

# CABINET

## Local Government Finance Act 2012 - Reforms to Council Tax: Use of Discretionary Powers

04 December 2012

### Report of Head of Resources

PURPOSE OF REPORT			
To inform Members of various new discretionary powers available with regard to council tax discounts, premiums and exemptions, and seek Cabinet's recommendations on their adoption for referral on to Council.			
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>
Referral from Officer			<b>X</b>
Date Included in Forthcoming Key Decision Notice			Not Applicable.
This report is public.			

#### RECOMMENDATIONS OF COUNCILLOR BRYNING:

- (1) That Council be recommended to adopt the following changes in council tax charging policy for 2013/14 onwards, for implementation by the Head of Resources under her delegated authority:
- i. replacement of the current exemption of up to twelve months for properties undergoing or in need of major repairs or structural alteration, with a discount of 50% for up to 12 months (Class A);
  - ii. replacement of the current six month exemption followed by a 50% discount for empty homes, with an exemption for two months followed by a discount of 50% for up to a further four months only (after which, a full charge would apply);
  - iii. removal of the 10% discount on second homes; and
  - iv. introduction of a premium of an additional 50% of council tax due on properties that have been empty for two or more years.

#### 1 INTRODUCTION

- 1.1 The Local Government Finance Act 2012 ("the Act") gained Royal Assent on 01 November 2012. The Act introduces a number of policies designed to increase revenue from empty and second homes, whilst also providing incentives to bring more empty homes back into use.
- 1.2 As part of this policy commitment, the Act makes provision to give local authorities discretion to reduce some of the council tax exemptions currently prescribed, as well as powers to

charge premiums in certain circumstances. An outline of these expected powers was reported to Cabinet in September.

- 1.3 Since that time, work has been undertaken to develop a set of workable options for implementing these new discretionary powers and these are outlined below for Cabinet's consideration. **Appendix A** provides a summary of current legislation, the Act's new provisions and the charging proposals developed for Members to consider.
- 1.4 In terms of decision-making, council tax charging policy is ultimately a matter for Council. Any changes would be reflected in the council tax base, as calculated by the Head of Resources (as s151 Officer) under delegated authority. This report allows Cabinet to make recommendations to Council as an early part of its budget and policy framework proposals for 2013/14, whilst still allowing the timely calculation and notification of the tax base to major precepting authorities and parishes, subject to all relevant Regulations being received from Government.

## 2 SPECIFIC PROPOSALS CONTAINED IN THE ACT

### 2.1 Exempt & Empty properties

2.1.1 The new discretionary powers focus on the following exemption categories in relation to empty properties:

- **Class A** – vacant dwellings where major repair works or structural alterations are required, under way or recently completed. (This exemption applies for a maximum period of twelve months.)
- **Class C** – an empty property that is substantially unfurnished. (This exemption applies for a maximum period of six months.)

2.1.2 In relation to Class "A" and Class "C" categories of dwelling, the Government has removed the statutorily prescribed time periods and 100% exemptions, and gives billing authorities the discretionary power to charge between 0% and 100% from the date the property becomes empty.

2.1.3 Subject to a legislative change that a mortgagee in possession becomes a person liable to pay council tax, the Government is set to revoke the exemption granted to such properties previously designated under **Class L** of the exemption regulations. This change does not involve discretionary powers and therefore no further action is required by the Council.

2.1.4 The number of empty properties under the above categories and the estimated financial details are contained in **Appendix B**.

2.1.5 Existing exemptions not subject to reform continue to apply. A full list of exemptions is detailed in **Appendix C**.

### 2.2 Second Homes

2.2.1 A property is classed as a second home if it is furnished but no-one lives there as their sole or main residence. Current council tax legislation allows the billing authority to award a discount on these properties of between 10% and 50%. Lancaster City Council awards a discount of 10% only in these cases.

