

APPENDIX 1

Item No. 16.	Classification: Open	Date: 20 November 2012	Meeting Name: Cabinet
Report title:		Council Tax Technical Reforms	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Richard Livingstone, Finance, Resources and Community Safety	

FOREWORD - COUNCILLOR RICHARD LIVINGSTONE, CABINET MEMBER FOR FINANCE, RESOURCES AND COMMUNITY SAFETY

Southwark Council has faced unprecedented cuts in its funding from central government: 25% in real terms since May 2010 with a further sizable reduction to come in the year ahead, and further reductions likely in future years. It is therefore important that the council considers how it can raise additional income to partially offset those losses.

In May, the government indicated its intention to allow councils to withdraw some discounts and exemptions within the council tax system. The Local Government Finance Act 2012 was granted royal assent on 31 October 2012 and is now law.

Last month, Cabinet considered the first report on those reforms. It agreed to abolish the discount allowed for council tax on second homes in the borough and asked for further work to be undertaken to consider the revenue that could be raised by revising our policy on council tax exemptions for empty properties.

This report therefore sets out the considerations on the empty homes exemptions and proposes recommendations for Cabinet to put before Council Assembly on their removal.

RECOMMENDATIONS

That Cabinet:

1. Note the detail of the intended technical reform changes to council tax legislation with regard to the new discretion to amend certain council tax discounts and exemptions.
2. Note that Council Tax exemptions, Class A and C are being abolished from 1 April 2013 and replaced with local discounts.

That Cabinet recommend to Council Assembly to agree the following:

3. 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.

4. 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.
5. The introduction of a local discount of zero percent from 1 April 2013 for empty (unoccupied) and furnished properties.
6. 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.

BACKGROUND INFORMATION

7. On 31 October 2011, the government issued its technical reforms of council tax consultation document with proposals to give greater discretion to allow reliefs from council tax in respect of second homes and empty properties.
8. The report to cabinet on 23 October outlined the government proposals on which it sought a response within the consultation.
9. On 28 May 2012, the government issued its response to the consultation and confirmed its intention to bring in legislation to give effect to the changes from 1 April 2013.

KEY ISSUES FOR CONSIDERATION

10. The main areas where the council will have greater flexibility as part of the changes proposed in the Local Government Finance Act 2012 are:

Empty but furnished homes

11. The government has confirmed its intention that local authorities will have discretion to charge full council tax on empty but furnished homes from 1 April 2013. Currently in Southwark a 10 per cent discount is granted. These properties are typically properties for rent which are vacated and empty (unoccupied) prior to new tenancies commencing.
12. In 2012/13, 1,141 discounts have been awarded to date with a value of £121,690.00. This value also captures current awards and which are calculated to the end of the financial year, therefore this is not representative of the true outturn as these awards end as soon as the property is re-let.

Class A - Property that requires or is undergoing major repair

13. The government has confirmed its intention that the class A exemption shall be abolished from 1 April 2013 and that local authorities can have discretion to grant a discount between zero and 100 percent but that such a discount must be granted for 12 months. Currently up to 12 months full exemption is granted on class A exemptions. Therefore any discount other than 100 percent would result in a council tax charge being payable immediately. This exemption currently covers properties that are empty and require major works to make them habitable and properties that are empty and have undergone major alteration or structural repair and less than 6 months have elapsed since the work was completed.

14. In 2011/12, 1,766 class A exemption awards were granted with a value of £579,876. Analysis of these exemptions for 2011/12 has indicated that 67 percent are in excess of 182 days and over 50 percent relate to council properties.

Class C - Property that is unoccupied and unfurnished up to 6 months

15. The government has confirmed its intention to abolish the class C exemption and allow billing authorities to set a discount between zero and 100 percent. Following responses to the consultation and a Council Tax Information Letter from the DCLG issued on 27 July, it is anticipated that there will be discretion to vary the period of the award from the existing six months and which would allow for a period of 100 percent discount prior to a council tax charge being payable. A decision not to exercise this discretion and not to award anything other than a 100 percent discount would result in a council tax charge being payable immediately.
16. In 2011/12 there were 11,110 exemptions granted with a value equating to £1,941,644.78. Analysis of these exemptions for 2011/12 has indicated that 45 percent of all awards were for less than 28 days and 66 percent less than 60 days. This analysis also indicates that the average value of the awards for 60 days or less is £71.87.

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

17. The 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. 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.

Council tax instalments

18. The government has confirmed its intention to enable local authorities to set default council tax instalments over 12 months rather than the current 10 months.

Statutory information being published on line

19. The government has confirmed that from 1 April 2013 councils will be able to publish all the council tax statutory information online unless a hard copy is specifically requested.

Other exemptions

20. Other than exemption classes A and C discussed within this report, the government has confirmed it is abolishing exemption class L, mortgagee in possession, therefore from 1 April 2013 banks and building societies will no longer have exemption in these circumstances. Otherwise the government is not proposing to make any other changes to the existing exemption classes. A table of the existing exemption classes is captured in Appendix A of this report.

