

<b>Item No.</b> 6.2	<b>Classification:</b> Open	<b>Date:</b> 28 November 2012	<b>Meeting Name:</b> Council Assembly
<b>Report title:</b>		Council Tax Technical Reforms	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Cabinet	

## RECOMMENDATIONS

That Council Assembly:

1. Agree the recommendation of the Cabinet on 23 October 2012 to remove the existing ten percent discount awarded for second home properties with effect from the 1 April 2013 (see paragraphs 6 and 7).
2. Subject to Cabinet agreement on 20 November 2012, agree the recommendations to introduce local discounts and an empty house premium, as detailed within the Cabinet report attached as Appendix 1.

**Note:** The recommendation of cabinet on 20 November 2012 will be circulated to all councillors prior to council assembly.

## BACKGROUND INFORMATION

3. On 23 October 2012, Cabinet considered a report which outlined the governments proposed technical reform changes to council tax legislation with regard to the new discretion to amend certain council tax discounts and exemptions. Cabinet agreed to recommend to Council Assembly, the removal of second homes discount from 1 April 2013 and agreed to the need for officers to submit a further report to Cabinet in November to set out further recommendations on the approach to changes in respect of Council Tax discounts and exemptions. The full decision is set out below:
  - (1) That the intended technical reform changes to council tax legislation with regard to the new discretion to amend certain council tax discounts and exemptions be noted.
  - (2) That it be recommended to council assembly that they agree to remove the existing ten per cent discount awarded for second home properties with effect from the 1 April 2013, subject to consideration of the outcomes of the equality impact assessment.
  - (3) Those officers submit a further report in November with recommendations on the approach to any changes in respect of council tax discounts and exemptions.
4. On 20 November cabinet will be considering a report which outlines the technical changes to council tax discount and exemptions. Cabinet will be informed that council tax Class A and C empty property exemptions will be

abolished from 1 April 2013 and in their place local discounts may be created. Cabinet will be asked to agree to recommend to assembly the following recommendations:

- (1) The introduction of a local discount to replace class A exemptions set at zero percent from 1 April 2013 for properties where there are major repairs or structural alterations,
- (2) The introduction of a local discount to replace class C exemptions set at 100 percent for up to a maximum of 2 months from 1 April 2013 for empty and unfurnished properties, subject to a review within March 2014.
- (3) The introduction of a local discount of zero percent from 1 April 2013 for empty (unoccupied) and furnished properties.
- (4) The introduction of an empty homes premium resulting in council tax of 150 percent for properties that have been empty and unfurnished for more than two years from 1 April 2013.

## **KEY ISSUES FOR CONSIDERATION**

### **Legislation**

5. The Local Government Finance Act 2012 was granted Royal Assent on 31 October 2012 and is now law and therefore provides the statutory framework under which the decisions on second homes and local discounts may be made.

### **Removal of second homes discount**

6. On 23 October 2012, cabinet agreed to recommend to council assembly that from the 1 April 2013 local authorities would, subject to legislation, have discretion to charge full council tax on second homes. Currently Southwark grants a 10 per cent discount. The legislation has now received Royal Assent.
7. Cabinet was also informed that this discount was currently awarded to 607 properties, which equated to a value of £94,005.00. An equality analysis (EA) will be developed, to reflect assessment of the impact of the change and the completed EA will be submitted as a late item following cabinet on 20 November 2012, to ensure that it accurately reflects current position and to enable assembly to make an informed decision. (see Appendix 2).

### **Empty but furnished homes**

8. Within the report of 20 November 2012 cabinet will be informed that from 1 April 2013 local authorities will have discretion to charge full council tax on empty but furnished homes. These are typically properties for rent which are left empty between lets. Currently Southwark grants a 10 per cent discount.
9. The report identified that the annual value of this discount is approximately £53k.

