



Policy and Resources Committee - 5 December 2011

Response to DCLG Consultation - Technical Reforms of Council Tax

Purpose of report

To approve the East Northamptonshire Council response to the consultation paper on Technical Reforms of Council Tax.

Attachment(s)

Appendix 1 - DCLG - Technical Reforms of Council Tax
Appendix 2 - Draft East Northamptonshire Council Response

1.0 Background

1.1 On 31 October the Department for Communities and Local Government (DCLG) published a consultation paper on the technical reforms proposed for Council Tax

1.2 A response to the consultation paper is required by 29 December 2011.

2.0 Technical Reforms Proposed

2.1 In summary the paper predominantly seeks views on the desirability and practicability of giving billing authorities greater discretion over reliefs from Council Tax available in respect of second homes and some empty properties. These are outlined in their current form at Annex A&B Pages 29 to 31 of Appendix 1 to this report. It also proposes some minor technical changes which are outlined in Section 3 of the attached Appendix 1.

2.2 The consultation paper proposes that these changes would all come into force from 1 April 2013.

2.2 A consultation response has been prepared based on the impact on the district of East Northamptonshire and the operational requirements of this Council as the billing authority. The draft response is attached at Appendix 2.

3.0 Equality & Diversity Implications

3.1 There are no equality and diversity implications arising from this report.

4.0 Legal Implications

4.1 There are no legal implications arising from this report.

5.0 Risk management

5.1 There are no identified risks arising from this report

6.0 Financial Implications

6.1 There are no financial implications arising from this report.

7.0 Recommendation

Members are recommended to note and approve the ENC consultation response

attached to this report at Appendix 2

Legal	Power: Local Government Finance Act 1992, Local Government Act 2003 and associated regulations.				
	Other considerations:				
Background Papers:					
Person Originating Report: Lisa Hyde, Head of Customer & Community Services, Tel 01832742162 ljhyde@east-northamptonshire.gov.uk					
Date: 11 November 2011					
CFO		MO		CX	

(Committee Report Normal Rev. 22)



Technical reforms of council tax **Consultation**



Technical reforms of council tax

Consultation

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About this consultation

Scope of consultation

Topic of consultation	Proposals to give billing authorities greater discretion over the reliefs from council tax available in respect of second homes and some empty properties; and other potential reforms of the council tax system.
Scope of consultation	This consultation seeks views on the desirability and practicability of the proposed changes. It also seeks preliminary views on issues about which Government is not yet ready to bring forward proposals.
Geographical scope	England. The relevant legislation covers both England and Wales but the administration of council tax in Wales is a matter for the Welsh Assembly Government.
Impact assessment	An impact assessment will be prepared once Government has firmed up policy proposals in the light of the consultation.

Basic information

To	A public consultation of particular interest to local authorities (including police authorities, fire and rescue authorities and local precepting authorities), representative organisations (including the Local Government Association (LGA), London councils, Institute of Revenue Rating & Valuation (IRRV), The Chartered Institute of Public Finance and Accountancy (CIPFA), National Association of Local Councils (NALC)), mortgagees (especially banks and building societies), house builders, and others with an interest in local taxation issues.
Body responsible for the consultation	Department for Communities and Local Government
Duration	31 October 2011 to 29 December 2011
Enquiries	Mr. D. Kelly Local Government Finance Directorate Department for Communities and Local Government Zone 5/D2 Eland House Bressenden Place London SW1 E 5DU Telephone: 0303 444 2099 Email: counciltax.consultations@communities.gsi.gov.uk

How to respond	To either of the addresses above.
Additional ways to become involved	Not applicable.
After the consultation	The Government will take into account the responses to this consultation when considering whether to bring forward legislative proposals.
Compliance with the code of practice on consultation	This consultation complies with the Code but will run for eight weeks in order to meet the requirements of the legislative timetable.

Consultation criteria

This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Department for Business, Innovation and Skills and is in line with the seven consultation criteria, which are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible¹.
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent and, where relevant, who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for

¹ Paragraph 2.3 of the Code has been applied in this case as a shorter consultation period is necessary.

disclosure of the information we will take full account of your explanation but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

DCLG Consultation Co-coordinator
Zone 6/H 10
Eland House
London SW1 E 5 DU

or by e-mail to: consultationcoordinator@communities.gsi.gov.uk

Consultation process

The Department for Communities and Local Government invites comments on the proposals set out in this document. The Government expects to include appropriate measures in a local government finance bill to be brought forward in this session of Parliament. Given the potential impact on taxpayers, it is of course important that adequate time is allowed for the consultation. In striking a balance between these factors, the Government has decided that this consultation will run for eight weeks.

When responding, please state whether you are responding as an individual or representing the views of an organisation. Responses to this consultation must be received by **29 December 2011**.

You can email your response to: counciltax.consultations@communities.gsi.gov.uk, or you can respond in writing to:

Technical Reforms of Council Tax Consultation
Local Government Finance Directorate
Department for Communities and Local Government
Zone 5/D2 Eland House
Bressenden Place
London SW1 E 5DU

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Section 1

Introduction

Setting the agenda for decentralisation and localism is one of the Coalition Government's core objectives. The goal is a radical redistribution of power and funding from government to local people to deliver what they want for their communities. Council tax is a local tax, and it is therefore natural that, as part of its broad agenda, the Government should look for changes that further empower local communities.

It is vital that we keep the overall level of council tax down, and in the Spending Review, the Government undertook to consider providing greater flexibilities to local authorities to manage pressures on council tax. This must be seen in the context of:

- necessarily tight local government finance settlements for the next few years as we tackle the fiscal deficit
- proposals recently published to return some control of business rates to local authorities; and
- proposals to replace council tax benefit with local support for council tax.