New discounts

21. Subject to legislation the council will be able to introduce 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 is included in S.10 of the Local Government Finance Act 2012 amending 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.
22. With regard to the discount to replace Class C, the options available to the council in relation to properties that are unoccupied and unfurnished are:-
 - (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.
23. If the exemption is removed entirely, even for short periods there will be administrative costs to the council in raising bills and trying to recover liability raised for short periods of a few days or weeks.
24. Although there will be an overall increase in council tax liability when this change is implemented it is impossible to accurately predict by how much.
25. With regard to the discount to replace class A, the government have stated that although local authorities can have discretion to grant a discount between zero 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.
26. 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.
27. With regard to empty (unoccupied) but furnished properties, these are treated similarly to second homes. These are typically properties that are owned by landlords, therefore not the sole or main residence of someone and which are left empty (unoccupied) but furnished between lets. The period of emptiness can of course vary depending on the success of the landlord in re-letting the property. The government have stated that local authorities will have discretion to charge the full council tax on empty but furnished properties from 1 April 2013.
28. 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. There is recognition amongst practitioners 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.

29. 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.
30. The council has an existing discretion to introduce a local discount category for a particular class of property under s13A of the Local Government Finance Act 1992, such that could create a category for empty Council Properties only. However this would mean treating empty council property more favourably than other tenure groups at a time when financial pressures are felt equally across all business and commercial areas and is therefore inappropriate at this time.

Properties in receipt of exemptions

31. 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.
32. 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.
33. 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

34. The potential additional amount to be billed is illustrated in the tables at appendix B which identifies the level of exemptions and discounts awarded between 2009/10 and 2011/12.
35. 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.
36. 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.

37. 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.
38. The table in Appendix C 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.
39. 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 resource could then be targeted to the collection of higher value debts and the increased administration 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 administration 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.
40. If it were considered to grant 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
41. 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

42. 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

43. An Equalities Assessment (EA) for the proposed changes to the council tax exemptions is being developed. This will review 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.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

44. Cabinet requested officers to prepare an update on the technical reforms to council tax in the officer report to Cabinet dated 23 October 2012. Cabinet is advised that recommendations 1 and 2 may be agreed at this stage.
45. Cabinet is advised that it may agree recommendations 3 to 6, to Council Assembly, under Part 3A of the council's constitution.
46. The legal basis for recommendations 3 to 6, is found under ss.10-12 of the Local Government Finance Act 2012 which inserts provision into the Local Government Finance Act 1992 giving 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.
47. Cabinet will note the requirement for Council Assembly to pay due regard to the outcomes of the Equality Impact Assessment on the proposals, before a decision is reached.

Strategic Director of Finance and Corporate Services (CR/F&CS/08/11/12)

48. This reports requests that the cabinet agree to recommend to council assembly the introduction of a local discount of zero percent from 1 April 2013 for properties where there are major repairs or structural alterations, (previously Class A exemptions); the introduction of a local discount of 100 per cent for up to a maximum of 2 months from 1 April 2013 for empty and unfurnished properties, (previously Class C exemptions), the introduction of an empty homes premium resulting in council tax of 150 per cent for properties that have been empty and unfurnished for more than two years from 1 April 2013; and the introduction of a local discount of zero per cent for empty but furnished properties from 1 April 2013.
49. The strategic director 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.
50. The strategic director 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 issues will be considered and factored into the collection rate to be agreed by council assembly in January 2013.

51. The strategic director notes that the new arrangements will impact on the HRA largely as a consequence of major regeneration and housing development projects. Whilst this impact will differ from year to year (e.g. council tax liabilities will diminish as the Heygate estate is demolished and properties fall out of tax), it is noted that the impact for 2013/14 could be as high as £1m. The strategic director will take steps to ensure that any HRA liability will be mitigated through the use of earmarked reserves for regeneration and development. This will be reflected through the budget and resources strategy for 2013/14 and beyond.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Council Tax technical Reforms - Report to Cabinet 23 October 2012 http://moderngov.southwark.gov.uk/ielistDocuments.aspx?CId=302&MId=4247&Ver=4 (see item 11)	Available on council's website	Everton Roberts 020 7525 7221
Equality Analysis Available on the council's website (see item 16): http://moderngov.southwark.gov.uk/ielistDocuments.aspx?CId=302&MId=4248&Ver=4	Finance and Corporate Services – Revenues and Benefits, 160 Tooley Street, London SE1 2QH	Norman Lockie 020 7525 0928

APPENDICES

No.	Title
Appendix A	Existing Classes of Empty and Occupied Property Exemptions
Appendix B	Level of Exemptions and Discounts Awarded
Appendix C	Average debt awards for Class A and Class C in 2011/12

AUDIT TRAIL

Cabinet Member	Councillor Richard Livingstone, Finance, Resources and Community Safety	
Lead Officer	Duncan Whitfield, Strategic Director of Finance & Corporate Services	
Report Author	Mike Lynch	
Version	Final	
Dated	8 November 2012	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance & Corporate Services	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	8 November 2012	