the discount applicable to properties falling within Class C and Class D must be made by Council and may not be delegated.
- 1.5.2 A determination must be made before the start of the financial year to which the determination relates.

1.6 Financial and Value for Money Considerations

- 1.6.1 Failure to make the relevant determination would have an impact on the amount of council tax collectible by the Council, which, in turn, would have a negative impact on the Council's budget.

1.7 Risk Assessment

- 1.7.1 We could be open to challenge if it were considered that our determinations were ambiguous.

1.8 Equality Impact Assessment

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

1.9 Recommendations

- 1.9.1 Members are asked to **RECOMMEND** to Council that:

- 1) in respect of properties previously exempt from council tax under Class C, those properties should benefit from a discount of 100 per cent for the first three months that they are unoccupied and substantially unfurnished and that thereafter there should be no discount;
- 2) in respect of those properties currently exempt from council tax under Class A, but falling within Class D as from 1 April 2013, they should qualify for a discount of 100 per cent for so long as the provisions of Class D apply to them; and
- 3) the default scheme, as amended, be adopted as our local scheme.

Background papers:

contact: Paul Griffin

Nil

Sharon Shelton
Director of Finance

| Screening for equality impacts: | | |
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| 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? | No | The impact of the decision in respect of those properties formerly exempt under Class C was considered as part of the report to Cabinet in November 2012. |
| b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? | No | |
| c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above? | | Not applicable |

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.