This consultation is also an opportunity for the Government to address some technical issues which have arisen in recent years, to explore modernising the system in certain minor respects, and to seek views on whether some other aspects of the system should be changed.

In summary, the changes being contemplated include:

- (a) giving billing authorities power to levy up to full council tax on second homes
- (b) replacing exemption Classes A and C² with discounts, the amount of which would be for billing authorities to determine
- (c) abolishing Class L exemption, and making mortgagees in possession of empty dwellings liable to council tax in respect of them
- (d) allowing billing authorities to levy an 'empty homes premium' in respect of dwellings which have been left empty for two years or more

² Exemption classes A, C and L relate to certain empty properties. Details are in Annex B.

- (e) setting a default assumption that payment of council tax by instalments will be over twelve months rather than (as is currently the case) ten
- (f) allowing authorities to publish online the 'Information to be supplied with demand notices'³, but with a duty to supply it in hardcopy to any council tax payer requesting it – as an efficiency measure, and to encourage the takeup of electronic billing
- (g) changes to eliminate potential tax complications from arrangements involving third party suppliers where solar panels are placed on the roofs of dwellings without coming into the paramount control of the resident.

These proposals will help local authorities keep the overall level of council tax down, supporting hard-working families and pensioners by adjusting the tax relief in respect of second homes and empty properties when authorities judge that they do not merit the special treatment they currently get. If authorities choose to operate these new flexibilities to maximise revenue in order to relieve upward on council tax, the value would be equivalent to approximately £20 reduction in the bill for a Band D property (averaged across England). In practice, the value will vary considerably between areas, and will of course depend on the discounts actually determined by each billing authority.

The Government has no plans to change the rules on exemptions currently available in respect of properties left empty because a person has moved into a hospital or care home, or has died, or has moved to provide care to another should be lost.

Government is also seeking views on whether changes are desirable to require that where one part of a hereditament has been adapted for separate occupation but is not in fact separately occupied, the whole should be banded as one.

Where the proposals in this document would require primary legislation, the Government plans to bring it forward in a local government finance bill in this Parliamentary session.

³ That is, the information currently itemised in Part 2 of Schedule 2 to The Council Tax (Demand Notices) (England) Regulations 2010

Section 2

Second homes and empty dwellings

Summary

Government is minded to seek changes to legislation, with a view that they should come into effect for 2013-14 and subsequent years.

- to provide that the range of billing authorities' discretion over second homes discount, currently 10-50 per cent, be extended to 0-50 per cent
- to abolish exemption Classes A and C, and instead to give billing authorities discretion to give discounts of between 0 and 100 per cent.

Although simple abolition of exemption Classes A and C could be accomplished by amending the relevant secondary legislation, the range of discount available to billing authorities would then be restricted to a maximum of 50 per cent. These changes would therefore require primary legislation.

The Government also seeks views on two other propositions, both of which would require primary legislation if adopted:

- Making mortgagees in possession of empty dwellings liable for council tax in respect of them. Such a change would be coupled with the abolition of Class L exemption, which would no longer be necessary
- Empowering billing authorities to charge an 'empty homes premium' in respect of dwellings which have been empty for two years or more, as an incentive for owners to bring them back into use.

Background

Discounts from council tax bills

Since council tax was introduced in 1993, taxpayers have in certain circumstances been entitled to pay an amount of council tax which is reduced by a discount. In particular, different discounts are available where:

- only one adult⁴ occupies a chargeable dwelling as their sole or main residence
- no adult occupies a chargeable dwelling as their sole or main residence.

The rules on discounts where no adult occupies a dwelling as their sole or main residence have evolved since council tax was introduced in 1993. Originally, the discount was set at 50 per cent but, over the years, that has changed so that, now, four contexts are recognised⁵ in practice, as follows.

- (a) A furnished dwelling which is not the sole or main residence of any individual (known collectively as ‘second homes’) attracts a discount which billing authorities can set at between 10 and 50 per cent (but see (c) below)
- (b) Any dwelling which consists of a pitch occupied by a caravan, or a mooring occupied by a boat attracts a discount of 50 per cent when unoccupied
- (c) A furnished dwelling which is not the sole or main residence of a council taxpayer attracts a discount of 50 per cent if the person liable for council tax necessarily occupies it and another dwelling, and one or other of the occupations is job-related
- (d) A dwelling which is unoccupied and substantially unfurnished attracts a discount which the billing authority can set at between 0 and 50 per cent, once any period of exemption has passed. Such dwellings are known collectively as ‘long term empties’.

A general power to give discounts was conferred on billing authorities by section 76 of the Local Government Act 2003, which inserted section 13A into the Local Government Finance Act 1992. It empowered a billing authority to reduce the amount of a liability as it thinks fit, including to nil. This power may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.

⁴ Some adults have to be disregarded when deciding how many adults are in occupation. The commonest example is full-time students.

⁵ Section 75 of the Local Government Act 2003 inserted section 11A into the 1992 Act. It empowers the Secretary of State to prescribe one or more classes of dwelling in England for the purposes of these discounts. The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 sets out the details, and distinguishes classes for which billing authorities have discretion to set discounts at between 10%-50% under section 11A(3) from that for which they have discretion to set 0-50% under section 11A(4).

Other discounts and reductions apply in some circumstances, but as Government has no proposals to bring forward in respect of them, they are not described in this paper.

Exempt dwellings

In a wide variety of circumstances (see list at Annex A), dwellings are exempt from council tax either for a period of time, or indefinitely while conditions are met. This consultation addresses possible changes to three of these exemptions: Classes A, C and L. They are formally described in Annex B. In brief:

- Class A exemption is currently available for up to 12 months in respect of a vacant property which requires, is undergoing, or has recently undergone major repair work to render it habitable, or structural alteration
- Class C exemption is currently available for up to six months after a dwelling becomes vacant
- The practical effect of Class L exemption is to release mortgagors who have had their homes re-possessed by a bank or building society from any liability to pay council tax (and therefore to relieve billing authorities of the obligation to collect the tax).