## **Empty Homes Premium – Property that has been empty for 2 years or more**

10. On 20 November 2012, cabinet will also be informed that central government has confirmed its intention to allow local authorities to charge an additional 50 percent on properties that have been empty for two years or more thereby creating a 150 percent liability for council tax. Cabinet will be informed that the data available for 2011/12 suggests that there were 297 properties empty for more than 2 years within the borough, of which 198 were council owned properties linked to properties situated within estate development areas. A decision therefore to exercise this discretion will not alone generate significant additional income but may encourage properties coming back into use

## **New discounts**

11. Within the report of 20 November 2012, cabinet will be asked to consider the introduction of new local discounts for properties undergoing major repair/structural alteration or empty & unfurnished dwellings (formerly exemption Classes A & C) giving effect to them from 1 April 2013. An enabling measure has been included in S.10 of the Local Government Finance Act 2012 which amends section 11A of the Local Government Finance Act 1992 so that the Secretary of State may define a class of property in respect of which an authority may determine a discount in the range zero percent to 100 percent.
12. With regard to the discount to replace Class C, cabinet will be presented with the following options available to the council in relation to properties that are unoccupied and unfurnished:-
  - (a) To choose not to grant a discount at all (zero percent) and charge full council tax immediately, or
  - (b) To grant a short period of discount up to a 100 percent followed by a discount of zero percent for the remainder of the period
13. Cabinet will be informed that of 1110 Class C awards granted in 2011/12 66 percent were for 60 days or less, with an average charge of £ 71.87. Cabinet are also asked to consider whether it would be economic for the council to pursue the collection of such large volumes of small debts.
14. With regard to the discount to replace class A, cabinet will be informed that the government have stated that although local authorities can have discretion to grant a discount between 0 and 100 percent, the discount must be granted for 12 months. Therefore in the absence of discretion of award periods for properties requiring or undergoing major repairs or structural alteration, the consideration for the council is whether to charge the full amount of council tax immediately or vary the discount between 0 -100 percent.
15. If it were decided not to award a discount at all it is difficult to predict how this decision will be accepted by the public, particularly landlords, developers or purchasers wishing to renovate old or dilapidated premises. Alternatively the cost of council tax may just become another factor in the overall list of project costs.
16. Within the report of 20 November 2012 Cabinet will be advised that council tax exemption class B is not included in the proposed changes. This class of exemption relates to properties that are empty and owned by a charity.

Cabinet will be informed that many Registered Social Landlords may seek formal charitable status to enable them to be entitled to this class of exemption in place of the existing class C (empty & unfurnished) exemption. This will be a development that will remain under review as it is difficult to predict the impact this may have within Southwark at this time.

17. Southwark as a landlord is currently liable to pay council tax in respect of both Class A (uninhabitable) and C (empty & unfurnished) so there is a potential impact on the Housing Revenue account as a consequence of these changes. Analysis undertaken indicates that in 2011/12 over 50 percent of Class A exemptions were awarded in respect of properties on the Heygate estate with the majority of the remainder being awarded to developers. With regard to class C, most awards for council properties were for less than one month.

### **Properties in receipt of exemptions**

18. In relation to class C, empty and unfurnished exemptions, there were 11,110 awards granted in 2011/12. In 2012/13 year to date 5,642 awards have been granted.
19. Empty but furnished properties which attract a 10 percent discount, 6,555 discounts were awarded in 2011/12. In 2012/13 year to date 1,141 discounts have been awarded.
20. In relation to class A exemptions, there were 1,766 awards granted in 2011/12. In 2012/13 year to date 203 awards have been granted. This apparent reduction in awards is representative of previous year awards linked to the Heygate estate ending and the correction to new build properties being classified in class C rather than class A in 2012/13.

