



## Committee report

Committee	<b>FULL COUNCIL</b>
Date	<b>18 JANUARY 2017</b>
Title	<b>COUNCIL TAX DISCOUNT OPTIONS 2017/18</b>
Report of	<b>THE LEADER AND EXECUTIVE MEMBER FOR RESOURCES AND CHILDREN'S SERVICES</b>

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### EXECUTIVE SUMMARY

1. The Full Council approved the current arrangements relating to council tax discounts on empty property and empty property undergoing major structural alteration and repair in January 2013. The Local Government Finance Act 2012 allows local authorities complete discretion over the level of council tax discount and the period of time that these discounts apply. A reduction in the level or period of discount will result in additional council tax revenue being generated due to an increase in the tax base.
2. In the context of the council's financial position and the Local Government Finance Settlement, there is a need to maximise council tax and business rate income for the financial year 2017-18.
3. Full Council is therefore being recommended as an outcome of this report that from 1 April 2017 the council will cease to make any council tax discounts available for properties or empty properties undergoing major structural repair. The additional revenue raised is estimated to be £0.828 million of which the council's share is £0.715 million.
4. As this matter missed the deadline to be on the forward plan by 2 days, and hence was only published in advance for 26 clear working days rather than the required 28, in accordance with our process the Chairman of the Scrutiny Committee has been informed and consulted on this matter being considered by the full Council despite not being on the forward plan for the required period. The views of the Chairman of the Scrutiny Committee are that he agrees with the paper progressing forward.

### BACKGROUND

5. The Local Government Finance Act 2012 allows local authorities complete discretion over the level of council tax discount and the period of time that these discounts apply to empty property.

6. Full Council on 16 January 2013, granted the following discounts relating to empty property from 1 April 2013:
  - Properties that are unoccupied and substantially unfurnished are eligible for 100 per cent discount for the first three months a property becomes empty and unfurnished. From the start of the fourth month the full 100 per cent council tax charge becomes payable. In this circumstance the property will be deemed a class C prescribed dwelling in accordance with the regulations.
  - Properties that are classified by the council in need of, or undergoing major structural repair are eligible for a 75 per cent discount for a period not exceeding 12 months from the date that the criteria was first met. The property must be empty to be eligible. Therefore council tax charges at 25 per cent will apply. From the start of the thirteenth month the full 100 per cent charge will be payable. In this circumstance the property will be deemed a class D prescribed dwelling in accordance with the regulations
7. The granting of discounts on empty properties and on properties undergoing major structural repair reduce the council tax base and consequently the revenue that the council can raise in council tax.
8. Any additional revenue that the council collect as a result of either reducing the discount or the period of time applicable will be shared with the Hampshire police and crime commissioner. The council's proportion (excluding parish and town councils) is 86.3 per cent based on the 2016-17 precepts.

### STRATEGIC CONTEXT

9. The overall stewardship of public funds form an integral part of the council's corporate governance framework and make a positive contribution towards the achievement of the corporate priority 'Ensuring that all the resources available to the Island are used in the most effective way in achieving the Island's priorities' within the council's Corporate Plan 2015 to 2017 which was approved by Full Council on 1 April 2015.
10. The level of council tax discount also needs to be considered in the context of the council's overall budget strategy and the financial impact on the ability to deliver services.
11. Partially or totally withdrawing discounts on empty property is consistent with the council's aim for regeneration and to bring such property back into occupation at the earliest opportunity.

### ISSUES TO CONSIDER

12. In deciding on a preferred option for the level of discount to be applied for empty properties or those undergoing structural alteration and repair Full Council needs to consider:

- the overall financial impact of providing discounts to these class(es) of property reducing the revenue the council can raise to provide services;
- the potential impact to council tax payers and their ability to pay more council tax as a result of any reduction in discount available;
- the equality impact assessment.

