

Council**Agenda Item 62**

13 December 2012

Brighton & Hove City Council

Subject:	Council Tax Discounts and Exemptions Reform		
Date of Meeting:	13 December 2012 Council 29 November 2012 Policy and Resources		
Report of:	Acting Director of Finance		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

Note – Since Policy and Resources Committee considered this matter, the Regulations referred to in the report have been made and published. Suitable amendments have been made to the report to take account of the Regulations.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 One of the outcomes of the Local Government Resource Review is that there will be increased flexibilities for councils to decide their own levels of Council Tax discounts for second homes and empty properties. There is also a new power to set an additional amount of Council Tax for properties that have been empty for at least two years. A previous report to Policy & Resources Committee in July outlined proposals regarding these new powers. There is no power to change Single Person Discounts for council tax which will continue to be set at 25% under national legislation. There is also no power to change student exemptions for council tax.
- 1.2 Following Policy & Resources Committee in July, a consultation was carried out. The report from that consultation is at Appendix 3 and the findings are discussed in section 4 of this report.
- 1.3 Primary legislation for these changes has now been passed, in the form of the Local Government Finance Act. The legislation allows for decisions on these matters to be taken only by Full Council.
- 1.4 On 29 November 2012, Policy & Resources Committee recommended that the changes within this report are put to Full Council on 13 December 2012 for a decision. The changes, if approved, will be effective from 1 April 2013.
- 1.5 The recommendations below will generate an estimated additional £ 1.05m for Brighton & Hove City Council.

2. RECOMMENDATIONS:

- 2.1 That the Council abolishes the 10% Second Home Discount, meaning that those liable for Second Homes will pay full Council Tax from 1 April 2013.
- 2.2 That the Council retains the current arrangement for empty dwellings undergoing repair or structural work, namely that liable parties will receive a 100% discount for up to 12 months, or for 6 months after work is complete, whichever is sooner. This provision is currently known as a "Class A Exemption".
- 2.3 That the Council introduces a period of up to six weeks 100% discount for dwellings that are empty and unfurnished, to replace the current six month exemption known as Class C.
- 2.4 That officers will have discretion, (a) to give an additional period of up to six weeks 100% discount after a change of liable party and (b) in exceptional circumstances, to extend the six week 100% discount to an absolute maximum of three months.
- 2.5 That the Council introduces an Empty Home Premium at the maximum 50%, meaning that those liable for empty dwellings will have to pay 150% Council Tax after two years of the dwelling remaining empty.
- 2.6 Accordingly that the Council makes the formal determinations and decisions for the financial year commencing on 1 April 2013 and subsequent financial years as set out in Appendix 4.
- 2.7 That the Director of Finance and other relevant officers identified in the Council's Scheme of Delegations to Officers as responsible for local taxation services and revenues and benefits, be authorised to take all appropriate steps to implement and administer the recommendations, including publishing in accordance with statutory requirements.
- 3.8 That the Head of Law be authorised to amend the Council's constitution by the addition in Part 3.1 (Council Functions) of a new paragraph in section 3.01 after the paragraph relating to Policy and Budget: "Council Tax: Exercising any function which, under section 67 of the Local Government Finance Act 1992, may only be discharged by the authority."

3. RELEVANT BACKGROUND INFORMATION:

- 3.1 The discretions outlined in this report are part of a package of reforms to local government finance which are intended to increase local choice.

Second Home Discounts

- 3.2 The proposed removal of the 10% second home discount affects 1,846 dwellings in the area of Brighton & Hove. The removal of the discount means that those with second homes will pay the same tax for their properties as other taxpayers. The estimated additional income to the council from this change is £200k per annum.
- 3.3 We wrote to each person currently in receipt of a second home discount as part of the consultation and this produced an array of responses (see section 4 for

more details), most of whom expressed opposition to the idea. However, combined with the responses from other respondents, and taking into account the value to the taxpayer of generating additional income, on balance we have left the recommendation unchanged.

Dwellings undergoing structural work

- 3.4 Currently dwellings undergoing structural work or major repairs are fully exempt from Council Tax for up to 12 months, or 6 months after work is completed, whichever is the shorter. In 2011/12 there were 847 Class A exemption awards, relating to 821 dwellings. The length of time needed for development work is very variable, as the awards vary in length from 12 to 52 weeks (with a small number taking less than 12 weeks). The value of this exemption during 2011/12 was £0.441m of which £0.388m related to 2011/12.
- 3.5 It is our policy intention to promote property development, particularly supporting major upgrading and improvements to poor quality housing stock. As there is no clear “average period” for this work to be done, we do not wish to make changes at this stage to the support we provide. This is why the recommendation is to keep the same rules for the whole of the Council’s area in relation to the new discount for structural / repair work.
- 3.6 In the consultation 84% of respondents agreed with this proposal.
- 3.7 In the current procedures, we allow up to six months exemption after work is completed on a property, and this applies to existing properties, new builds and conversions. The new rules (now known as Class D) allow us to have a six month exemption after completion on existing properties, but to achieve the same exemption for new builds and conversions, we have to set up a special 6 month category for them under the “Class C” discount. This is why there is a specific section regarding new builds and conversions in Appendix 4.

