

REPORT FOR: **CABINET**

Date of Meeting:	22 November 2012
Subject:	Technical Reforms of Council Tax Discounts and Exemptions
Key Decision:	Yes
Responsible Officer:	Julie Alderson, Corporate Director of Resources
Portfolio Holder:	Councillor Sachin Shah, Portfolio Holder for Finance
Exempt:	No
Decision subject to Call-in:	No, as the decision is reserved to Council
Appendices:	Appendix 1 – EqIA Appendix 2 – Consultation Feedback Analysis

Section 1 – Summary and Recommendations

This report sets out proposals for Harrow to change its policy with regards to some Discounts & exemptions currently available to Council Tax payers. The changes arise from proposed legislation derived from the Local Government Finance Act 2012.

Recommendations:

That Cabinet considers the information given in this report and recommends to full Council that the discounts and exemptions, as set out in the detailed proposals & summarised in table A, are changed with effect from 1 April 2013.

Reason: (For recommendation)

Agreeing the proposed changes to Council Tax discounts/exemptions will

result in Harrow generating an extra £1.1m in Council Tax revenue through the application of removal of discounts or exemptions, or the application of a premium on empty homes. The proposals will mean that Harrow, and the major preceptors, will benefit from an increase in Council Tax revenue without Council Tax being increased. This will maximise tax take and support the Council's financial priorities. Harrow's share will be 80% with 20% going to the preceptors (GLA, Fire and Police Authorities).

Section 2 – Report

Introduction

In its “Technical Reforms for Council Tax”, the Government proposed to allow local authorities to charge full council tax on second homes and to abolish class A and C exemptions, and instead allow authorities to set a discount of between 0% and 100%. In addition, it proposed to abolish class L exemption and instead make Mortgagees in possession liable for council tax.

The reforms relate to the following areas;

- **Uninhabitable** - This provision now allows the authority to reduce the exemption discount to zero against properties that are uninhabitable.
- **Unoccupied** - This provision now allows the authority to reduce or withdraw the period of exemption offered to unoccupied and unfurnished homes.
- **Repossessions** - This provision now allows the authority to reduce or withdraw the period of exemption offered to properties having been repossessed by the mortgagor.
- **Second Homes** - This provision now allows the authority to lower the discount applied on second homes to nil.
- **Empty Homes** - This provision now allows the authority to levy an “empty homes premium” on properties left empty longer than two years.

Following the implementation of the relevant legislation and consultation on the matter, it is now proposed that Harrow changes its policy and adopts the changes as set out in table A. This will result in a one off growth in the Council Tax Base which will lead to council tax income growth of approximately £1.1m before inflation rises, and in turn would support the budget process.

Detailed Proposals

Second Homes

Government propose to amend secondary legislation to allow billing authorities to levy up to full council tax on second homes with effect from 1/4/2013. The existing rules mean that second homes in Harrow receive a 10% discount.

It is proposed that the second home discount of 10% is changed to 0% with effect from 1/4/2013, in effect removing the discount altogether. This will affect approximately *248 households and raise £37k.

Empty Dwellings undergoing major repair

Government propose to abolish Class A exemption which applies to unoccupied dwellings which require or are undergoing structural alteration or major repair, for up to 12 months.

The Local Government Finance Bill, which became the Local Government Finance Act 2012 on the 31/10/2012, amends the Local Government Finance Act 1992 to give billing authorities the ability to determine a discount which may be set anywhere between 100% to 0%, based on local circumstances. The Government has confirmed that it is intended that the prescribed class of dwellings will be those previously covered under the Class A exemption. The period of this discount, if granted, will remain 12 months and a local authority cannot allow a shorter period of time.

It is proposed Harrow determines that a discount is created to be applied to dwellings previously covered under Class A, and that the discount is 0% for the full duration of the discount period, (12 months). This will affect approximately *176 households and raise around £290k.

Vacant dwellings

The Government propose to abolish Class C exemption which applies to empty and unfurnished dwellings for up to 6 months.

The Local Government Finance Act amends the Local Government Finance Act 1992 to give billing authorities the ability to determine a discount of between 100% and 0%, based on local circumstances.

The Government has confirmed that it is intended that the prescribed class of dwellings will include those currently falling within Class C.

It is proposed to replace this exemption with a discount and to set the discount at 0% for the full six month period. This will affect approximately *500 households and raise around £621k.