Proposals on second homes

On second homes, Government is minded to extend the range of discount available to billing authorities to allow them to levy up to full council tax on second homes, thereby placing them on the same basis as normal homes. Representations favouring change along these lines have been made from time to time, most recently by South Hams District Council in Devon, and by Cornwall Council. A second home owner is taking up a unit of the local housing stock; and the original purpose of giving local authorities discretion over second homes discount was to give them a tool they could use to encourage or discourage second home ownership in their areas. The Government's present proposal will make that tool somewhat more powerful. Moreover, authorities with a high level of second home ownership will be able to levy tax from a base which is not 'damaged' by that fact – they will, if they wish, be levying tax on the same base as an authority for which second home ownership is not a significant issue.

Question 1

Do you agree with the Government's proposal to extend the range of discount available to billing authorities in respect of second homes to 0 to 50 per cent?

For second homes, the rules governing the calculation of an authority's council tax base for formula grant purposes currently require an arbitrary assumption that a discount of 50 per cent is given in all cases. The tax base used for the calculation of council tax in each area, on the other hand, reflects the actual rates of discount that authorities have chosen to adopt. The effect is that any extra council tax revenue which an authority generates by

giving a discount of less than 50 per cent on second homes is not set off by any reduction in its formula grant⁶.

When the rules on discounts for second homes were revised by the Local Government Act 2003, the minimum 10 per cent discount was retained so that second home owners would still have an incentive to identify their properties as second homes. Without this, it was felt, that there would be no way to identify the additional resources generated by second homes and allow the intended retention of the extra revenue by local authorities. The Government recognises that if authorities choose, as it proposes they might, not to offer a discount on second homes, it will become more difficult in practice to distinguish second homes from other dwellings.

Question 2

How might authorities choosing not to offer any discount on second homes identify them in order to report second homes as necessary for formula grant purposes?

Empty Homes

The Coalition Government's Programme for Government committed it to exploring a range of measures to bring empty homes into use. Empty homes are often a blight on the local community, harming the local amenity of neighbouring properties. They are wasted assets, so putting empty homes more quickly back into productive use would increase housing supply. We are therefore proposing to give councils more flexibility to adjust or, if they think it appropriate, deny relief from council tax in some circumstances which currently entitle owners to short term exemptions. Councils will continue to be able to use their existing powers to apply discretionary discounts in cases where homes are empty due to special circumstances – e.g. hardship, fire, flooding. We would encourage councils which removed the empty discount to have an explicit policy on such hardship cases.

There are other circumstances in which it would be quite wrong to deny exemption. The existing exemptions are listed at Annex A. Several of them relate to unoccupied dwellings, but reflect circumstances which fully justify continuing exemption. For example, it would be wrong to interfere with exemption Class F which applies due to the death of the owner of a property, and we have no intention of doing so – we recognise the difficulties that probate can cause. Similarly, exemption classes E, I and J will all remain intact (they relate to dwellings left empty because the residents have moved into hospital, or to give or receive care).

Proposals on Class A exemption

It is reasonable that council tax payers should get some relief in respect of vacant dwellings that are, for a time, uninhabitable for one good reason or another. When council tax was introduced, the system provided for an open-ended period of exemption in such

⁶ The same is not true of other discounts, and in particular the actual rate of discount given for long term empty properties is used in the calculation of an authority's tax base for formula grant purposes.

circumstances. It continued while the state of the dwelling warranted it. However, in 2000 the law was changed to limit the period of exemption to a maximum of one year, after which the dwelling (if still vacant) is to be treated as a long term empty property. Billing authorities' discretion over the rate of discount then applies, so such properties do not necessarily attract any discount at all.

This limitation has generally encouraged owners to bring dwellings back into use in a reasonable time; and that remains the Government's aim. It is, however, a central prescription. There is no scope for billing authorities to use discretion about what is reasonable in terms of foregoing council tax in respect of such properties. In pursuit of the broader goals of localism, Government is therefore minded to abolish the exemption, but replace it with a discount which billing authorities have discretion to set at 100 per cent, or any lower percentage which seems reasonable to them having regard to local circumstances.

If authorities choose to levy council tax in circumstances in which, under the current rules, they could not, Government would wish them to be able to retain the additional revenue locally. Under the present system, in the calculation of council tax bases for formula grant purposes, a discount of 100 per cent would therefore be assumed (following the approach taken to second homes in this context). The Government acknowledges that proposals discussed in the concurrent consultation *Local Government Resource Review: Proposals for Business Rates Retention* may have a bearing on how this objective will be achieved in practice.

In their October 2010 council tax base returns⁷, authorities reported that, in September 2010, Class A exemption applied to 32,900 dwellings in England. The tax foregone in 2011-12 by virtue of Class A exemption is estimated to be around £40m⁸.

Question 3

Do you agree with the Government's proposal to abolish Class A exemption and replace it with a discount which billing authorities may set in the range 0 to 100 per cent?

Question 4

If Class A exemption is replaced by a discount, for what period should the new discount apply before such properties are treated as long term empties? Should the one-year time limit continue to apply, or should billing authorities have any discretion about it?

⁷ <http://www.communities.gov.uk/documents/statistics/xls/1877000.xls>

⁸ figures are based on 2011-12 basic amounts of council tax and estimated from a band level split for non student exemptions, on the assumption that exemption levels will remain consistent throughout the year 2011-12.

Question 5

If Class A exemption is replaced by a discount, should billing authorities be empowered to give different levels of discount for different cases?

Proposals on Class C exemption

In their October 2010 council tax base returns, authorities reported that, in September 2010, Class C exemption applied to 266,100 dwellings in England. The tax foregone in 2011-12 by virtue of Class C exemption is estimated to be around £320m⁹.

