

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

11 February 2016

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Council

1 TECHNICAL CHANGES TO COUNCIL TAX

A report seeking Cabinet's support in correcting a technical ambiguity in the Council's local scheme for 'Class C' Discount relating to Empty property.

1.1 'Class C' Discount – Empty Property

- 1.1.1 As Members will be aware from previous reports, since 1 April 2013, local authorities have been able to set their own level of council tax discount for empty properties.
- 1.1.2 Council agreed that a vacant (unoccupied and substantially unfurnished) property would, from 1 April 2013, be entitled to a 100% 'Class C' discount for a period of 3 months. This period of discount was subsequently reduced to 2 months with effect from 1 April 2015.
- 1.1.3 Prior to 1 April 2013, a council tax 'Class C' exemption was applicable if a dwelling had been vacant for a continuous period of less than 6 months (The Council Tax (Exempt Dwellings) Order 1992). Article 2(2)(b) to this order also specified that when looking at any day for the purposes of 'Class C', periods of occupation of less than six weeks are ignored.
- 1.1.4 The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 - SI 2012/2965 subsequently removed the 'Class C' exemption from 1 April 2013 and therefore, also removed the '6 week rule' regarding periods of re-occupancy.
- 1.1.5 It has recently come to light that, inadvertently, the intended '6 week rule' was never specifically set out in the Council's local scheme, and therefore makes it ambiguous. This potentially means that any small period of re-occupation, e.g. 1 day, could result in the Class C discount being awarded for a further 2 month period. This was never the intention of our local scheme as it was intended that the former statutory provisions would be mirrored.
- 1.1.6 The Council's scheme therefore requires an update to include the wording: "*when looking at any day for the purposes of a Class C discount, periods of occupation of less than six weeks are ignored*". This will resolve the potential ambiguity.

- 1.1.7 Members should note that the change will be effective from 1 April 2016 as any determination must be made before the start of the financial year to which the determination relates.

1.2 Legal Implications

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

1.3 Financial and Value for Money Considerations

- 1.3.1 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.

1.4 Risk Assessment

- 1.4.1 We could be open to challenge if it were considered that our determinations were ambiguous. This clarification will address the matter.

1.5 Equality Impact Assessment

- 1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.6 Recommendations

- 1.6.1 Members are asked to **RECOMMEND** to Council that the following wording is incorporated into our local scheme regarding Class C discounts: "*when looking at any day for the purposes of a Class C discount, periods of occupation of less than six weeks are ignored*".

Background papers:

Nil

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