13. The current provision provided for class C and class D dwellings is set out below:

Class / Type of dwelling	Existing provisions determined in January 2013	Potential discount from 1 April 2017
C	A discount of <b>100%</b> will be granted for a period of up to three months only provided that the circumstances outlined in the regulations apply. After the expiry of the three month period a discount of <b>0%</b> will be granted	There are two options: 1. A discount of <b>100%</b> for a period up to one month where the conditions outlined in the regulations apply. After the expiry of the one month period a discount of <b>0%</b> will be granted 2. A discount of <b>0%</b> will be applied from day one where the conditions outlined in the regulations apply.
C (dwelling which has been unoccupied and substantially unfurnished for a period of at least two years)	A discount of <b>0%</b> will be granted after the initial three-month period. Where the dwelling has been unoccupied and substantially unfurnished for a period of at least two years, the council has resolved to charge an empty homes premium of <b>50%</b> in addition to the full Council Tax charge, as allowed within Section 11b of the Local Government Finance Act 1992, inserted by the Local Government Finance Bill 2012.	A discount of <b>0%</b> will be granted after either: 1. the one month period or 2. day one of the class applying. Where the dwelling has been unoccupied and substantially unfurnished for a period of at least two years, the council will continue to apply its resolved charge an empty homes premium of <b>50%</b> in addition to the full council tax charge, as allowed within Section 11b of the Local Government Finance Act 1992, inserted by the Local Government Finance Bill 2012.
D	A discount of <b>75%</b> will be granted (the Council is not able to vary the period of the discount which will remain for a period of up to 12 months provided that the circumstances outlined in the regulations apply.	The council is not able to vary the period of the discount which will remain for a period of up to 12 months provided that the circumstances outlined in the regulations apply. There are three options to vary the level of discount: 1. A discount of <b>50%</b> will be granted (for the 12 months) 2. A discount of <b>25%</b> will be granted (for the 12 months) 3. A discount of <b>0%</b> will be granted (for the 12 months)

## CONSULTATION

14. A comprehensive council budget consultation exercise was completed in January 2016 and provided an opportunity for the public to indicate how they would like the council to find savings or generate income. In addition to the standard responses through the use of the budget simulator, respondents were given the opportunity to provide other suggestions of which there were 124 suggestions. One of the suggestions that emerged from this consultation was to remove discounts in relation to single person discount; second homes and empty property discounts.
15. Unfortunately the timing of the results of this consultation did not enable the review of the discounts to be concluded before 31 January 2016 (the date by which decisions on council tax discounts has to be made in advance of the budget setting meeting) to assist the budget setting process for the current financial year. It has however enabled the modelling and consideration to be developed in terms of the options presented within this paper to take effect from 1 April 2017 as part of the council's overall budget strategy.
16. The proposals set out in this report have been prepared in further consultation with the council's Executive and the council's Corporate Management Team during December 2016.
17. This proposal has been developed from thinking on how the financial change might be achieved through regeneration and revenue growth rather than focusing on how to reduce service provision and organisational capacity to address its financial challenge.
18. The government has enabled local authorities' greater flexibility to determine what proportion of council tax is paid in relation to empty properties, as specified within the Legal section of this report. There is no statutory requirement for the authority to formally consult on the level of discount that may be determined.
19. Because the council has previously, on one occasion in 2013, consulted on changes to the council tax discounts referred to in this report, it could be argued that there is a legitimate expectation that the council will consult on the changes now proposed to these discounts. This would be on the basis that this previous consultation has effectively created an established practice and that therefore there should be a further consultation to ensure fair treatment for individuals.
20. However, taking into account that the council has only consulted on this on one occasion previously and has made no commitment to consult on each occasion (and there being no statutory requirement to consult) it is not considered that an established practice has been created and therefore it is a matter for the council as to whether or not it consults.
21. In view of the funding cuts from government which are significant and the need to maximise tax revenue to help bridge the gap between the council's net expenditure and government funding, and to avoid further impact on vulnerable individuals through cuts to front line services, it is considered that it

is proportionate to make these changes without further consultation in order to protect the general public interest. If these changes are not made now, as indicated, savings will have to be found from within the provision of services. Any delay to allow for consultation will mean that any changes cannot be implemented in this forthcoming financial year. As a result of the council's pressing financial position, the council needs to determine this matter now. This amounts to an overriding public interest which even if there were a legitimate expectation to consult (which it is not accepted there is), negates that expectation.

22. If the decision is taken and is in line with the recommendation, notice of this change will be published promptly, affording those affected with several months' notice in which to prepare for the change.

### FINANCIAL / BUDGET IMPLICATIONS

23. The Local Government Finance Settlement announced on 15 December 2016 set out the council's settlement funding (SFA) assessment position. This indicates that for 2017/18 the council will have a reduction in SFA of 11.9 per cent or £5.840 million.
24. The funding cuts from government are significant and there is a need to maximise tax revenue to help bridge the gap between the council's net expenditure and government funding.
25. This report sets out options for changing the level of council tax discounts in respect to empty properties that on modelling of the existing discounts would achieve additional revenue of £0.828 million of which the council's share is £0.715 million if Full Council agreed to these. Under these new arrangements the council tax base will increase.
26. The options section of this report provides an analysis of the potential additional revenue and growth in council tax base, in addition to the wider considerations contained within the report; including the equality impact assessment and the overall financial position of the council that needs to be taken into account.