Empty Dwellings

- 3.8 Currently dwellings that are empty and unfurnished are eligible for a “Class C exemption” which gives them full exemption from council tax for up to 6 months regardless of change in ownership.
- 3.9 In 2010/11 there were 16,884 awards, although nearly 1400 of those were consecutive, signifying a change in liable party while the dwelling was still empty. 70% of awards lasted less than 42 days / 6 weeks, averaging 13.4 days each. 30% lasted longer than 42 days and these ones averaged 121.2 days (about four months). The value of Class C exemption awarded during 2011/12 was £2.282m of which £2.200m related to 2011/12. The value of Class C exemption awarded in 2010/11 was £2.310m of £2.288m related to 2010/11. The vast majority of recipients are in the private sector. 1,169 exemptions were for Brighton and Hove City Council properties and 416 were for Registered Social Landlords.
- 3.10 The policy aims for reforming the former Class C exemptions to a new empty dwelling discount are to:

- Allow a reasonable but not excessive exemption to support standard voids between tenancies
 - Encourage faster turnaround times on empty homes
 - Reduce the number of long term empty homes
- 3.11 One of the limitations of the current scheme is that the exemption is applied to the dwelling, not the liable party. This means that if somebody is responsible for the dwelling and they sell it or let it after it has been empty for 5 months, the next person would only receive one month of exemption, as the previous person has used up most of the exemption. We have proposed removing this from the new scheme in order to make the rules more transparent.
- 3.12 We consulted on the option of introducing a new discount for the whole of the Council's area, with the key features being:
- Five weeks 100% discount (no Council Tax to pay)
 - Discount available to each new liable party, even after a change of ownership
 - A discretion to increase the discount to a maximum of three months, in exceptional circumstances.

The results of the consultation were that 64% felt that the proposals would deliver these objectives. However, only 26% of landlords and agents agreed. Many of the comments made related to reservations about the proposed five week period being too short. We have considered this and now propose a **six** week period instead.

- 3.13 The purpose of the discretionary element is to cover exceptional situations that we are not able to predict or cover in our main criteria. The emphasis will be on "exceptional", meaning that there should be an element of complexity and crisis that causes delay. This will mean that standard processes of changing occupancy will not apply. Whilst we do not want to create a specified list of exceptions, an example of a relevant case might be flood or fire damaged dwellings. It is not possible to say with certainty how much this extra provision would affect the overall saving, but we are forecasting that it will only affect a small number of cases. It is unlikely to cost more than £100,000 - £150,000 and could cost less.
- 3.14 We estimate that the changes to Class C exemption would bring an additional £850,000 income to the council.
- 3.15 If the recommendations in Section 2 of this report are agreed, there will be some transitional arrangements to cover any existing exemptions that were given under the current rules and are still in place on 31 March 2013. In practice, this will mean that exemptions starting before the date of the Council's decision (13 December 2012) will receive up to a maximum of six months, as per the current rules. Applications for empty periods starting on or after 14 December 2012 will be eligible for an exemption under current rules until 31 March 2013, but will then switch to the new scheme and will have a maximum of 6 further weeks (unless they are awarded a discretionary extension under the exceptional circumstances rule). Applications received on or after 1 April 2013 will be dealt with under the new rules, even if the period in question relates in part or in full to the 2012/13 year.

- 3.16 Now that the government has laid the necessary regulations, it is clear that furnished properties will not fall under the definition of Class C. Whilst these properties cannot receive a Class C exemption, we currently award 10% “furnished let” discount, as a sub-category of the second home rule. It had not been our intention to change this element, as we wanted to continue some support for voids between tenancies on furnished properties. We are currently examining the legislation to ensure that we can continue this approach. If we cannot, we will report further on this as and when it is necessary.