In parallel with the abolition of Class A exemption, in the spirit of localism, Government is minded to:

- abolish Class C exemption, replacing it with a discount which billing authorities have discretion to set at 100 per cent, or any lower percentage which seems reasonable to them having regard to local circumstances
- make provision to ensure that any extra revenue generated if billing authorities set a discount of less than 100 per cent is retained and does not affect the distribution of central government grant.

Class C exemption, of course, applies for a shorter time than Class A, and in different circumstances. Government is aware that the potential impact of converting it into a discount will fall on people who have moved home without selling or letting their properties; and, possibly, on developers who have vacant new properties on their books.

At the moment, taxpayers are entirely relieved of liability for six months, and (in areas where long term empties attract zero discount) then have to pay the tax in full. There is no compelling reason why the first six months should be treated so generously. We therefore seek views on whether a change towards giving billing authorities discretion to have regard to local circumstances is reasonable, and if so, what degrees of discretion should be provided to billing authorities.

Question 6

Do you agree with the Government's proposal to abolish Class C exemption and replace it with a discount which billing authorities may set in the range 0 to 100 per cent?

⁹ figures are based on 2011-12 basic amounts of council tax and estimated from a band level split for non student exemptions, on the assumption that exemption levels will remain consistent throughout the year 2011-12.

Question 7

If Class C exemption is replaced by a discount, for what period should the new discount apply before such properties are treated as long term empties? Should the six month time limit continue to apply, or should billing authorities have any discretion about it?

Question 8

If Class C exemption is replaced by a discount, should billing authorities be empowered to give different levels of discount for different cases?

Class L exemption

In their October 2010 council tax base returns, authorities reported that, in September 2010, Class L exemption applied to 11,800 dwellings in England. The tax foregone in 2011-12 by virtue of Class L exemption is estimated to be around £15m.¹⁰

The Government's position on Class L exemption is somewhat different from that on Classes A and C. There would be no point in amending the law to provide that owners of dwellings who have had them repossessed by a mortgagee – a bank or building society – should nevertheless be liable for council tax. The tax would very probably be uncollectible. However, these are units of accommodation which, in other hands, would usually generate council tax.

One way forward would be to amend council tax legislation so that, in the 'hierarchy of liability', mortgagees in possession rank higher than 'owner' but lower than 'resident' of any description. The hierarchy of liability is defined in section 6 of the Local Government Finance Act 1992¹¹, in the following terms:

- (1) The person who is liable to pay council tax in respect of any chargeable dwelling and any day is the person who falls within the first paragraph of subsection (2) below to apply, taking paragraph (a) of that subsection first, paragraph (b) next, and so on.
- (2) A person falls within this subsection in relation to any chargeable dwelling and any day if, on that day—
- (a) he is a resident of the dwelling and has a freehold interest in the whole or any part of it;
 - (b) he is such a resident and has a leasehold interest in the whole or any part of the dwelling which is not inferior to another such interest held by another such resident;
 - (c) he is both such a resident and a statutory, secure or introductory tenant of the whole or any part of the dwelling;
 - (d) he is such a resident and has a contractual licence to occupy the whole or any part of the dwelling;
 - (e) he is such a resident; or
 - (f) he is the owner of the dwelling.

¹⁰ figures are based on 2011-12 basic amounts of council tax and estimated from a band level split for non student exemptions, on the assumption that exemption levels will remain consistent throughout the year 2011-12.

¹¹ as amended by The Housing Act 1996 (Consequential Amendments) Order 1997

If such a change were made, Class L exemption would not then be needed. The institutions which have taken possession of such dwellings would become liable for council tax while the properties are empty. This seems fair, since they effectively have control of the properties until they are sold or let, and there is no good reason why other taxpayers should have to make up the shortfall in council tax revenue suffered by the local authorities when properties are repossessed.

Question 9

Should Government seek to make mortgagees in possession of empty dwellings liable to council tax?

Empty Homes Premium

At present, billing authorities have discretion to reduce the discount they give when a non-exempt dwelling is unoccupied and substantially unfurnished, or indeed to determine that there shall be no discount at all. If authorities do not exercise their discretion, the discount applicable is 50 per cent. This measure was introduced via the Local Government Act 2003, and affected tax liabilities from 1 April 2004 onwards. The policy aim was to encourage owners to bring empty properties back into use more quickly.

However, it remains the case that a distressing number of dwellings are being left empty, at a time when there is an overall housing shortage. There are over 300,000 long-term empty homes across England. As well as being an unused resource when 1.7 million people are on social housing waiting lists, long-term empty properties attract squatters, vandalism and anti-social behaviour, and are a blight on the local community.

Government is therefore seeking views on whether the billing authorities should be given the option to levy an ‘empty homes premium’ on the council tax payable in respect of dwellings that have been left empty for a long time (two years or more, for example). In areas where authorities have already resolved not to discount the council tax payable in respect of empty dwellings, this might mean that they could levy substantially more than 100 per cent of the council tax which would be payable if a dwelling were occupied.

There would obviously be concerns that would have to be very carefully addressed before such a change in the council tax regime were implemented. It must be seen to operate fairly, for example, and must make sense in the context of broader local strategies for dealing with empty homes. Issues of collectibility, and avoidance, would need to be considered.

Before it decides whether to take such a policy forward, therefore the Government would like to receive views on the following questions:

Question 10

Would enabling local authorities to levy an empty homes premium on council tax have a significant impact on the number of homes being left empty?

Question 11

In terms of a percentage of normal council tax, what should the maximum permitted premium be?

Question 12

How long should a dwelling have remained empty before the empty homes premium might be applied in respect of it?

Question 13

Should constraints be placed on the purposes to which the additional tax revenue generated from an empty homes premium may be devoted?