2.2.2 The new Finance Act will amend this range from 0% to 50%, thereby allowing authorities to charge 100% council tax on second homes should they choose to do so. The current number of second homes and the financial details are contained in **Appendix B**.

## 2.3 Empty Homes Premium

- 2.3.1 Billing authorities currently have discretion to provide a discount of *up to* 50% on empty properties that are not exempt. These are classed as long-term empty properties.
- 2.3.2 The City Council has never exercised its discretion to reduce the discount on such properties and therefore a 50% discount still applies.
- 2.3.3 From next year the new legislation will allow authorities to charge an additional premium, above the 100% charge, for properties that have been empty for a long time (for example two years).
- 2.3.4 Numbers and financial details are contained in **Appendix B**.
- 2.3.5 As a final note on this aspect, the Government has recently issued a consultation document proposing to exempt from any premium those long term empty properties that are considered “genuinely” up for sale. There are difficulties attached to administering this proposal and the outcome of the consultation is awaited. For now, however, an allowance of 60% has been built into the attached estimates to reflect those properties likely to be considered “genuinely for sale”.

## 3 DETAILS OF CONSULTATION

- 3.1 No formal consultation with the public has taken place on this issue, but detailed discussions have taken place with major precepting authorities and other Lancashire authorities at a local level. The specific views of major precepting authorities are being sought to feed into the decision-making process. Furthermore, the proposals are being shared with parish and town councils, as the proposals would potentially increase their tax raising capacity, depending on where empty / second homes are located across the district.

## 4 OPTIONS AND OPTIONS ANALYSIS (including risk assessment)

- 4.1 There are three options available for consideration as outlined below. **Appendix D** sets out an equality impact assessment and this has informed development of the proposals. Inevitably, however, balancing the differing impact on stakeholders involves judgement and as such, any policy changes adopted would be kept under review after implementation.

### **Option 1**

#### **To recommend the introduction of a charging policy in line with recommendations**

Would encourage owners to bring property back into occupation and provides flexibility where appropriate. The two month exemption period for Class “C” dwellings caters for short turnover periods between occupiers.

### **Option 2**

#### **To decide not to recommend any changes in charging policy to Council**

Would lose the opportunity to raise additional income for the Council and its precepting partners, as well the losing any associated impact on helping to bring empty homes back into use.

### **Option 3**

#### **To recommend an alternative, e.g. maximising charges by using the discretionary powers to their limit**

Whilst potentially such a policy may maximise income generation, it may provide a disincentive to repair property and bring back into use and would not cater for short empty

periods between occupiers. Landlords would be liable for charges during all turnover periods and this may have knock on implications for the rental market.

## 5 PREFERRED OPTION AND COMMENTS

5.1 Option 1 is the preferred option in line with the following comments:

(i) For Class “A” dwellings it is considered that the Council should provide a reasonable but not excessive exemption period to promote property development, particularly supporting major upgrading and improvement to poor quality housing stock.

(ii) For Class “C” dwellings it is considered that the Council should provide an initial two month exemption period to allow for the changeover of occupiers, particularly tenants, and 50% discount for an empty period for a further four months after which the full charge would be applied.

(iii) For Second Homes it is considered that the Council take advantage of this flexibility to levy an extra 10% charge to homeowners of second homes, who should contribute fully towards services and generally they have a choice in ownership.

(iv) For long-term empty homes it is considered that the Council should levy a 50% premium on homes that have been empty for more than 2 years. This initiative should encourage owners to return them to use, whilst providing additional income to the Council.

## 6 CONCLUSION

6.1 There is potential for the Council to raise additional revenue in adopting these discretionary powers. However, it should be noted with caution that income relating to empty properties generally proves difficult to collect and staffing resources, collection performance and bad debt provisions will continue to be reviewed, should the Council choose to adopt these proposals.

6.2 Any “Empty Homes Premium” for properties empty for more than 2 years must be seen to operate fairly and be equitable to all owners, whilst also making sense in the context of the broader local strategy for dealing with empty homes.