### **Potential additional council tax income**

21. The report to cabinet on the 23 October 2012 stated that the potential additional amount to be billed as a consequence of removing the second homes discount was £94,005.00. Of this £94k the GLA precept would represent approximately £23,501.00 therefore the potential income to Southwark would be £70,499.00
22. Within the report to cabinet of 20 November 2012, the potential additional amount to be billed is illustrated in the tables at appendix B of that report which identifies the level of exemptions and discounts awarded between 2009/10 and 2011/12.
23. In 2011/12 a total of £1.850m (excluding Southwark properties) was awarded across Class C and A exemptions. In addition £52k was awarded in relation to empty but furnished property discounts, accordingly this suggests that £1.9m may be raised in additional council tax liability. Of this £1.9m the GLA precept would represent £475,000.00 therefore the total potential income to Southwark would be £1.425m.
24. Experience of the last three years however, suggests that the level of potential income for 2013/14 cannot be accurately predicted. In this period the total of annual awards for Class A and C has varied: £2.3m in 2009/10, £3.2m in 2010/11 and £2.5m in 2011/12. Within this same period the level of Southwark

liability has also fluctuated as a consequence of estate development; £390k in 2009/10, £1.2m in 2010/11 and £658k in 2011/12. Whilst we can look at values over the last 3 years and an estimated total for 2013/14 it is worth recognising that awards are subject to variances.

25. The value of the exemption/discounts outlined above identifies the level of potential additional income that may be generated in the event that discounts were awarded at zero percent. The prospect of additional revenue at a time when the council is under extreme financial pressure is particularly attractive. However, the introduction of a zero percent discount across all categories will result in council tax being charged immediately, therefore the potential losses in collection and increased administration costs in trying to collect this debt must be fully considered. As new arrangements are introduced, not least in the context of the difficulty in quantifying the administrative burden, it is recommended by the director of finance and corporate services and assistant director of revenues & benefits that the two month exemption should be introduced initially and reviewed within a year of implementation.
26. On 20 November 2012, cabinet will consider the table in Appendix C of that report which identifies that 66 percent of class C awards granted in 2011/12 were for 60 days or less, with an average charge of £71.87. Given that summons costs in Southwark total £95.00 there is a question of reasonableness and whether it would be economic for the council to pursue recovery of such debts. Much may also depend on how these bills are perceived by council tax payers in the sense of whether they will be “economic to pursue”. If there is a general perception that among payers that they will not be pursued then clearly collection and recovery becomes more difficult.
27. If a discount of 100 percent was introduced with a maximum of 2 months (the council tax operating system calculates in calendar months) it is evident from the information within Appendix C that resources could then be targeted to the collection of higher value debts and the increased administrative costs associated with collecting lower value debts avoided. Whilst it could be considered to restrict the discount to one month, it is likely that there would be a disproportionate impact upon the administrative and collection activity associated with this decision. Particularly it is expected that this would lead to an increase in valuation tribunal appeals, a need to increase inspection routines together with their frequency, an increase in correspondence and complaints together with potential reputational impact associated with the council being considered to be acting unreasonably.
28. If cabinet recommended grants of a 100 percent discount for up to a maximum of 2 months the cost to the council based upon the 2011/12 estimates in Appendix C would be approximately £533,000.00 which would be reduced by the GLA element to £399,750.00. Of course this would in turn reduce the total potential income to Southwark from £1.425m to £1,025m.
29. The potential additional revenue associated with the empty homes premium is estimated at £60,291.00 based on 99 non-Southwark properties at Band D at an additional 50 percent. Of this £60,291.00 the GLA element would represent £15,072 therefore the potential income to Southwark would be £45,219.00.

## **Consultation**

30. Unlike the council tax support scheme there is no legal requirement for public

consultation on the introduction of a new discount scheme; however the government has consulted on giving local authorities greater discretion in this area and has decided to proceed. However, if changes to the reductions are made then this would be incorporated in the normal budget consultation exercise

### **Community impact statement**

31. An Impact Assessment on technical reforms to council tax was published by the Department of Communities and Local Government in November 2011. This included commentary on the impact on different council tax groups, identifying owners of second homes and owners of unoccupied, unfurnished or empty properties.
32. An Equalities Assessment (EA) for the proposed changes to the council tax exemptions is being developed by Council officers. This assessment reviews those likely to be affected by any change within the borough and determine any mitigating action that may be recommended as part of any change. This will be set out at Appendix 2, as a late item because the EA must be updated after the meeting of cabinet on 20 November 2012, in order to accurately reflect the outcome of that meeting and assess the impact of its decision.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Director of Legal Services**