### LEGAL IMPLICATIONS

27. The Local Government Finance Bill 2012 amends the Local Government Finance Act 1992 allowing discretion over the implementation of certain discounts and charges applied within the Council Tax regime. The changes in legislation require the Council to determine the level of discounts by resolution of the Council (from 0% to 100%), in respect of;
  - Empty properties within class C (properties which are unoccupied and substantially unfurnished). The period for which the discount can apply must also be determined.
  - Empty properties within class D (properties which are unoccupied and unfurnished that require major repair). The Council may decide the

level of discount available but has no discretion of the period for which the discount can be granted.

28. The council will need to set a lawful and balanced budget and council tax level for 2017/18 at the Full Council meeting on 22 February 2017. The final decision on council tax discounts needs to be made by 31 January 2017 in advance of the budget setting meeting.
29. The legislation states that a billing authority may make a determination varying or revoking a determination under this section for a financial year, but only before the beginning of the year. A billing authority which makes a determination under this section must publish a notice of it in at least one newspaper circulating in its area and do so before the end of the period of 21 days beginning with the date of the determination. Failure to comply with the above does not affect the validity of the determination.

### EQUALITY AND DIVERSITY

30. The council must comply with Section 149 of the Equality Act 2010. This provides that decision makers must have due regard to the elimination of discrimination, victimisation and harassment, advancing equalities, and fostering good relations between different groups (race, disability, gender, age, sexual orientation, gender reassignment, religion/belief, pregnancy and maternity, and marriage/civil partnership). An equality impact assessment has been completed in respect of relevant proposals as part of the decision making process to enable members to take into account and if necessary mitigate the impacts as part of the decision making process.
31. The equality impact assessment (EIA) for the proposed changes to council tax discounts is attached at Appendix 1 to this report.
32. The EIA has examined the potential effects of each of the changes and particularly the effects where any of the options were to be adopted. There is no evidence of any impact (positive or negative) to any particular group within the definition given and therefore it is not deemed to provide inequality to any one characteristic.
33. Where any equality or hardship issues may arise they may be mitigated through the Discretionary Relief Policy by way of transition in appropriate circumstances of 'genuine hardship.'

## OPTIONS

34. There are six options to consider:

	<b>Options</b>	<b>Additional council tax income (net of 80% collection rate) £000's</b>	<b>Additional council tax base</b>	<b>Additional council tax income to IWC (based on 2016-17 tax band D) £000's</b>
A.	Reduce empty property discount from three months to one month at 100%	313	194	270
B.	Reduce empty property discount from three months to 0 month (no discount)	680	421	587
C.	Reduce discount for properties undergoing major structural repair from 75% to 50% for up to 12 months.	53	33	46
D.	Reduce discount for properties undergoing major structural repair from 75% to 25% for up to 12 months.	108	67	93
E.	Reduce discount for properties undergoing major structural repair from 75% to 0%	148	92	128
F.	Continue empty property discount for a maximum period of three months at 100% and continue discount for properties undergoing structural repair for up to 12 months at 75%.	0	0	0

## RISK MANAGEMENT

35. The proposed changes to discounts needs to be considered in the context of the council's overall budget strategy and the financial impact on the ability to deliver services. It also needs to be consistent with strategies that seek to protect vulnerable residents and those affecting children's services, adult social services, housing and other services that might be impacted upon. There is a risk that if the council fails to consider changes to the discounts in the current financial climate, this may mean the council will have to make unpalatable cuts elsewhere to frontline services.
36. The financial risks relate to the potential impact on council tax collection rates. The expected rate of collection in year one has been factored into the additional revenue figures and consequently into the tax base. If the expected

rate of collection is higher than that estimated, then this can be factored into the tax base of the following year.

37. Under Section 13A (1) (c) of the Local Government Finance Act 1992, the council has the power to reduce liability for council tax in relation to individual cases or class(es) of cases that it may determine and where national discounts and exemption cannot be applied. The council will continue to provide a discretionary relief policy that requires individual applications and takes into account individual merits where it is evidenced that financial hardship or personal circumstances justifies a reduction in council tax liability. Additional support can therefore be applied in 'genuine hardship' cases.
38. There is an element of risk associated with the increase in council tax liability for any dwelling that falls under these criteria in that by offering no discount, collection rate levels may go down as a result of making changes to these discounts. As part of the mitigation the Revenues Team and Housing Services Team will need to be encouraging landlords or owners to build into their business planning to take account of these changes and they will have some two months' notice prior to the change being introduced 1 April 2017 to prepare for this.
39. A full consultation regarding the proposed changes to discount has not been undertaken and there may be a small risk of challenge despite the fact there is no legal requirement to do so. In the face of the financial challenges facing the Council, the risk of challenge in relation to not undertaking a full consultation is outweighed by the need to protect the general public interest. This is explained in more detail under the Consultation heading.
40. As an outcome of the decision made by Full Council, it is proposed that all existing properties that currently receive the relevant discount that is to be changed will be targeted to receive correspondence advising them of the changes that will take effect from 1 April 2017 to enable them to take appropriate steps to prepare for the change prior to receiving their annual council tax demand notice.
41. Monitoring of properties falling within these categories will need to be evaluated throughout the coming year to determine how effective the changes have been. And so therefore there will be some additional administrative work to be undertaken that where possible will be done within existing resources.
42. The recommended option has the potential to slightly effect the administration of council tax in terms of additional administration and recovery of council tax due. This may arise as a result of disputes of liability; trying to apply for alternative discounts to reduce a liability when they may not be applicable (e.g. Single Person Discount); and seeking payment of the full charge when the property is unoccupied or undergoing structural alteration with no formal rate of discount on the council tax liability. While this shouldn't preclude the recommended options from being agreed it does recognise that some additional administration is likely to result from the recommended changes and this will be factored into the process from within the resources available.