### **RELATIONSHIP TO POLICY FRAMEWORK**

The proposals have been developed in support of the Council’s Medium Term Financial Strategy, whilst also supporting corporate aims regarding the priority for health and wellbeing.

### **CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

The main affected group would be council taxpayers. The tax impact would fall on owners of second homes and empty dwellings, and mortgagees in possession. An equality Impact Assessment has been undertaken and is attached at **Appendix D**.

## FINANCIAL IMPLICATIONS

The Government has stated that it will allow Councils to retain locally any additional council tax resulting from using the discretionary powers covered in this report. Any changes would feed into the tax base mechanism and therefore the financial benefits would be shared with the Council's major preceptors – i.e. County, Fire and Police Authorities.

**Appendix B** indicates the estimated revenue impact for the proposals (including Class L changes awaiting authorisation). They would generate an indicative additional £713K in total for district and precepting authorities in the Lancaster area. This equates to an estimated £90K for the City Council, although amounts will depend on the collection rate assumptions built into the final tax base calculations. The empty homes income brings with it a potentially high level of risk, as it may prove difficult and costly to collect. The calculations as attached are based upon an estimated collection rate of 70% for all categories, apart from long term empty homes and the premium, where a collection rate of 65% has been used. This judgement may be considered reserved in comparison to some other authorities, but it takes account of the profile of the district. Again, these assumptions may change slightly in the final council tax base calculations. It is important to note too that the number of properties affected by the proposals will fluctuate, during each year. This will affect the income collectable.

In terms of staff resources, the Council needs to ensure that its local taxation administration arrangements deliver value for money (and in this context, that any future decision to invest in the service is needed and worth the expected incremental income generation). At this stage it is not proposed to request additional staff resources to administer the proposed changes in charging policy. Instead, staffing needs and performance will continue to be reviewed. The service still has some limited scope to make efficiency savings as part of the shared service arrangements. If it transpires that collection is much worse or far more time consuming than estimated, however, then the business case would be revisited.

As a separate note, potentially council housing (as a landlord) may incur council tax charges as a result of the proposals, and other housing regeneration schemes may be similarly affected.

## SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has contributed to the production of this report, which is in her name (as Head of Resources).

## LEGAL IMPLICATIONS

Under the Local Government Finance Act 1992 (as amended by the 2012 Act), the Council, as the billing authority, may determine that the prescribed Council Tax discount (i) shall not apply or shall be of a lesser percentage in relation to second homes and empty homes, and (ii) shall not apply and the amount of council tax shall be increased by such percentage of not more than 50% to long term empty dwellings. The Council making such a determination (including varying or revoking a previous determination) under sections 11A(3), 11A(4) and 11B(1) of the 1992 Act for a financial year, must do so before the beginning of the year. Any such determination must be published in at least one newspaper circulating in its area before the end of twenty one days beginning on the date of the determination.

## DEPUTY MONITORING OFFICER'S COMMENTS

The Deputy Monitoring Officer has been consulted and has no further observations.

## BACKGROUND PAPERS

Consultation Paper: Council Tax – Empty homes premium exceptions (September 2012)

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**TECHNICAL REFORMS TO COUNCIL TAX  
(Effective from 1 April 2013)**

