Regeneration Scrutiny and Performance Panel **Agenda Item No. 11**

5 December 2011

Technical Reforms of Council Tax – Consultation

Ward(s) All

Portfolios: Cllr C Towe - finance and personnel

Executive Summary:

The Department for Communities and Local Government have offered 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. They are seeking views on the desirability and practicability of the proposed changes.

Reason for scrutiny:

This report is coming to scrutiny so they can make comments on the proposals as part of the formal response to the consultation

Recommendations:

That following presentation of the key elements of the consultation, member offer comments for inclusion in the formal response

Contact Officer:

Karl Dipple – Interim Head of Revenues
☏. 01922 652039
dipplek@walsall.gov.uk

Report

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.

- 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.

Proposals on second homes

On second homes, of which Walsall currently has 266 accounts, 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.

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 grant.

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.

Proposals on Class A exemption

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. Walsall currently has 143 accounts in this category.

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 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.

Proposals on Class C exemption

Exemption is currently available for up to six months after a dwelling becomes vacant and unfurnished. Walsall currently has 1581 accounts in this category.

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

Government will 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.

Class L exemption

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). Walsall currently has 72 accounts in this category.

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 1992, in the following terms:

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.

Empty Homes Premium
Currently Walsall has 1424 long term empty homes of which 500 have been empty for longer than 2 years

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.

'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.

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.