Long Term Empty Dwelling Premium

- 3.17 Under our new Class C proposals, once an unfurnished dwelling has been empty for six weeks, the liable party will have to pay full Council Tax. The government is giving Local Authorities a new power to levy a premium of up to 50% on dwellings that have been empty for at least two years. The premium can be levied for the whole or for part of an authority’s area.
- 3.18 It is proposed that the council takes advantage of the new discretion to levy the maximum premium of 50% in these situations for the whole of the Council’s area. This is in order to promote effective use of the city’s housing stock and will be an important tool for the council’s empty property team in bringing those units back into use. The council will not budget for any income associated with that premium as the aim would be for all dwellings to be brought back into use before that deadline. This would of course have positive implications for the council’s taxbase but they are marginal and not possible to quantify at this stage. Should any premium be levied it is recommended that some or all of that income be set aside to support the empty homes strategy.
- 3.19 The premium will not apply to the following exceptions:
- A dwelling that is covered by one of the other existing Council Tax exemptions (see Appendix 1)
 - A dwelling which is not occupied because the occupant is a member of the armed forces
 - An annex deemed unoccupied because it is being treated by the occupier of the main dwelling as part of that main dwelling
- 3.20 As indicated above, a range of exemptions will be unaffected. These exist to protect people in certain vulnerable or complex situations, such as those awaiting probate, or who have temporarily gone into care. A full list of exemptions appears in Appendix 1. There is no change to the 25% Single Person Discount which will still be prescribed in national legislation. There is no change to student exemptions.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 There is no statutory requirement to consult but we considered that it would be reasonable to give the proposals publicity so that comments could be made. We took account that landlords could be more adversely affected than most and that second home owners are not usually local. Our main consultation was conducted via the online consultation portal between August and September 2012. We

issued a press release, sent links to housing associations, the National Landlords Association, the Southern Landlords Association, the Community Voluntary Sector forum, among others. We also wrote individually to each recipient of the second home discount, as most of them live outside the city and may not have seen the press release.

- 4.2 212 individuals or groups took part and the consultation report is at Appendix 3

Proposals for removing 10% second home discount

- 4.3 52% were in favour of the proposal and 48% were against. Among those people who were themselves responsible for a second home, 90% were against. Among those who did not have a second home, 77% were in favour.
- 4.4 A common theme in the comments from those responsible for second homes was that they did not use the same amount of local services as other people. They also felt that they should at least have the same access to services that others do, such as residents' parking permits and the right to vote in local elections.
- 4.5 We have considered these findings and reached the view that the proposal to remove second home discounts should not be changed. Services are provided all year round, regardless of whether the taxpayer is resident or not. Furthermore, Council Tax pays for development work, maintenance and support services, all of which benefit second home owners when they do visit Brighton. Local Authorities are having to find savings in all areas, meaning that other services may have to be limited, even for vulnerable residents. We do not believe that the second home discount should still be available, when the resulting income generated could help to keep necessary services running.

Introduction of Long Term Empty Dwelling Premium

- 4.6 73% of respondents felt that a 50% Long Term Empty Dwelling Premium would incentivise owners to bring their dwellings back into usage. We consider that the policy objectives for the premium mentioned above are sound and that the Council should proceed with the proposal.

Proposal to keep current arrangements for dwellings undergoing structural work

- 4.7 84% of respondents agreed with this proposal and for the reasons given above the Council should translate the current exemption into an equivalent discount.

Proposal to reduce discount for empty/unfurnished properties to 35 days (five weeks)

- 4.8 64% of respondents thought that the proposals would achieve the three stated aims (see para 3.9 above). However, of the 23 landlords and property respondents (private sector landlords, social sector landlords and property agents), only 6 (26%) agreed. Overall, 58% thought that the proposals were fair, but among the landlord and property respondents, only 18% thought they were

fair. 37% made comments about the proposals, of whom 75% felt that the time period of 35 days was too short.

- 4.9 We have looked again at the information showing us the number and duration of Class C exemption awards. Under current rules, a property can receive up to six months of full exemption. However, up to 70% of these were for less than six weeks. We believe that the policy aims set out above remain appropriate, that it is right to give support for reasonable void periods and that by increasing the amount of award from the proposed five to six weeks, we will allow fair protection for many standard voids and some non-standard ones.
- 4.10 The effect of our new discount will be that the Council covers most reasonable voids, but there is some sharing of the cost burden with landlords. The policy effectively asks landlords to absorb the Council Tax cost of voids after the first six weeks.
- 4.11 We will be open to requests to increase the Class C discount to a maximum of three months, in exceptional circumstances. Finding a new tenant is not likely in itself to be considered as exceptional.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1.1 Any changes to exemptions and discounts directly impact on the tax base which has financial implications for the council, Sussex Police Authority and East Sussex Fire Authority. The removal or reduction of discounts and exemptions awarded can also potentially impact on the collection rate for council tax and this is assessed in determining the financial impact of each change. The costs from collecting this additional council tax income will be met from within existing resources.
- 5.1.2 The removal of the 10% second homes discount will increase the tax base and the council's share of the additional council tax from this is estimated at £0.212m per annum and was included in the resources forecasts in the July Budget Update report.
- 5.1.3 The class A exemption being replaced with a 100% discount replicates the current level of discount received and therefore has no financial impact.
- 5.1.4 It is not possible at this stage to determine the level of additional council tax that would be raised from the 50% empty property premium although any financial impact would be minimal.
- 5.1.5 The replacement of the class C exemption with a 6 week discount will increase the tax base and the council's share of the additional council tax from this is estimated to be £0.85m per annum. This income has been built into the resources forecasts shown in the Budget Update report elsewhere on this agenda.