**Option 1 Proposals:  
The key features are detailed below:**

<b>Measures Considered</b>	<b>Current Regulation</b>	<b>New Provisions</b>	<b>Option 1 Proposal</b>
1 Removing the Council Tax exemption on empty properties in need of or awaiting major repair or structural alteration	Class A exemption – up to 12 months exemption while the qualifying conditions exist	Abolish the exemption and allow Councils to grant a discount between 0% and 100% for up to 12 months	To introduce a discount of 50% for a period up to 12 months
2 Removing the Council Tax exemption for properties from the date the property becomes continuously empty	Class C exemption - exempt for first 6 months when continuously empty	Abolish the exemption and allow Councils to give a discount between 0% and 100% from when the property became empty.	To replace with an exemption for the first two months when continuously empty. Thereafter, introduce a discount of 50% for up to a further 4 months.
3 Removing the Council Tax discount for furnished properties not occupied as a main home (ie. Second homes)	10% discount while furnished properties are not occupied as a main home	Allow Councils to reduce the discount to 0%	To reduce the discount to 0%
4 Removing the discount on long term empty properties and charging an 'empty homes premium' of 50% on properties left empty for more than 2 years	50% discount after 6 months and continuing while the property remains empty	Allow Councils to levy an 'empty homes premium' on properties left empty for longer than 2 years.	To reduce the discount to 0% after 6 months continuously empty.  To Levy a premium of 50% on properties that have been empty for 2 years or more.
Remove the Council Tax exemption for properties taken into possession by a mortgage lender	Class L exemption – Exempt	Abolish the exemption – subject to further discussion with mortgage lenders	No decision to make – legislation will dictate action (Enabling power, awaiting authorisation by the Secretary of State)

**TECHNICAL CHANGES TO COUNCIL TAX  
INCOME PROJECTION**

<b>Exemption class</b>	<b>Number of Properties</b>	<b>Current Discount/ Exemption</b>	<b>New Discount/ Exemption</b>	<b>Forecast Collection Rate</b>	<b>CTAX income (Total) (estimated)</b>	<b>CTAX income (Lancaster element) (estimated)</b>
Exempt Class A (Major repairs)	93	100%	50%	70%	£40,100 (additional 50% income)	£5,100
Exempt Class C (Standard empty) 6 month period	1,045	100%	100% (2) 50%(4)	70%	£141,100 (additional 50% income)	£17,900
Exempt Class L (Mortgagee in possession)	55	100%	0%	70%	£22,400 (additional 100% income) (Awaiting authorisation)	£2,800
Second Homes	787	10%	0%	70%	£73,000 (additional 10% income)	£9,300
Long Term Empties	920*	50%	0%	65%	£362,200 (additional 50% income)	£46,000
<b>INTERIM TOTALS</b>	<b>2,900</b>				<b>£638,800</b>	<b>£81,100</b>
Long Term Empties (over 2 years)	478* (included in above statistics)		50% Premium	65%	£74,900 (based on an additional premium of 50%)	£9,500 (based on an additional premium of 50%)
<b>OVERALL INCOME PROJECTION</b>					<b>£713,700</b>	<b>£90,600</b>

## Current exemptions from Council Tax

<b>A</b>	Vacant dwellings where major repair works or structural alterations are required, under way or recently completed (up to twelve months). <b>(This exemption is subject to reform)</b>
<b>B</b>	Unoccupied dwellings owned by a charity (up to 6 months)
<b>C</b>	A vacant dwelling (i.e. empty and substantially unfurnished) (up to six months). <b>(This exemption is subject to reform)</b>
<b>D</b>	A dwelling left unoccupied by people who are in prison.
<b>E</b>	An unoccupied dwelling which was previously the sole or main residence of a person who has moved into a hospital or care home.
<b>F</b>	Dwellings left empty by deceased persons (6 months from date of probate).
<b>G</b>	An unoccupied dwelling where the occupation is prohibited by law.
<b>H</b>	Unoccupied clergy dwellings.
<b>I</b>	An unoccupied dwelling which was previously the sole or main residence of a person who is the owner or tenant and who has moved to receive personal care.
<b>J</b>	An unoccupied dwelling which was previously the sole or main residence of a person who is the owner or tenant and who has moved in order to provide personal care to another person.
<b>K</b>	An unoccupied dwelling where the owner is a student who last lived in the dwelling as their main home.
<b>L</b>	L An unoccupied dwelling which has been taken into possession by a mortgage lender. <b>(This exemption is subject to reform)</b>
<b>M</b>	A hall of residence provided predominately for the accommodation of students.
<b>N</b>	A dwelling which is occupied only by students, the foreign spouses of students or school and college leavers
<b>O</b>	Armed forces' accommodation
<b>P</b>	A dwelling where at least one person who would otherwise be liable has a relevant association with a Visiting Force.
<b>Q</b>	An unoccupied dwelling where the person who would otherwise be liable is a trustee in a bankruptcy.
<b>R</b>	Empty caravan pitches and boat mooring.
<b>S</b>	A dwelling occupied only by a person, or persons, aged under 18.
<b>T</b>	A dwelling which forms part of a single property which includes another dwelling and may not be let separately from that dwelling, without a breach of planning control.
<b>U</b>	A dwelling occupied only by a person, or persons, who is or are severely mentally impaired who would otherwise be liable to pay the council tax or only by one or more severely mentally impaired person.
<b>V</b>	A dwelling in which at least one person who would otherwise be liable is a diplomat.
<b>W</b>	W A dwelling which forms part of a single property, including at least one or other dwelling, and which is the sole or main residence of a dependent relative of a person who is resident in the other dwelling (granny annexe)