Question 14

What circumstances if any should be defined as being inappropriate for levying the empty homes premium, and why?

Question 15

What practical issues would have to be addressed if the premium were to be implemented (for example in the consistent identification of empty homes) and how should they be resolved?

Section 3

Other technical changes to council tax

Several areas in which changes might usefully be made are outlined in this section. Government is now seeking views about whether change is desirable, and if so, what form it should take.

The definition of ‘relevant person’

Government is also considering legislation to close a loophole in the provisions of sections 66(2B)(a) and (b), which provide that, if a ‘relevant person’ intends to let a building or part of a building for short periods totalling 140 day or more per year, it should be subject to non-domestic rates. It achieves this objective by reference to the intentions of the ‘relevant person’ who is defined by subsection (2C). The loophole arises because the legislation defines a ‘relevant person’ in terms which fail to cover the case where a freeholder retains part of a building for such purposes.

In the *Curzon Berkeley* case¹², the Claimant’s argument was that they could not be the ‘relevant person’ in respect of self contained parts of a building where Curzon Berkeley were the freeholders and which they operated as Service Apartments. Accordingly, they did not fall to be assessed to non-domestic rates. In his judgement, James Goudie QC (sitting as a Deputy High Court Judge) found that this was a plain case of a drafting mistake (there being no explanation as to why, in the circumstances of this case, a long leaseholder was defined as a ‘relevant person’ but a freeholder was not).

The Government now proposes that section 66(2C)(a) should be amended along the following lines:–

‘Where the property in question is a building or a self contained part of a building and is not subject as a whole to a relevant leasehold interest, the person having the freehold in the whole of the building or self contained part’.

Question 16

Do you agree that Section 66(2C)(a) should be amended along the lines suggested?

¹² R (on the application of Curzon Berkeley Ltd) -v- Bliss (VO) [2002] RA 45

Payment by instalments

A council tax bill can be paid through a lump sum or through instalments¹³. The number of instalments is normally 10, and the majority of the 22 million council tax bills issued each year are paid by this method. Local billing authorities may however agree with the taxpayer to payment in some other manner. In practice, some authorities provide an on-line application form for council taxpayers to complete if they wish to pay over 12 months: others only offer 12 monthly on condition that payment is made by direct debit.

The Government believes that council taxpayers should be entitled to pay by 12 month instalments without having to enter into an agreement with the billing authority. This would provide more flexibility to individuals when managing their personal finances, would mean that their monthly payments would be somewhat smaller, and aligns with most modern arrangements for the payment of routine bills such as utility bills.

The Government is therefore minded to amend the statutory instalment scheme to allow the taxpayer the choice of paying their council tax by either 10 or 12 instalments.

Question 17

Do you agree that the default pattern of council tax bill instalments should be payment by 12 monthly instalments (with other arrangements to be reached by agreement between taxpayer and billing authority)?

Information to be supplied with demand notices

Council tax demand notices are normally printed and issued on paper. Matters to be contained in demand notices are set out in Regulations¹⁴. In particular, explanatory notes must form part of the demand notice. The Government does not propose changes to this, but notes that powers already exist for electronic billing and payment by agreement between the taxpayer and the billing authority¹⁵, and that councils can give a discount if they wish to encourage taxpayers to adopt this approach, to reflect the reduced administration costs.

¹³ Regulation 21, and Schedule 1 of The Council Tax (Administration and Enforcement) Regulations 1992

¹⁴ Part 2 of Schedule 1 to the Council Tax (Demand Notices) (England) Regulations 2010.

¹⁵ Regulation 2(4) of the Council Tax (Administration and Enforcement) Regulations 1992 allows a local authority to provide the council tax demand notice by electronic means, if agreed by the individual taxpayer. Electronic means can cover a simple e-mail sent to the taxpayer or an on-line account created by the local authority, which the taxpayer can access.

The Regulations¹⁶ require that certain information must be supplied with demand notices, as follows:

2. The gross expenditure of—
 - (a) the billing authority,
 - (b) each relevant precepting authority, and
 - (c) each relevant levying body,
 for the relevant year and the **preceding** year.
3. The budget requirement of—
 - (a) the billing authority, and
 - (b) each relevant precepting authority,
 for the relevant year and the preceding year.
4. The billing authority's reasons for any difference between the amounts stated in accordance with—
 - (a) paragraphs 2(a) and 3(a), or
 - (b) paragraphs 2(b) and 3(b),
 for the same year.
5. The billing authority's opinion of the effect that—
 - (a) its budget requirement, and
 - (b) its gross expenditure,
 has on the level of council tax set for the relevant year.
6. Each relevant precepting authority's opinion of the effect that—
 - (a) its budget requirement, and
 - (b) its gross expenditure,
 has on the level of its precept issued for the relevant year.
7. Where—
 - (a) an amount is being recovered under the notice in respect of a penalty, but
 - (b) the person on whom the notice is served has not previously been informed of the ground on which the penalty is imposed,
 a statement of that ground.

This information is costly to publish on an individual household basis. With the exception of the last item (for which different provision would have to be made), Government is minded to allow billing authorities to publish the information to be published online, but with a duty to provide hard copy for free to any resident who requests it. The demand notice should include a weblink to the online publication and provide details of how a hard copy can be obtained. Relieving authorities of the duty to provide the information in hardcopy may help encourage the take-up of electronic billing, as all parts of the process can be paper-less if the taxpayer so chooses.

Question 18

Do you agree that billing authorities should be able to discharge their duty to provide the information that must currently be supplied with demand notices by publishing it online (with the exception of information relating to penalty charges, and subject to the right of any resident to require hard copy)?

¹⁶ Part 2 of Schedule 2 to the Council Tax (Demand Notices) (England) Regulations 2010.