Liabilities of Mortgagees in possession

The Local Government Finance Act 2012 amends the Local Government Finance Act 1992 to allow the mortgagee in possession of the owner's interest to become liable for council tax. The existing legislation allows the owner to still be liable for council tax where a bank or building society has repossessed their property but to also claim an exemption under Class L so they are excluded from paying council tax.

If these changes are implemented, the Council will be able to charge the mortgagee in possession rather than allowing a council tax exemption. This will affect approximately *15 households and raise around £34k.

Empty Homes Premium

The Local Government Finance Act 2012 amends the Local Government Finance Act 1992 to allow a billing authority to determine that a long term empty dwelling will not qualify for a discount and that the amount of council tax shall be increased by a percentage of not more than 50%. Long term empty dwelling is defined as a dwelling which has been unoccupied and substantially unfurnished for a continuous period of 2 years.

With regards to long term empty property, it is proposed that the Council charges a council tax premium of 50% on top of the normal council tax charge for properties which meet the definition of long term empty properties. This will mean that all long term empty properties will be liable to pay 150% of the council tax liability at the relevant band amount (assuming the dwelling were occupied and the single person discount did not apply). This will affect approximately *150 households and raise around £118k.

Notice of any determination under this section must be published in a local newspaper within 21 days of the determination.

It is proposed all of the above changes are implemented with effect from 1/4/2013 therefore maximising the income from the areas as soon as legislation allows.

**Assumed numbers based on monetary value of discounts & exemptions awarded in 2011/12*

Council Tax is calculated on a daily basis so changes would be applied from the day in question. As the changes the Authority is making come into effect on a specific date, should there be any residual period of class A or C due under the old 12 and 6 month exemptions, granted prior to the 1/4/2013, council tax will be charged from the date of the agreed implementation negating any residual period, if any was still to be outstanding.

Table A

Recommendations	Current position	Proposal from 1/4/2013	Additional Ctax Generated £
Proposed measure 1 Remove the Council Tax discount for properties not occupied as a main home	10% discount	To reduce the discount percentage to 0%	37k
Proposed measure 2 Removing the Council Tax exemption on empty properties undergoing repair or major structural alteration	12 months exemption Class A exemption	To replace the exemption with a discount and to set discount at 0% for the discount period (12 months)	290k
Proposed measure 3 Replace exemption for properties which are empty and unfurnished with discount	6 months exemption Class C exemption	To replace the exemption with a discount and to set discount at 0% for the discount period (6 months)	621k
Proposed measure 4 Removing the Council Tax exemption on properties having been re-possessed by the mortgagee	These properties are exempt Class L exemption	To charge the mortgagee in possession for council tax	34k
Proposed measure 5 Removing the discount on long term empty properties and charging an 'empty homes premium' of 50% on properties left empty for longer than two years	0% discount	To charge a premium of 50% on top of normal council tax for properties meeting the definition of long term empty properties	118k

Other Options Considered

Following consultation and evaluation of the feedback, the following options were considered;

- a) Doing nothing and leaving the position as is. This would allow the status quo to continue and lose the authority the opportunity of raising an additional £1.1m gross or £620k net (after deducting GLA proportion and allowing for a 70% collection rate). Considering the cuts in Central Government grant to date, and the Government's intention to continue with its deficit cutting programme, it is therefore felt appropriate that the Council should consider the use of the technical reforms to discounts and exemptions to generate additional income to alleviate other financial pressures.
- b) Changing some of the Discounts/Exemptions but perhaps not fully removing them. Consideration was given to maintaining a period of exemption at 100%. However the only practical consideration was to allow a period of 1 month exemption at 100% for class C as this could have supported landlords by allowing up to 30 days for new

occupations to commence before charging council tax on unoccupied domestic property. However the financial pressures are such that it is proposed not to implement this concession as it would only benefit multiple home owners or large organisations which are better able to meet the increases in council tax rather than our general residents who are having their general household income reduced due to both lack of employment or cuts in benefits brought about by the welfare reform changes being imposed by Government.

- c) Not charging long term empty premium and maintaining class A exemption. Consideration was given to this but the option was rejected on the basis that this would not support our housing strategy which requires owners to be incentivised to bring the property back into use, or to sell it to someone who can. The fact that owners of empty and uninhabitable homes will no longer obtain up to 12 months exemption from council tax, and after two years will have to pay 150% of the relevant council tax for their property, should help to achieve this aim.