**TECHNICAL REFORMS TO COUNCIL TAX  
EQUALITY & HUMAN RIGHTS IMPACT ASSESSMENT (EHRIA)**

<p><b>Department</b></p> <p><i>Resources</i></p>	<p><b>Division</b></p> <p><i>Revenues</i></p>	<p><b>Officers involved in the assessment</b></p> <p><i>Candice Lancaster, Special Projects Manager Julie Smethurst, Revenues Manager</i></p> <p><b>Who is the owner of this EHRIA - responsible for monitoring outcomes?</b></p> <p><i>Adrian Robinson, Assistant Director (Head of Revenues &amp; Benefits)</i></p>
<p><b>Name of the policy, function or service provision to be assessed:</b></p> <p>Technical reforms of Council Tax</p>	<p><b>Date of assessment:</b></p> <p>6/11/12</p>	<p><b>Is this a new or existing policy or service provision?</b></p> <p>New</p>

**Who defined the policy, function or service provision and who are the main stakeholders?**

The Department for Communities and Local Government (DCLG).

The main stakeholders are:-

- Precepting Authorities;
- Council Tax payers;
- Council Housing
- Private and Registered Social Landlords;
- The Tribunal Service;
- The Council's Contact Centre;
- Housing Advice;
- Audit;
- Accountancy;
- Legal Services.

**Who implements and who is responsible for this policy or service provision?**

Adrian Robinson, Assistant Director (Head of Revenues and Benefits)

– **Describe the aims and objectives of the policy or service provision, how does it complement PCC Corporate Priorities:**

The Government has set out a range of changes affecting specific Council Tax exemption categories relating to empty or second homes.

These changes enable local authorities, within certain parameters, to determine the level of discount, if any, that should be made available in these cases. Our response to these changes sets out how the Council will use these new freedoms, and has the following key aims:

1. To make best use of the housing stock in the area by minimising the length of time it remains empty.

	<p>2. To allow a reasonable amount of time for turnover in occupiers</p> <p>3. To give property owners and landlords a reasonable time within which to bring their properties into occupation.</p> <p>3. To raise additional Council Tax income that can be used to maintain services, including those for vulnerable people, help residents to find work, and help keep the overall level of Council Tax at an affordable level for all residents.</p> <p>Our objective is to promote the principles of fairness, equality of opportunity, social inclusion and reduce poverty through excellent service provision, whilst achieving the required budgetary savings.</p> <p>This contributes towards the Council’s Health and Wellbeing corporate priority, working with partners and stakeholders to provide advice, guidance and support to the citizens of Lancaster.</p>
<p>– <b><i>Do the anticipated outcomes meet or hinder other policies, values or objectives of the authority?</i></b></p> <p><b><i>Can you identify how this may impact on promoting good relations between different groups within the city?</i></b></p>	<p>There is the potential for a financial impact on some individuals where they will be required to pay more Council Tax, or are exempt for shorter periods.</p> <p>There may be a negative financial impact on the following groups which may have a detrimental effect on the relationships between them and the Council:</p> <ul style="list-style-type: none"> <li>• Private and Registered Social Landlords;</li> <li>• Owners of second homes;</li> <li>• Owners of occupied and unfurnished dwellings that require major repair or structural alteration;</li> <li>• Owners of other unoccupied unfurnished dwellings;</li> <li>• Owners of empty dwellings that have been repossessed by a mortgagee.</li> </ul>