33. Council Assembly is advised that it is enabled to agree all the recommendations under Part 3A of the council's constitution. However council assembly will note that the second recommendation is predicated on the outcome of the cabinet decision to be made on 20 November 2012.
34. Council Assembly is advised that the legislative basis for the recommendations is found in the Local Government Finance Act 1992 (as amended by ss.10-12 Local Government Finance Act 2012) which give local authorities the statutory power to apply amended discounts. The Local Government Finance Act 2012 received Royal Assent on 31 October 2012 and is now law.
35. In respect of all the recommendations, decision makers must provide evidence of consideration of the equality assessment outcomes. Council Assembly is reminded of the requirement to have due regard to the public sector equality duty set out in s.149 Equality Act 2010 in its deliberations and conclusion.
36. When considering the late item equalities assessment, council assembly is further reminded of the council's statutory obligations and approved policies in respect of mitigating the effects of child poverty, providing equality of opportunities for children and young people, and providing advice and assistance to those who are or are at risk of homelessness.

#### **Strategic Director of Finance and Corporate Services**

37. This report requests that assembly agree the recommendation of cabinet of 23 October for the removal of existing ten per cent discount awarded for second home properties with effect from the 1 April 2013.

38. This report also requests that assembly, subject to cabinet agreement on 20 November 2012 agree the recommendations to introduce local discounts and an empty house premium, as detailed within the cabinet report attached as Appendix 1.
39. The strategic director of finance and corporate services notes that it is estimated at current volumes, that the proposal to remove the second homes discount will generate approximately £95k per annum at current council tax levels. If agreed this will be factored into the 2013/14 council tax base and would then be factored into the collection rate to be agreed by council assembly in January 2013.
40. The strategic director of finance and corporate services notes that it is estimated at current volumes, that the proposal to introduce the local discounts may generate approximately £1.025m per annum at current council tax levels. It is also noted that the proposal to introduce an empty home premium may generate approximately £45k per annum at current council tax levels. If agreed this will be factored into the 2013/14 council tax base and would then be factored into the collection rate to be agreed by council assembly in January 2013.
41. The strategic director of finance and corporate services notes the potential difficulties associated with collection and recovery of this additional council tax liability. Particularly in relation to the discount replacing class C exemptions. These reasons will be considered and factored into the collection rate to be agreed by council assembly in January 2013.
42. The strategic director of finance and corporate services notes that future estate developments planned as part of the council's regeneration schemes will have an adverse effect on the HRA as a consequence of the introduction of these discounts, if agreed. It is further noted that the estimated impact on the HRA for 2013/14 is £1m. However this HRA liability can be mitigated through appropriate provision being made within the regeneration budgets going forward.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Local Taxation Reforms – Second Homes Discount - Report to Cabinet 23 October 2012	Council Offices, 160 Tooley Street, London SE1 2QH	Mike Lynch 020 7525 7364
Local Government Finance Bill: Technical reforms to council tax. Impact assessment 15 November 2011 <a href="http://www.communities.gov.uk/documents/localgovernment/pdf/2053909.pdf">www.communities.gov.uk/documents/localgovernment/pdf/2053909.pdf</a>	Council Offices, 160 Tooley Street, London SE1 2QH	Mike Lynch 020 7525 7364

## APPENDICES

No.	Title
1.	Council Tax Technical Reforms – Report to Cabinet 20 November 2012
2	Equalities Impact Assessment – October 2012 (To Follow)

## AUDIT TRAIL

<b>Lead Officer</b>	Duncan Whitfield, Strategic Director of Finance and Corporate Services	
<b>Report Author</b>	Mike Lynch, Improvement & Development manager	
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<b>Dated</b>	15 November 2012	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	15 November 2012	