Consultation Feedback

A 6 week consultation was carried out between the 13th August and 21st of September. Written invitations and questionnaires were sent to:-

- 17 Housing Associations
- 39 Local Estate & letting Agents
- 1100 landlords
- 500 random council taxpayers selected on a pro rata basis from each council tax band

Two workshops were arranged for the 4th and 5th September for the Housing Associations and Estate Agents. Feedback was also received from Harrow's Housing Department.

Generally external responses were not in favour of the proposed changes to remove council tax discounts and exemptions. The three main areas, removal of the 10% discount for second homes, removal of the six month exemption for properties immediately they become vacant and removal of the 12 month exemption for properties undergoing structural repairs all had reasonably high response percentages against the proposals. The headline results are as follows:

- 35 out of 61 disagreed with the proposal to remove the 10% discount for furnished empty properties. Of those who disagreed, there were various responses as to what level of discount should be offered.
- 45 out of 61 disagreed with the proposal to remove the 6 month class C exemption. The majority of those who disagreed felt that 6 months exemption should continue to apply.
- 49 out of 61 disagreed with the proposal to remove the 12 month class C exemption. The majority who disagreed felt that the 12 month exemption should continue to apply.

- 45 out of 61 agreed that where a property has been repossessed the mortgagee should be responsible for the council tax and there should be no exemption
- 36 out of 61 agreed that there should be an additional premium charged where a property has been empty for more than 2 years.

Despite issuing over 1,656 invitations to the consultation only 61 online responses were received and there was no attendance at the workshops set up in September.

Breakdown of respondent types

	Count
Number of Responses	61
Housing Association	1
Estate Agent	2
Private Landlord (up to 5 properties)	14
Council Tax Payer	32
Private Landlord (greater than 5 properties)	9
Second Home Owner	3
Total	61

As can be seen by the actual feedback received, this consultation was of interest specifically to those individuals owning multiple properties or to professional landlords which, if the proposals are accepted, will be affected financially if they are in possession of empty or vacated property.

Some of the comments captured highlighted the fact that landlords would be picking up additional costs in between lets, and that generally a council tax exemption, whilst a property was being refurbished, was still necessary to ensure properties were maintained to high standards.

The comments have been summarised below;

- Unattractiveness of Harrow for landlords and developers

Some comments confirmed that this approach would see less landlord buying and letting properties in the Harrow areas which would have a negative effect as there is a high demand for privately rented properties. Some respondents felt that landlords would be less likely to rent properties to tenants on Housing Benefits. This was because it was perceived that this type of tenant left properties in much disrepair than normal private tenants which could lead to longer unrented periods incurring charges to the landlord for the in between period. There is however no evidence supplied to support this argument.

Response – these reforms have been introduced to give local authorities flexibility in how the exemptions and discounts work in the local area. When deciding to let a property, the landlord must take account of the cost of the property whilst not let. Landlords are entitled to secure a deposit from tenants at the beginning of the tenancy and can use this deposit if the tenant has not

complied with their tenancy agreement in relation to how the property is left at the end of the tenancy. For landlords who are able to re-let their properties quickly, the effect of the changes is minimal. The proposal should encourage landlords to bring properties back into use quickly.

- Social housing providers are hit hard and this will be funded from increased rents.

Response – social housing providers will be impacted by these proposals in the same way as private landlords. Vulnerable and low income tenants are housed in both the private sector and social housing market. It would therefore be difficult to justify treating social housing providers in a different way from private sector landlords. If rents are increased, tenants who are on means tested benefits may still qualify for help to pay these rents. It should be noted that welfare reform proposals are largely protecting low income pensioners.

- Impact of council tax benefit proposals on council tax payers

Response - the Council is proposing to introduce a local council tax support scheme, which will be the subject of a separate report. The Council has consulted on a proposed scheme on the basis that the funding shortage from benefit claimants will be fully met by the new scheme. The policy reason behind the legislative changes is to allow reforms to the exemptions and discounts to alleviate the financial pressure on council tax payers as a whole including council tax support claimants. It is accepted that private landlords are not always in the business to make large profits however the policy reasons behind these proposals are to ensure that residential properties are mainly occupied in an area such as Harrow where there is huge pressure for housing. Removal of the exemptions and discounts should apply equally to all owners of property.

- Discretion for exceptional circumstances

Response - the Council has options to reduce or remove exemptions and discounts. These must be applied in a consistent manner. It is therefore not possible to introduce an exception for specific personal circumstances. These must be applied in a consistent manner. However, the Council does have discretion as to how to enforce any debt and will take account of personal circumstances when deciding on the most appropriate method.