<p>– <b>What are the expected outcomes from this policy or service provision?</b></p>	<p>These proposals will help the Authority keep the overall level of Council Tax down, thereby supporting hardworking families and pensioners. This will be achieved by reducing the Council Tax discount previously available to the owners of second homes and empty properties in the area.</p>
<p>– <b>Is this policy or service provision being delivered in partnership? If so, please detail partnerships involvement</b></p>	<p>No</p>

### Responding to Need

<p>– <b>Who is intended to benefit from the policy, strategy or function and in what way?</b></p>	<ul style="list-style-type: none"> <li>• Individuals and families benefit from Council Tax increases being kept down.</li> <li>• The Council can generate additional revenue.</li> <li>• Incentivise owners to refurbish and bring empty homes back in to use, thereby increasing the housing stock and improving communities.</li> <li>• Bringing empty homes back in to use will contribute towards the amount of empty homes bonus the Council receives.</li> </ul>
<p>– <b>What do you already know about who uses this service? Are there identified gaps in the information needed (Actions to collect this data should be included in your action plan)</b></p>	<p>There are approximately 2,900 council tax payers who will be affected by these proposals.</p>
<p>– <b>What further consultation do you need to do? Please describe how you propose to proceed?</b></p>	<p>None</p>

Comments

Are there any issues that you feel are important and have not been identified in this EHRIA?

Whilst the changes will result in additional Council Tax being charged, collection of monies due on empty properties has historically proven to be more challenging and resource intensive. Projected collection rates may need to be revised.

### **Assessing Impact on each Protected Characteristic**

#### **Step 1**

Consider the aims and expected outcomes of the service / function or project you are delivering and ask yourself the following questions:-

- How are the current needs of different equalities groups and communities being met?
- Is there any initial evidence that any part of it could discriminate unlawfully, directly or indirectly, against particular groups of people?
- *How will you ensure that your chosen methods of communication will reach all communities?*

#### **Step 2**

*Look at each protected characteristic, would any group be affected differently than others ? If you believe they would please identify whether this would be positively or negatively.*

*If there is no differential impact then you should select the neutral option.*

*Positive = you can evidence that outcomes from this project have / will impact positively on a protected characteristic*

*Negative / Unsure = Outcomes have not / are not expected to impact positively (There must be a corresponding action in your plan to address this or comment to justify why you cannot address the impact)*

*Neutral = No evidence either way*

Protected Characteristic	Positive	Negative	Unsure	Neutral	Comments
Race				*	
Disability				*	
Gender				*	
Age				*	
Religion & Belief				*	
Sexual orientation				*	
Socio economic				*	
Transgender				*	
Carers*				*	
Human Rights				*	

Protected Characteristic	Positive	Negative	Unsure	Neutral	Comments
Pregnancy & Maternity				*	
Rural Issues*				*	
Ex Offenders*				*	

<p>If you found adverse impact on any grounds at all, can it be avoided? What action will you take?</p> <p>(If you make changes because of adverse impact make sure these don't have a further adverse effect on any other group)</p>		
<p>If there is nothing you can do about any adverse impact highlighted, can the reasons be justified on the grounds of promoting equality of opportunity for any groups?</p>		
<p>What lessons have been learnt from completing the assessment?</p>		

Signed (completing Officer)..... Signed (Lead Officer).....