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**REPORT TO: MORAY COUNCIL EMERGENCY CABINET ON 12 AUGUST 2020**

**SUBJECT: COUNCIL TAX ON EMPTY DWELLINGS DURING LOCKDOWN**

**BY: DEPUTE CHIEF EXECUTIVE (EDUCATION, COMMUNITIES AND ORGANISATIONAL DEVELOPMENT)**

**1. REASON FOR REPORT**

- 1.1 The Emergency Cabinet is asked to consider whether some form of relief for liability to Council Tax on empty dwellings during lockdown is appropriate and if so asked to consider a grant scheme.
- 1.2 This report is submitted to the Emergency Cabinet following a decision of Moray Council on 17 June 2020 to convene a meeting of the Emergency Cabinet as and when required until a new simplified Committee structure commences on 2 September 2020, due to the COVID-19 pandemic.

**2. RECOMMENDATION**

**2.1 It is recommended that the Emergency Cabinet:**

- (i) **approves the development of a grant scheme for property owners who become liable to the additional levy of 100% during a specified timeframe suggested as 23 March 2020 to 23 September 2020 on condition that they can demonstrate that they were hindered by lockdown from bringing their property back into occupancy, with grant awarded capped at the additional Council Tax levied and paid to a maximum of three months additional levy, and**
- (ii) **delegates authority to the Head of Governance, Strategy and Performance to administer the proposed grant scheme and to determine the evidence applicants require to provide to qualify for the scheme.**

**3. BACKGROUND**

- 3.1 Council Tax is levied on all domestic properties regardless of occupation. Properties which are empty and unfurnished are entitled to a maximum period of six months' 100% exemption, followed by a six-month period of 50%

discount. These reductions give taxpayers an opportunity to dispose of their properties. There are also a number of time limited exemptions for specific needs (e.g. Reconstruction, Grant of Confirmation Received, etc.). These are fewer in number.

- 3.2 Once a property is empty for twelve months legislation gives the Council discretion to add an additional Council Tax charge of up to 100% of the property's substantive Council Tax charge. Moray Council's policy requires the levy of an additional 100% Council Tax charge (effectively doubling the charge). One of the reasons for the introduction of this policy was to incentivise the return of empty properties into use.
- 3.3 Out of a total of 45,804 properties subject to Council Tax there are currently
  - 82 properties which are in receipt of 100% vacant property exemption which are due to progress to the 50% unoccupied discount; and
  - 74 properties on the 50% discount which are due to progress to the levy of 100% additional Council Tax charge
  - 394 subject to the additional 100% charge. The council levied additional Council Tax charges totalling £815,000 in 2019/20.
- 3.4 Although recovery of Council Tax debt has been on hold since the beginning of lockdown, a number of enquiries and complaints have been received from owners of empty/unoccupied properties, and from their elected representatives, about having to pay an additional Council Tax charge on an empty property when their ability to carry out works on the property and to market it for sale/sell it have been restricted. Some of these owners may also have suffered loss of household income through lockdown.
- 3.5 With the exception of exemptions relating to properties left vacant by students, the Scottish Government has made no change to existing reduction legislation to address the difficulties caused by the COVID-19 lockdown. Lockdown has not halted the progression of reductions, which means that a reduction may expire, resulting in a taxpayer becoming liable for full charge.
- 3.6 Recovery of Council Tax debt has been on hold but has now resumed. If the council takes no action on the manner it levies Council Tax on unoccupied properties, it is likely to encounter resistance from taxpayers when Council Tax debt is pursued. This will result in further enquiries, phone calls, and letters from the local MP/MSP which will be time-consuming for officers to deal with.
- 3.7 The Council has no flexibility or discretion over the award of an exemption, nor for the period for which it is awarded. These are established by statute. Some local authorities have justified awarding exemptions during lockdown using a statutory provision which allows exemption where occupation of a property is prohibited by statutory order. The Council's legal advice is that this would be *ultra vires* and a similar position is being adopted by a neighbouring authority.
- 3.8 The Council does has flexibility over the levy of the additional Council Tax charge as this is a policy decision. A temporary change could be made to the policy to reduce the additional Council Tax charge. This is one option, which would benefit all people who would otherwise be liable for the additional

Council Tax charge. An alternative would be to target support to owners of empty dwellings who were liable to the levy of 100% additional Council Tax charge during the period of lockdown or who become liable shortly thereafter and restrict support to those who can demonstrate that lockdown caused them to be unable to undertake repairs to the property or to be unable to market or sell the property. Such targeted support could only be achieved by a grant scheme, whereby property owners who became liable to the levy of additional 100% Council Tax charge could apply for a grant equivalent to that levy for up to a three month period.