- Empty properties are not using Council services

Response - these reforms allow for the removal of discounts and exemptions for empty properties. Council tax attaches to dwellings as opposed to individuals and charging local tax based on use of service would be returning to a poll tax system. Many council services benefit the amenity of an area, such as highways, planning, environment and community services, all of which impact on the value of a property. Council tax has never been levied based on pure use of services. Empty and long term empty properties can also take up additional public sector resources in some areas due to problems associated with their status; for example anti-social behaviour leading to additional attendances by both fire services and the police. The policy reason for allowing a premium for long term empty properties is to encourage these properties to be brought back into use, as empty properties are not contributing to the local economy.

- Delay in nominations from the Council leads to delay in re-lets for social housing providers

Response – Housing aims to handle re-lets and nominations in a timely manner to minimise void time. To achieve this, properties can be advertised through the council's choice based lettings process before they are ready for letting to minimise delay. Unfortunately delay can still occur where a tenant turns down a property after viewing. The best way to avoid this would be through multiple viewings and to ensure advertising is accurate. If delays become a problem, Housing will be happy to agree an appropriate service standard.

Detailed Equality impact information is set out in the equality impact assessment under Appendix 1.

Legal Background

Clauses 10 to 12 of the Local Government Finance Act 2012 inserted new clauses 11A and 11B and amend section 6(2) of the Local Government Finance Act 1992. Although secondary legislation has not yet been issued, it is expected these will be issued shortly allowing the relevant sections to commence and to allow determinations to be made by billing authorities in readiness for 1 April 2013.

Under s11A(2) of the LGFA 1992, the council will therefore be required to make a determination regarding reducing discounts on unoccupied properties, whilst s11A(6) requires that the determination be published in a local newspaper within 21 days of the determination. There is no statutory requirement for consultation, although there are publication requirements.

The Local Government Finance Act requires certain determinations to be made by full Council and this includes the new section 11A and section 11B as set out above.

When making policy decisions, the Council must take into account of all relevant material, including financial resources, consultation responses and potential equality impacts in order to reach a decision. This report presents a number of options and the financial implications of these and makes a recommendation. However, this does not preclude Cabinet from recommending that another option is the most appropriate way forward.

There is no statutory duty to consult on these technical reforms, however in accordance with the Council's consultation charter and its corporate priorities, it was felt appropriate to undertake a consultation exercise to seek the public's views on the proposals. The Council undertook a consultation exercise between 13/8/2012 and 21/9/2012 to allow people to comment on the proposals.

A summary of the details of the consultation responses are set out in the report and attached appendix 1. Case law has confirmed that when determining whether to change policy, the Council must be receptive to reasonable arguments against the proposals, however this does not simply involve a head count of those for and against the proposals. It is common for

the most vociferous response to come from those affected by the proposals and in the case of withdrawal of exemptions and discounts, it will not be surprising if a number of respondents are against the proposal. The Council must of course take these views into account, however just because a majority of the respondents to consultation do not agree with the proposals does not mean that Cabinet should not recommend this option if justified for proper policy reasons.

Tax Base Implications of the Recommendation

The Government has also amended the Local Authorities (Calculation of Council Tax Base) Regulations 1992 (SI 1992/612) to ensure the calculation of the council tax base takes account of the above changes; empty homes premium etc.

The above will affect the Council Tax Base. The council tax base is a count of "Band D equivalent dwellings" (the 'taxable capacity of an area). It is used for the purposes of calculating a billing authority's and a precepting authority's Band D council tax.

The Council Tax Base Regulations require the aggregate of the relevant amount, for each band, to reflect any discount or exemptions that are applicable. What this means, in practice, is that by granting discounts and exemptions the council tax base is reduced. By approving the changes to the policy proposed in this report, this in effect will result in an increase if the council tax base.

Financial Implications

This is a report of the Corporate Director of Resources and deals with financial matters throughout.

Cut backs in funding, announced by Central Government as part of the 2010 spending review and which will contribute to the Government's deficit reduction programme, are eroding the grants that Harrow receives to support services. Government is changing the rules on discounts and exemption flexibility deliberately to allow billing authorities to raise additional income streams to mitigate the loss of support grant. Government has also restricted the ability of billing authorities raising additional revenue by imposing a very low threshold (2%) on the amount that council tax can be increased annually before a referendum is triggered. Not changing the status quo and charging the full amounts allowed would therefore put at risk the delivery of key services as less funding becomes available in future and Harrow is further restricted on future council tax increases.