'Rent a Roof' solar photovoltaic installations on domestic properties

Currently, domestic scale solar photovoltaic installations on domestic properties – generally the roofs of homes – are treated by the Valuation Office Agency as part of the dwelling and reflected in the council tax band. The Valuation Office Agency considers that these installations have no material impact on value: so they do not lead to any change in council tax bands. Moreover, the council tax system ensures that material improvements to a home never result in any banding re-assessment, unless the home is sold. This ensures that council tax is not a home improvement tax.

An alternative practice is now emerging in the renewables industry, under which third party providers take part possession of the roof of homes and install solar photovoltaic at their own cost. The provider receives payments under the Feed-in Tariffs scheme for the electricity generated and the home owner receives the benefit of free electricity generated by the installation. These arrangements are known as 'rent a roof' schemes.

Depending upon the circumstances in each case, rent a roof installations may, under existing law, warrant their own business rates assessment separate from the council tax on the home. However, establishing whether a separate assessment is merited could require detailed case by case consideration by the Valuation Office Agency and the resulting rates bills would generally be very small in comparison to the cost of administration.

We do not know how many of the 40,000 domestic solar photovoltaic would merit separate business rates assessment. Leaving rent a roof schemes to be assessed for business rates as necessary would follow strict rating principles but would require house by house investigation by the Valuation Office Agency. It could then lead to thousands of small rate bills. It would create uncertainty in the sector and the likely outcome of a patchwork of assessments (with only some domestic solar schemes assessed for rates) would not be seen as fair.

Government therefore proposes to amend the legislation to provide that domestic scale solar photovoltaic installed on domestic properties will be treated as part of those properties, and therefore not be liable to non-domestic rates. This would preserve the current treatment of domestic solar photovoltaic and ensure all rent a roof schemes are treated consistently with home installed schemes. Any home owner or commercial operator considering installing domestic scale solar photovoltaic on the roofs of houses will know that such installations will not attract business rates. All such installations would be treated consistently and the need for detailed house to house enquiries by the Valuation Office Agency would be avoided.

Question 19

Do you agree that domestic scale solar photovoltaic installed on dwellings should be treated as part of those properties?

Commercial scale renewable technologies are, and will continue to be, generally liable for business rates either as part of a property used for other purposes (such as an industrial site) or as a stand alone renewable power station. A definition of domestic scale solar photovoltaic installations will therefore be required to distinguish them from such larger scale operations.

The Government proposes that domestic scale solar photovoltaic should be defined by reference to the installed electricity generating capacity of the installation. A typical domestic solar photovoltaic system is between 1.5 kW and 3 kW. The Government is minded to provide that the upper limit of an installation considered to be domestic in scale should be 10 kW. Any solar photovoltaic installations of 10 kW or less attached to a dwelling would therefore be treated as part of the dwelling. A 10 kW installation may cover between 50 m² and 90 m² of roof space depending upon the type of technology.

Question 20

Do you agree that domestic scale solar photovoltaic should be defined as installations having a maximum generating capacity of 10 kW?

Annexes to dwellings

Generally, if parts of a building are in separate occupations, each part is a separate hereditament; and each is a dwelling liable to council tax (unless its use is non-domestic). It will receive its own banding in the normal way. Where one occupier has paramount control of the whole, which makes the property a single hereditament, self-contained units of accommodation within the property must each be treated as separate dwellings for council tax purposes. The test for a 'self-contained unit' is whether a part is physically constructed or adapted for use as separate living accommodation. This relates entirely to the physical state of the building – not to the intentions of the owner, nor to the actual use to which the accommodation is put. It is not an issue over which the Valuation Office Agency, or the billing authority, has discretion: it all turns on the facts of the case.

These rules are applied frequently to define separately banded dwellings in hostels, flatlet houses etc., and the Government has no intention of changing their general application. However, we have occasionally received representations that the outcome might be unfair in some circumstances. An example is where part of a house has been physically adapted as a 'granny annexe', and been separately banded for council tax purposes as a consequence,

but is no longer occupied as a separate unit of accommodation. The law requires that it should continue to be separately banded for council tax until such time as the physical adaptations are undone – which can be expensive and inconvenient.

The Government therefore invites views on whether any changes to these rules should be contemplated.

Question 21

In what circumstances if any do the rules requiring the separate banding of self contained units of accommodation within a hereditament give rise to unfairness?

Question 22

Should the Government seek to make changes to these rules, and if so, what changes?

Section 4

Questions for consultation

We welcome your views on the proposals outlined in this consultation. In particular we would welcome responses to the following questions:

Proposals on second homes

Question 1	Do you agree with the Government’s proposal to extend the range of discount available to billing authorities in respect of second homes to 0 to 50 per cent?
Question 2	How might authorities choosing not to offer any discount on second homes identify them in order to report second homes as necessary for formula grant purposes?

Proposals on Class A exemption

Question 3	Do you agree with the Government’s proposal to abolish Class A exemption and replace it with a discount which billing authorities may set in the range 0 to 100 per cent?
Question 4	If Class A exemption is replaced by a discount, for what period should the new discount apply before such properties are treated as long term empties? Should the one-year time limit continue to apply, or should billing authorities have any discretion about it?
Question 5	If Class A exemption is replaced by a discount, should billing authorities be empowered to give different levels of discount for different cases?

Proposals on Class C exemption

Question 6	Do you agree with the Government's proposal to abolish Class C exemption and replace it with a discount which billing authorities may set in the range 0 to 100 per cent?
Question 7	If Class C exemption is replaced by a discount, for what period should the new discount apply before such properties are treated as long term empties? Should the six month time limit continue to apply, or should billing authorities have any discretion about it?
Question 8	If Class C exemption is replaced by a discount, should billing authorities be empowered to give different levels of discount for different cases?