- 5.1.6 The actual value of additional council tax raised from these discount and exemption changes will be finalised in the tax base report that goes to this committee on 17 January 2013 when the actual tax base is agreed.
- 5.1.7 Following the release of the regulations on 30 November there are further financial effects which cannot be quantified at this time and therefore they will be included in the budget reports to the February meetings. This will include the financial effects for furnished lets (paragraph 3.16); transitional arrangements for the class C exemption (paragraph 3.15) and the introduction of a special 6 month category under class C discounts for new properties and conversions (paragraph 3.7).

Finance Officer Consulted: Heather Bentley

Date: 02/11/12

Legal Implications:

- 5.2.1 This report deals with new provisions in relation to council tax exemptions and discounts, introduced by the Local Government Finance Act 2012. The 2012 Act has amended the main provisions in the Local Government Finance Act 1992 and received Royal Assent on 31 October 2012. Any determinations under these provisions must be made by the Council before 1 April 2013 for the financial year 2013/14 and cannot be changed during the financial year. The power to make determinations can only be discharged by the full Council and may not be delegated to a committee or an officer.
- 5.2.2 Although the relevant sections of the 2012 Act come into force immediately, they required Regulations to supplement them. These have been made since Policy and Resources considered the report, so it is now possible to make the determinations proposed in the report. The wording of Appendix 4 has been amended since the committee meeting to take account of the provisions in the Regulations.
- 5.2.3 In making decisions, the Council must have due regard to its general duties under the Equality Act 2010 towards people with particular protected characteristics, (age; disability; gender reassignment; marriage and partnership, pregnancy and maternity; race; religion or belief; sex; and sexual orientation) and the duty to mitigate child poverty under the Child Poverty Act 2010. Case law demonstrates that duties such as these are continuing duties. Usually the key is to ensure that equalities implications are properly considered, not that there is no impact. The Equality Impact Assessment and the consultations will assist in identifying issues which need to be taken into account by the Council before any decisions are made.

Lawyer Consulted: John Heys Date: 01/11/12

Equalities Implications:

- 5.3 An Equalities Impact Assessment has been carried out and can be found at Appendix 2.

- 5.4 The findings were that no protected group was adversely affected. However, individuals could be affected in any group. In the wider context of welfare reform, particularly in relation to the replacement of Council Tax Benefit, we will be devoting increased resources to debt prevention work. This will mean that we have greater intelligence about likely financial pressures across our customer base and we will be considering new ways of working with customers to cover their commitments.

Sustainability Implications:

- 5.5 There are no sustainability implications for these proposals.

Crime & Disorder Implications:

- 5.6 Most applications for exemption and discount are genuine. However, in any system there are opportunities for fraud and that is true of the existing system. The Revenues Inspectors team is a flexible resource that we can call upon to police the exemptions. They are able, for example, to check whether a property is still undergoing structural work, or conduct other property visits. This helps to mitigate loss to the public purse due to fraud. The new system could reduce loss due to fraud by reducing the overall period that people are able to claim an exemption for. However, the new system could introduce new types of fraud, both foreseen and unforeseen. We intend to use the Inspectors team, in conjunction with the Empty Properties Team to monitor and intervene where necessary.

Risk and Opportunity Management Implications:

- 5.7 This report has considered issues in relation to collection of council tax, risk of fraud and the incentives that discounts and exemptions provide.

Public Health Implications:

- 5.8 There could be a cumulative, although marginal positive impact on general wellbeing if the new package of exemptions encourages properties back into usage earlier.

Corporate / Citywide Implications:

- 5.9 The approach taken to council tax discounts and exemptions has an impact on the effective use of the city's housing stock and also its quality.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The options outlined in this report were previously discussed at the July 2012 Policy and Resources Committee and we consulted on those options. Our reasoning and policy intentions are outlined for each recommendation above.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The grounds for these decisions are outlined in the sections above.

SUPPORTING DOCUMENTATION

Appendices:

1. Current council tax exemptions
2. Equality Impact Assessment
3. Consultation Report
4. Determinations to be made by the Council

Documents in Members' Rooms

- 1.

Background Documents

1. Responses to the consultation exercise.