## EVALUATION

43. In the context of the council's financial position and the Local Government Finance Settlement, there is a need to maximise council tax and business rate income for the financial year 2017-18. The options below would take effect from 1 April 2017 and include all existing discounts that have been applied under the relevant classes of discount. This may lead to the relevant discount ending with immediate effect on the 1 April 2017 in some instances.
44. Options B and E in combination resulting in there being no council tax discounts for empty property for any period or empty properties undergoing major structural repair for up to one year. The additional revenue raised is estimated to be £0.828 million of which the council's share is £0.715 million.
45. Options A and D in combination will mean that there will be a council tax discount period of one month for empty property and a 25 per cent discount for properties undergoing major structural repair for up to one year. The additional revenue raised is estimated to be £0.421 million of which the council's share is £0.363 million.
46. Options A and C in combination will mean that there will be a council tax discount period of one month for empty property and a 50 per cent discount for properties undergoing major structural repair for up to one year. The additional revenue raised is estimated to be £0.366 million of which the council's share is £0.316 million.
47. Any of the options A to E can be adopted independently and the estimated increased revenue is shown in the table above.
48. Option F retains the current discount arrangements and will not generate any additional council tax revenues.
49. Where a property has been unoccupied and substantially unfurnished in excess of two years a 50 per cent levy resulting in a charge of 150 per cent is applied. This long term empty property premium will continue in its present form.
50. The government has defined a number of exemptions on certain categories of empty property over which the council has no discretion and which will therefore remain unchanged:
  - Owned by charities (up to six months).
  - Annexes (granny flats) which cannot be let separately without breaching planning conditions.
  - Not allowed to be lived in by law.
  - Repossessed.
  - Waiting to be lived in by a minister of religion.
  - Deceased person's former dwelling (may be exempt for up to six months after probate granted).
  - Empty caravan pitch or boat mooring.
  - Left empty by bankrupt.

- Left empty by students, prisoners, patients in hospitals or care homes, people receiving or providing care elsewhere.

51. In addition the government has also applied exceptions to the following:

Premises which are the sole or main residence of an individual where that

- Individual is a qualifying person in relation to another dwelling provided by the Secretary of State for Defence for the purposes of armed forces accommodation, and which for that individual is job-related: or
- Would be the sole or main residence of an individual if that individual were not a qualifying person in relation to another dwelling provided by the Secretary of State for Defence for the purposes of armed forces accommodation, and which for that individual is job-related.

This not only complies with legislative requirements but also maintains the council's commitment to the Armed Forces Covenant.

52. Partially or totally withdrawing discounts on empty property is consistent with the council's aim for regeneration and to bring such property back into occupation at the earliest opportunity. By removing discounts, as per the recommendation this may promote the reoccupation of a property quicker than in the case where a reduction by way of discount has been applied to the council tax liability.

53. Council tax administration may be required to validate changes in occupation or liability disputes more stringently as the recommended option will inevitably provide no flexibility by way of applying a discount for such cases.

54. Taking into account the council's on-going financial situation, the fact that (if) any equality or hardship issues may arise they may be mitigated through the Discretionary Relief Policy by way of transition in appropriate circumstances of 'genuine hardship', there is no evidence to suggest that a recommendation to go with no discounts is not a feasible one to pursue.

#### RECOMMENDATION

55. That from 1 April 2017 options B and E in combination are approved resulting in there being no council tax discounts for empty property for any period or empty properties undergoing major structural repair for up to one year. The additional revenue raised is estimated to be £0.828 million of which the council's share is £0.715 million.

APPENDICES ATTACHED

[Appendix 1](#): Equality impact assessment

[Appendix 2](#): Draft section 11 policy for amended discounts

[Appendix 3](#): Draft Section 13a (1C) Discretionary Relief Policy

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