Class L exemption

Question 9	Should Government seek to make mortgagees in possession of empty dwellings liable to council tax?
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Long Term Empty Dwellings

Question 10	Would enabling local authorities to levy an empty homes premium on council tax have a significant impact on the number of homes being left empty?
Question 11	In terms of a percentage of normal council tax, what should the maximum permitted premium be?
Question 12	How long should a dwelling have remained empty before the empty homes premium might be applied in respect of it?
Question 13	Should constraints be placed on the purposes to which the additional tax revenue generated from an empty homes premium may be devoted?
Question 14	What circumstances if any should be defined as being inappropriate for levying the empty homes premium, and why?
Question 15	What practical issues would have to be addressed if the premium were to be implemented (for example in the consistent identification of empty homes) and how should they be resolved?

The definition of ‘relevant person’

Question 16	Do you agree that Section 66(2C)(a) should be amended along the lines suggested?
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Payment by instalments

Question 17	Do you agree that the default pattern of council tax bill instalments should be payment by 12 monthly instalments (with other arrangements to be reached by agreement between taxpayer and billing authority)?
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Information to be supplied with demand notices

Question 18	Do you agree that billing authorities should be able to discharge their duty to provide the information that must currently be supplied with demand notices by publishing it online (with the exception of information relating to penalty charges, and subject to the right of any resident to require hard copy)?
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‘Rent a Roof’ solar PV installations on domestic properties

Question 19	Do you agree that domestic scale solar photovoltaic installed on dwellings should be treated as part of those properties?
Question 20	Do you agree that domestic scale solar photovoltaic should be defined as installations having a maximum generating capacity of 10 kW?

Annexes to dwellings

Question 21	In what circumstances if any do the rules requiring the separate banding of self contained units of accommodation within a hereditament give rise to injustice?
Question 22	Should the Government seek to make changes to these rules, and if so, what changes?

Annex A

Current exemptions from council tax

Class	Description
A	Vacant dwellings where major repair works or structural alterations are required, under way or recently completed (up to twelve months).
B	Unoccupied dwellings owned by a charity (up to six months).
C	A vacant dwelling (i.e. empty and substantially unfurnished) (up to six months).
D	A dwelling left unoccupied by people who are in prison.
E	An unoccupied dwelling which was previously the sole or main residence of a person who has moved into a hospital or care home.
F	Dwellings left empty by deceased persons.
G	An unoccupied dwelling where the occupation is prohibited by law.
H	Unoccupied clergy dwellings.
I	An unoccupied dwelling which was previously the sole or main residence of a person who is the owner or tenant and has moved to receive personal care.
J	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.
K	An unoccupied dwelling where the owner is a student who last lived in the dwelling as their main home.
L	An unoccupied dwelling which has been taken into possession by a mortgage lender.
M	A hall of residence provided predominantly for the accommodation of students.
N	A dwelling which is occupied only by students, the foreign spouses of students, or school and college leavers.
O	Armed forces' accommodation ¹⁶ .
P	A dwelling where at least one person who would otherwise be liable has a relevant association with a Visiting Force.
Q	An unoccupied dwelling where the person who would otherwise be liable is a trustee in bankruptcy.
R	Empty caravan pitches and boat moorings.

¹⁷ Note that armed forces' accommodation is exempt but that contributions in lieu of council tax are paid in respect of them.

S	A dwelling occupied only by a person, or persons, aged under 18.
T	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.
U	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.
V	A dwelling in which at least one person who would otherwise be liable is a diplomat.
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.

Annex B

Exemption Classes A, C and L

Class A exemption is defined in the following terms by The Council Tax (Exempt Dwellings) (England) Order 1992¹⁸:

- (1) A dwelling which satisfies the requirement set out in paragraph (2) unless it has been such a dwelling for a continuous period of twelve months or more ending immediately before the day in question;
- (2) the requirement referred to in paragraph (1) is that the dwelling is vacant and—
 - (a) requires or is undergoing major repair work to render it habitable, or
 - (b) is undergoing structural alteration, or
 - (c) has undergone major repair work to render it habitable, if less than six months have elapsed since the date on which the work was substantially completed and the dwelling has continuously remained vacant since that date, or
 - (d) has undergone structural alteration, if less than six months have elapsed since the date on which the alteration was substantially completed and the dwelling has continuously remained vacant since that date;
- (3) for the purposes of paragraph (2) above 'major repair work' includes structural repair work.

Class C exemption is defined in the following terms by The Council Tax (Exempt Dwellings) Order 1992¹⁹:

A vacant dwelling which has been such for a continuous period of less than six months ending immediately before the day in question;

Class L exemption is defined in the following terms by The Council Tax (Exempt Dwellings) Order 1992:

An unoccupied dwelling where a mortgagee is in possession under the mortgage.

¹⁸ As amended by the Council Tax (Exempt Dwellings) (Amendment) (England) Order 2000 (SI 2000/424)

¹⁹ As amended by the Council Tax (Exempt Dwellings) (Amendment) Order 1993 (SI 1993/150)

Appendix 2 Response to Council Tax Technical Reforms Consultation

Question 1 Do you agree with the Government's proposal to extend the range of discount available to billing authorities in respect of second homes to 0 to 50 per cent?

Response Yes. Authorities should be enabled, but not required, to reduce the amount of discount granted in respect of second homes to zero.

Question 2 How might authorities choosing not to offer any discount on second homes identify them in order to report second homes as necessary for formula grant purposes?

Response The authority's council tax software would need to continue to include an indicator to identify a property as a second home. Authorities already have sufficient powers to request the information that allows a property to be identified as a second home

Question 3 Do you agree with the Government's proposal to abolish Class A exemption and replace it with a discount which billing authorities may set in the range 0 to 100 per cent?