Performance Issues

There may be temporary in year collection performance issues as initial resistance to the changes manifests itself. However it is not believed this will result in long term performance issues as compliance will increase once property owners are made aware of the policy. Collection will also be supported by a robust collection strategy that will ensure those who can pay actually do.

The levy of an additional charge on long-term empty properties may also encourage behaviours that will encourage property owners to find ways of avoiding payment of any additional charge. As such additional checks may need to be undertaken to verify and/or challenge such claims which may be consuming and costly.

Environmental Impact

None

Risk Management Implications

A tax payer will be able to challenge the proper application of the new section if they are affected personally, by making an appeal to the Valuation Tribunal; a process which already exists and is already dealt with by Revenues staff through the normal operational procedures for council tax administration. This risk will therefore be managed by existing processes in place.

There is a risk that small balances might not be paid, as charges may average out as £5 per day. However a 70% collection rate has been assumed that mitigates risk to budgeted income.

Equalities implications

When making this decision Cabinet should have due regard to the public sector equality duty. The Council completed an equality impact assessment and a summary of results is shown below.

Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups.

An equality impact assessment has been completed to indicate the impact of the proposal on particular groups and the EqIA is included as an appendix. The Council must also take account of other material such as press reports and consultation results to determine whether there is a potential positive or negative impact on a specific individual or group of individuals and if so, what mitigating measures can be taken to address this.

The results of the EqlA are summarised below;

- Age – one Housing Association has confirmed that they provide accommodation to older persons and as such this age group will be impacted more than other age groups.

Response / Mitigation measure – the proposed welfare reform changes are largely protecting pensioners as a group and as such benefit payments to low income pensioners should stay largely the same as under the current benefit system. There is a risk that social landlords will have to increase rental payments and for those who do not qualify for full state benefits this could have an impact, however this is likely to affect people across the age brackets.

- Disability – one housing association has confirmed that they provide accommodation to older persons, who would have high levels of need. In addition HAD responded stating that disabled people may have to leave their property empty whilst in hospital or other type of care or whilst waiting for adjustments to their home.

Response / Mitigation measure – whilst the proposals may mean that some disabled persons who were previously able to apply for a reduction will now have to pay full council tax, it should be noted that many exemptions still remain which will ensure those receiving care other than in their home, or those hospitalised etc, will still receive council tax relief. If a council tax bill is applicable, when deciding how to enforce this debt, the council would decide the most appropriate method taking into account of a person's individual circumstances. If an individual has an asset, such as a property, but does not have a large income, the Council can consider applying for a charge against the property as an alternative to seeking immediate payment of the debt.

As a mitigating measure, the Council will work with voluntary agencies to ensure that publicity is given to other exemptions that may apply to particular circumstances.

- Race – there is no evidence that landlords are from any particular ethnic group or that a particular ethnic group is being affected more than another. The majority of the landlords are larger organisations, such as housing associations and private property investment companies.

Benefits of adopting the proposals include incentives for empty property to be reoccupied, benefitting all those residents either on housing waiting lists or privately looking for accommodation to let, which supports Harrow's housing strategy, as well as supporting the Council's priorities as it raises additional income to support service delivery generally.

Corporate Priorities

The report addresses the Council's corporate priorities as the change in policy will ensure additional monies are raised from council tax to support services. By increasing the Council's tax base it also ensures this is an on-going process which will continue delivering the extra funds in future years.

Section 3 - Statutory Officer Clearance

Name: Julie Alderson	<input checked="" type="checkbox"/>	Chief Financial Officer
Date: 29 October 2012		
Name: Sarah Wilson	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 26 October 2012		

Section 4 – Performance Officer Clearance

Name: Martin Randall	<input checked="" type="checkbox"/>	on behalf of the Divisional Director Partnership, Development and Performance
Date: 16 October 2012		

Section 5 – Environmental Impact Officer Clearance

Name: John Edwards	<input checked="" type="checkbox"/>	Divisional Director (Environmental Services)
Date: 16 October 2012		

Section 6 - Contact Details and Background Papers

Contact:

Fern Silverio (Divisional Director – Collections & Housing Benefits),
Tel: 020-8736-6818 / email: fern.silverio@harrow.gov.uk

Background Papers:

Communities & Local Government - various Consultation Papers on Technical Reforms to Council Tax <http://www.legislation.gov.uk/ukpga/2012/17/enacted>

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE

*[Call-in does not apply as the
decision is reserved to Council]*