

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

03 October 2023

### Report of the Director of Finance and Transformation

#### Part 1- Public

#### Matters for Recommendation to Council

#### 1 COUNCIL TAX DISCOUNT

**A report seeking the views of Members as to whether there should be a change to the council tax discount for uninhabitable properties with effect from 1 April 2024.**

#### 1.1 Background

1.1.1 This matter was last considered by Members of the Finance, Innovation and Property Advisory Board on 24 September 2014.

1.1.2 Having considered the outcome of a consultation, Members recommended the twelve months discount for uninhabitable properties be retained at 100% from 1 April 2015.

1.1.3 This council tax discount has remained unchanged since then; however, as there have been multiple changes to empty property discounts in the ensuing years (namely empty property premiums) along with the changes that are being proposed in the Levelling Up Bill, I feel it is appropriate to revisit this subject and ask Members for their opinion on whether the discount should be amended or removed.

#### 1.2 The current position

1.2.1 Uninhabitable properties are defined as those requiring or undergoing structural alteration or major repair and are eligible for a 100% discount for a maximum period of 12 months. Members may, if they wish, reduce the level of discount to 0%; however, it is not possible to amend the period for which a discount is given.

1.2.2 There has never been a High Court case to determine the definition of 'major repair', and therefore, the decision to approve an award is down to individual officer's experience based on evidence received and decisions previously made at Valuation Tribunal hearings.

1.2.3 Owners' views on whether a property should be classed as 'uninhabitable' is often significantly different to the local authority's view [Council tax discounts –](#)

[Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](http://tmbc.gov.uk) which has led to an increasing amount of challenges in recent years, resulting in complaints and appeals being submitted to the Valuation Tribunal. This is time consuming for the officers involved and requires a disproportionate amount of effort being spent on a discount that is only awarded to approximately 50 properties (out of a total of 56,725).

### **1.3 Options for change – financial considerations**

- 1.3.1 If Members reduced the discount to 0%, the additional income generated would be in the order of £12,000 (based on current estimates). This amount is the Borough Council's share of the additional income; the other precepting authorities will also receive their own proportionate share.
- 1.3.2 Although this might not seem a significant figure in terms of the Council's overall budget, Members will be very aware of the Council's budget position and the requirement to make ever greater budget savings. In addition, there will be a saving in the amount of staff time being dedicated to dealing with the issues mentioned earlier.

### **1.4 Non-financial considerations**

- 1.4.1 There are, of course, reasons why Members might not wish to change the discount in such a way as to produce the maximum financial gain.
- 1.4.2 In the case of uninhabitable properties, if Members decided to reduce the discount to 0%, owners of properties that have been severely damaged by flood or fire would be left in the position of having to pay the full council tax even though they were unable to live there.
- 1.4.3 That being said, my experience of applications for the discount is mainly from owners who have just bought a property that requires refurbishment or renovation to either make it available for let or to modernise the property for their enjoyment.
- 1.4.4 In the extreme cases where a property has been damaged, the Council can use its discretionary powers under Section 13A Local Government Finance Act 1992 to waive the council tax charge.

### **1.5 Neighbouring authorities**

- 1.5.1 I have asked our neighbouring authorities what decisions they have made in respect of this discount and their responses are shown in the following table:

<b>Authority</b>	<b>Uninhabitable discount %</b>
Ashford	100 but under consideration
Canterbury	100 but under consideration
Dartford	0
Dover	100 but under consideration
Folkestone & Hythe	0
Gravesham	100 but under consideration
Maidstone	0
Medway	100
Sevenoaks	0
Swale	100
Thanet	100 but under consideration
Tunbridge Wells	0
Tonbridge and Malling	100 but under consideration

1.5.2 As can be seen from the above, the majority of authorities have either removed the discount or are considering the removal of the discount.

## **1.6 Legal Implications**

1.6.1 Class D of the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 determines the criteria of an 'uninhabitable' property.

1.6.2 Sections 11A (5) and (6) of the Local Government Finance Act 1992 states that a billing authority may make a determination varying or revoking a determination for a financial year, but only before the beginning of the year. A billing authority which makes a determination under this section shall publish a notice of it in at least one newspaper circulating in its area and do so before the end of the period of 21 days beginning with the date of the determination.

## **1.7 Risk Assessment**

1.7.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
1) Additional income to TMBC is not fully realised due to the impact of the current economic climate on collection rates.	High	Medium	Collection to be closely monitored.
2) Adverse reaction from owners of 'uninhabitable' properties during a cost of living crisis	Medium	High	Give owners sufficient notice of the amendment

## 1.8 Equality Impact Assessment

1.8.1 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.

## 1.9 Policy Considerations

1.9.1 Communications. Publication of the decision must be made with 21 days of the decision as stated in the report.

1.9.2 Community

## 1.10 Recommendations

1.10.1 Cabinet is asked to **CONSIDER** whether they would wish to retain the current period of twelve months 100% discount for 'uninhabitable' properties or to reduce the percentage to an amount below 100%, for example 0%, with effect from 1 April 2024; and **RECOMMEND** to Council accordingly.

Background papers:

Nil

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