Response Exempt class A should be abolished but not replaced with a discount in the range of 0 to 100 per cent. Otherwise, there would need to be control over the interaction between the range of discounts and any decisions taken by the authority under S11a of the LGFA 1992 in respect of class C dwellings. For instance, a property could be subject to a charge of between 50 and 100 percent for up to a year, which could then drop to 50 per cent at the end of the period (if the authority had not elected to reduce the discount on class C dwellings to zero). This would not act as an incentive to bring empty properties back in to use. Abolishing class A would act as an incentive to bring these properties back into use.

Question 4 If Class A exemption is replaced by a discount, for what period should the new discount apply before such properties are treated as long term empties? Should the one-year time limit continue to apply, or should billing authorities have any discretion about it?

Response Exempt class A should be abolished. Properties which would have come within this definition can be dealt with under class C.

Question 5 If Class A exemption is replaced by a discount, should billing authorities be empowered to give different levels of discount for different cases?

Response Exempt class A should be abolished. However, if it is replaced by a discount, the range of discount should be 50 to 100 per cent in order to avoid the scenario described in response to Q3 above.

Question 6 Do you agree with the Government's proposal to abolish Class C exemption and replace it with a discount which billing authorities may set in the range 0 to 100 per cent?

Response Yes. Authorities should be empowered to grant a discount in the range 0 to 100 per cent to properties that would have previously been exempt under class C. This will allow authorities to take local circumstances into account. However, see the caveat in the response to Q3 above

Question 7 If Class C exemption is replaced by a discount, for what period should the new discount apply before such properties are treated as long term empties? Should the six month time limit continue to apply, or should billing authorities have any discretion about it?

Response The six month time limit should continue to apply. This will act as an incentive to bring empty homes back into use.

Question 8 If Class C exemption is replaced by a discount, should billing authorities be empowered to give different levels of discount for different cases?

Response Yes. Billing authorities should be specifically empowered to give different levels of discount for different cases. This would allow billing authorities to take local circumstances into account.

Question 9 Should Government seek to make mortgagees in possession of empty dwellings liable to council tax?

Response Yes. This would not only serve to discourage the repossession of dwellings but also to ensure that they are brought back into use as quickly as possible. There should be no period of exemption.

Question 10 Would enabling local authorities to levy an empty homes premium on council tax have a significant impact on the number of homes being left empty?

Response This authority does not believe that levying a council tax premium on empty homes would have a significant impact on the number of homes being left empty. It is essential that authorities should be enabled, rather than required, to levy a premium in order that local circumstances can be taken into consideration.

Question 11 In terms of a percentage of normal council tax, what should the maximum permitted premium be?

Response The premium should be limited to 100 percent of the full council tax for the dwelling.

Question 12 How long should a dwelling have remained empty before the empty homes premium might be applied in respect of it?

Response The premium should not be applied until the dwelling has been unoccupied and unfurnished for 24 months. This should allow a sufficient length of time for an owner to prepare the dwelling for sale and complete the sale process.

Question 13 Should constraints be placed on the purposes to which the additional tax revenue generated from an empty homes premium may be devoted?

Response Additional revenue generated from the premium should be retained by the authority and no constraints should be placed on the purposes for which it may be used.

Question 14 What circumstances if any should be defined as being inappropriate for levying the empty homes premium, and why?

Response It may not be appropriate for the empty home premium to be levied where the property has been exempt under class F. The premium may cause financial problems for beneficiaries who want to renovate an empty home before selling or letting it

Question 15 What practical issues would have to be addressed if the premium were to be implemented (for example in the consistent identification of empty homes) and how should they be resolved?

Response Billing authorities already have robust administration for identifying empty homes. A specific empowerment to enter and inspect empty dwellings would be an additional useful tool in this process.

Question 16 Do you agree that Section 66(2C)(a) should be amended along the lines suggested?

Response Yes. Section 66(2C)(a) should be amended along the lines suggested, so as to include the self-contained parts of a building.

Question 17 Do you agree that the default pattern of council tax bill instalments should be payment by 12 monthly instalments (with other arrangements to be reached by agreement between taxpayer and billing authority)?

Response Do not agree. It is significant that the majority of council tax bills are paid over 10 months even though billing authorities may opt to accept payment over 12 months under existing powers. If the Government amends the default number of instalments from 10 to 12 there will be financial implications for which billing authorities will need to be compensated. These include 1) The effect on the authority's cash-flow, and 2) The additional costs of collection over two extra months, in terms of reminders, computer time and stationery.

It is also worth bearing in mind that the two months during which council tax payers do not normally pay an instalment can be used as a buffer or cushion when tax payers run into difficult circumstances. Authorities already use these two months to help tax payers by reducing their instalments through special payment arrangements.

The option to offer direct debit payers a 12 month payment plan is a very useful incentive to encourage payment by direct debit. This incentive tool would be lost if the default payment pattern is changed from 10 to 12 months.

Question 18 Do you agree that billing authorities should be able to discharge their duty to provide the information that must currently be supplied with demand notices by publishing it online (with the exception of information relating to penalty charges, and subject to the right of any resident to require hard copy)?

Response Yes.

Question 19 Do you agree that domestic scale solar photovoltaic installed on dwellings should be treated as part of those properties?

Response Yes.

Question 20 Do you agree that domestic scale solar photovoltaic should be defined as installations having a maximum generating capacity of 10 kW?

Response Yes.

Question 21 In what circumstances if any do the rules requiring the separate banding of self contained units of accommodation within a hereditament give rise to injustice?

Response Broadly, the rules relating to the valuation of separate self-contained units within a hereditament work well. An exemption is available if an annex is unoccupied or occupied by a dependent relative. This authority has not experienced a problem in this respect.

Question 22 Should the Government seek to make changes to these rules, and if so, what changes?

Response The test for a self-contained unit could be extended so that it includes consideration of the use to which the accommodation is being put.

For instance, if the annexe is occupied as part of the main dwelling, the two should be treated as one dwelling for valuation purposes.