- 3.9 Any decision to reduce the additional Council Tax charge will result in a loss of Council Tax income. Income from the levy in 2019/20 amounted to around £400,000. On that basis it would be expected that a blanket reduction in the rate of the levy for the three months of lockdown would result in a reduction of income from Council Tax of around £100,000. A blanket reduction would benefit those property owners taking no steps to bring their property back into occupancy as well as those attempting to do so but hindered by lockdown. A targeted grant scheme would be administratively more complex but would be likely to be less costly in financial terms. It is difficult to estimate how much officer time would be taken to administer the scheme and deal with complaints arising from those who cannot comply with the terms of the scheme or who disagree with officers' assessment of the grant claims. Based on experience of administering recent Scottish Government business grant schemes an estimate of an average of 2 ½ hours per application is made. With a potential 468 applications as set out in paragraph 3.3 than would entail over 1,500 hours work, equivalent to almost 1 fte member of staff. The work would be absorbed within current staffing levels but is clearly a significant undertaking.
- 3.10 If such a scheme is approved to be developed it is suggested that the scheme should be open to applications for property owners who were or become liable for the levy of additional Council Tax charge of 100% between 23 March 2020 and 23 September 2020 who can demonstrate that lockdown hindered them bringing the property back into occupancy and that grant should be capped at the amount of additional Council Tax levied and paid to a maximum of three months levy. This timeframe is suggested to take into account the likely maximum delay caused by lockdown would be the period of lockdown itself and a further three months if repairs works and or marketing would have taken all of the lockdown period. Any such payment would be credited directly to the Council Tax payer's account.

#### **4. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

N/A

**(b) Policy and Legal**

Discounts relating to empty dwellings are governed by legislation, but the Council has discretion on whether to levy an additional Council Tax charge on dwellings which have been unoccupied for over 12 months. The current Council policy is to levy an additional Council Tax charge of 100% once a property has been empty for more than 12 months.

**(c) Financial implications**

Corporate Management Team Additional Expenditure Warning

When the council approved the budget for 2019/20 on 27 February 2019 (para 4 of the Minute refers), the three year indicative budget before the council showed savings required in 2020/21 of £12.2 million and £6.7 in 2021/22. Although the final figures will vary, it is clear that the council will have to reduce its costs significantly across all services in future years. All financial decisions must be made in this context and only essential additional expenditure should be agreed. In making this determination the committee should consider:

- Is there a statutory requirement to incur the expenditure?
- Are there any alternative actions available to avoid or reduce the cost?
- Are there alternative ways in which the service could be provided?
- What are the risks and consequences of not allocating the funding?
- Does the expenditure contribute to long term financial stability?

If in light of these factors the spend is considered essential, Committees should consider how it could be accommodated within the service budget, including what other activity would have to cease or diminish with what impact and risk. Only following these considerations should request be made to the Council for additional budget allocation.

If the additional spend recommended in this report is approved, this will not increase the budget gap for 2021/22, as it would be one-off spend. However, it would reduce the Council's free general reserve which is already under pressure from the impact of the pandemic

While in isolation these figures may not be significant, the cumulative impact of all new pressures will require to be taken into account for future years. If the committee recommends additional budget to be allocated this recommendation will be considered in the next quarterly budget monitoring report in the context of the current overall financial position of the council and in particular in the overall context of spend beyond affordable limits that impinges on the Council's reserves policy position and will be included in the review of the Council's short-term financial strategy which will be reported to Council on 2 September 2020.

**(d) Risk Implications**

The Council may be seen by some tax payers as acting unreasonably if it takes no steps to mitigate the impact of the levy during lockdown. However, it should be noted that Scottish Government took no steps to ease the legislative timescale for empty dwellings in the Coronavirus (Scotland) Act 2020.

**(e) Staffing Implications**

None

**(f) Property**

None

**(g) Equalities/Socio Economic Impact**

None

**(h) Consultations**

The proposal in this report was discussed and supported by RRMT.

**5. CONCLUSION**

- 5.1 The commencement and the rate of the levy is a Council policy decision. Any variation of the rate for the lockdown period would benefit all owners, whether attempting to bring their property back into occupancy or not.**
- 5.2 A grant scheme could be developed, so property owners who were or who became liable to the additional levy during a specified timeframe could apply for a grant equivalent to the levy for up to a three month period on provision of evidence supporting their application that they had been hindered in bringing the dwelling back into occupancy by the lockdown.**

Author of Report: Lorraine Paisey, Chief Financial Officer

Background Papers:

Ref: