



City of Westminster

Cabinet Report

Date:	14 December 2020
Classification:	General Release
Title:	Council Tax Discounts (including Council Tax Local Reduction Scheme) and Council Tax Base report
Report of:	Executive Director of Finance & Resources
Cabinet Member Portfolio:	Cabinet Member for Finance, Property and Regeneration
Wards Affected:	All
Policy Context:	Statutory duty to set and collect Council Tax
Key Decision:	Yes
Financial Summary:	The report proposes that: <ul style="list-style-type: none">• The Council Tax discount for second homes remains at 0%• The Council Tax discounts for empty properties, including the discounts that replaced the previous Class A and C Council Tax exemptions, remains at 0%.• A Long-Term Empty Property Premium is continued at the maximum level allowed for by central government legislation.• The Director of Revenues and Benefits is authorised to determine any individual local discount requests in 2021/22 under Section 13A(1)(c) of the Local Government Finance Act 1992.• The Council Tax Base is set at 133,817.98 equivalent Band D properties for 2021/22 for the whole City, 100.40 equivalent band D properties for Montpelier Square and 3,514.63 equivalent band D properties for Queen's Park.• The existing Council Tax Local Reduction Scheme is retained for 2021/22.

1. Summary

- 1.1 The Local Government Act 2003 provided local authorities with discretion in relation to the level of Council Tax discount for specific categories of Council Tax properties, namely second homes and long-term empty properties. The Local Government Finance Act 2012 which came into effect in April 2013 removed several Council Tax empty property exemptions and replaced them with locally determined discounts. The Act also enabled local authorities to remove the minimum 10% discount for second homes and to set a local Long-Term Empty Property Premium.
- 1.2 This report recommends retaining the same level of Council Tax discounts in 2021/22 as were set in 2020/21.
- 1.3 The report recommends that the Council continue to charge a Long-Term Empty Property Premium in 2021/22 at the maximum level allowed for by the current legislation.
- 1.4 The Welfare Reform Act 2012 and Local Government Finance Act 2012 replaced the Council Tax Benefit scheme with a locally determined Council Tax Reduction Scheme (also known as a local Council Tax Support Scheme), which is effectively now a type of Council Tax discount. The recommended scheme for 2021/22 is a continuation of the scheme that was originally set by the Council in 2013/14.
- 1.5 The Council Tax Base is calculated in accordance with a nationally prescribed formula and represents the equivalent number of Band D properties within the area. The formula takes account of the number of properties in each band, the number of discounts given for single occupiers, empty dwellings, second homes and other eligible criteria, the prescribed proportions to convert numbers to Band D equivalents, and the estimated collection rate. The relevant regulations were changed from 1 April 2013, to enable the taxbase calculation to include a deduction for the equivalent number of Band D properties relating to the local authority's Council Tax Reduction Scheme. The Council Tax Base must be determined and be notified to the Greater London Authority (GLA) and other levying and precepting bodies. As in the past, these notifications must be made by 31 January.
- 1.6 The calculations as detailed in Appendices 1 and 2 confirm a figure of 133,817.98 equivalent Band D properties for the whole City, 100.40 Band D equivalent properties for Montpelier Square and 3,514.63 Band D equivalent properties for Queens Park. The Queen's Park Community Council was created on 1st April 2014 under the Council's Reorganisation of Community Governance Order 2013. The Queen's Park Community Council is a minor precepting authority for the purposes of Part 1 of the Local Government Finance Act 1992.

1.7 The taxbase calculation assumes that the recommendations in the report in relation to the level of Council Tax discounts and the Council Tax Reduction Scheme are adopted.

2. Recommendations

2.1 That the Cabinet recommend that the Council approve the following recommendations for the financial year 2021/22:-

- (i) that the Council Tax discount for second homes remains at 0%
- (ii) the Council Tax discounts for empty properties, including the discounts that replaced the previous Class A and C Council Tax exemptions, remain at 0%.
- (iii) that a Long-Term Empty Property Premium continues at the maximum percentage allowed for by the current legislation, which is for 2021/22:
 - Properties empty between 2 years - 5 years: 100% Increase
 - Properties empty between 5 years – 10 years: 200% Increase
 - Properties empty over 10 years: 300% Increase
- (iv) that the Director of Revenues & Benefits be given delegated authority to determine any individual local discount applications received from Council Taxpayers during the 2021/22 financial year under section 13A(1)(c) of the Local Government Finance Act 1992.

2.2 That the Cabinet recommend that the Council approve the same Council Tax Reduction Scheme for 2021/22 which has operated successfully since 2013/14. The scheme is based on the Default Scheme Regulations, updated to reflect changes made via the Prescribed Requirements Amendment Regulations and with War Disabled Pensions, War Widow, Pensions and Armed Forces Compensation scheme payments disregarded in full when calculating a claimant's income.

2.3 That the Cabinet recommend to the Council to resolve that the Council Tax Base for 2021/22 for the Whole City is 133,817.98 equivalent Band D properties, for Montpelier Square alone 100.40 equivalent Band D properties and for Queen's Park 3,514.63 equivalent Band D properties.

2.4 That the Cabinet recommends to the Council to resolve that the figures set out in paragraph 2.3 above for the Council Tax Base for 2021/22 be used by the Council to make a determination pursuant to the requirements of the Local Government Finance Act 1992.

3. Council Tax Discounts

3.1 Legislation

- 3.1.1 The Local Government Act 2003 provided local authorities with discretion in relation to the level of Council Tax discount for specific categories of Council Tax properties, namely second homes and empty properties. It also made provision for a local authority to set its own “local” Council Tax discount categories.
- 3.1.2 The Local Government Finance Act 2012 which came into effect in April 2013 removed several Council Tax empty property exemptions and replaced them with local determined discounts. The Act also enabled local authorities to remove the minimum 10% discount for second homes and to set a Long-Term Empty Property Premium.
- 3.1.3 The Welfare Reform Act 2012 and Local Government Finance Act 2012 replaced the Council Tax Benefit scheme with a locally determined Council Tax Reduction Scheme (also referred to as a local Council Tax Support scheme), which is effectively now a type of Council Tax discount.

3.2 Second Homes

- 3.2.1 A second home in Council Tax terminology is a furnished property which is no-one’s sole/main residence.
- 3.2.2 The original Council Tax legislation prescribed that all local authorities had to give a discount of 50% for “second home” properties. However, the Local Government Act 2003 provided local authorities with the discretion to change the level of discount to less than 50% but set a minimum discount level of 10%. The Local Government Finance Act 2012 subsequently allowed the minimum discount to be reduced to 0%.
- 3.2.3 The relevant regulations include exclusions to the local authority discretion in relation to second home properties. The main exclusion being that local authorities are not able to amend the level of discount for the second homes of people who are liable for Council Tax on a property that is provided by an employer (tied accommodation). This means that the Council must continue to give a 50% discount for second homes meeting this criteria. A local authority also cannot amend the 50% level of the second home discount for any dwelling that consists of a pitch occupied by a caravan, or a mooring occupied by a boat.
- 3.2.4 For each financial year since 2013/14 the City Council has decided that the second home discount should be set at 0%. It is recommended that the City Council retains the same 0% discount in 2021/22, as a decision to set a higher level of discount would reduce the Council’s income.

3.3 Empty Properties

3.3.1 Prior to 1 April 2013, all Council Tax empty properties fell under one of the following three categories: -

- Class A Exemption

If the property was empty and subject to major repair works / structural alterations, it was exempt from Council Tax for 12 months.

- Class C Exemption

An exemption from Council Tax was granted for the first 6 months after a property became empty.

- Long-Term Empty Property Discount

This was a locally determined Council Tax discount for the period after a Class A or Class C Exemption had expired. The Council had set a 0% discount level which meant that the owners paid the full Council Tax charge.

3.3.2 The Local Government Finance Act 2012 amended the relevant legislation so that the statutory exemptions referred to above (Class A and Class C) were replaced by locally determined discounts from 1 April 2013.

3.3.3 Since the 2013/14 financial year the City Council has determined that a 0% discount should be set for:

- a) The empty property discount which replaced the Class A exemption
- b) The empty property discount that replaced the Class C exemption
- c) The empty long-term property discount

3.3.4 It is recommended that the City Council retains the same 0% discount for each of the three categories of empty property discount referred to in 3.3.3. The recommendation being based on the fact that any increase in the level of discount will reduce the Council's income.

3.4 Long Term Empty Property Premium

3.4.1 The Local Government Finance Act 2012 allows local authorities to set a Long-Term Empty Property Premium for properties that have been empty for at least 2 years. The premium is currently (for 2020/21) set at 100% of the normal Council Tax for properties that have been empty between 2 years – 5 years and 200% of the normal Council Tax for properties that have been empty over 5 years.

- 3.4.2 The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 allowed local authorities to increase the Premium between 2020/21 and 2021/22 as outlined in paragraph 3.4.4.
- 3.4.3 The current 100% premium on the Council's 116 properties that have been empty between 2 years and 5 years provides around £65K per annum in additional Council Tax income. The current 200% premium on the Council's 62 properties that have been empty over 5 years provides a further £85K per annum in additional Council Tax income.
- 3.4.4 The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 amends the maximum premium level for 2020/21 and for 2021/22 as below:

2020/21 - implemented

Properties empty between 2 years - 5 years:	100% Increase
Properties empty over 5 years:	200% Increase

2021/22 – recommended

Properties empty between 2 years - 5 years:	100% Increase
Properties empty between 5 years – 10 years:	200% Increase
Properties empty over 10 years:	300% Increase

- 3.4.5 There are only 17 (out of the 62 properties which have been empty for over 5 years) that have been empty for more than 10 years. The recommendation is to increase the premium for these properties in 2021/22 to the new maximum of 300%. This will deliver around £11K in additional income above the level that would have been raised under the 2020/21 maximum levels.
- 3.4.6 The Council considers that a decision to implement the maximum Premium aligns with the Council's current City for All agenda and the Council's aim of a fairer Council Tax system for all residents.

3.5 Local Council Tax Discounts

- 3.5.1 Section 13A of the Local Government Finance Act 1992 allows a local authority the discretion to create its own "local" Council Tax discounts for local situations which are not already covered by the national statutory discounts. The government's guidance gives the example of a local discount for properties affected by flooding.
- 3.5.2 Local discounts granted under Section 13A (l) (c) must be fully funded by the local authority.
- 3.5.3 It has been determined for each financial year since 2013/14 that the Director of Revenues & Benefits would be authorised to determine any individual applications from residents requiring additional assistance under the Local Discount provisions. In 2019/20 there were 79 approved applications (including 26 Care Leaver applications) totalling £26.6K. It is recommended

that the delegation to the Director of Revenues and Benefits to determine individual applications is retained for 2021/22.

- 3.5.4 The current pandemic is likely to result in some increase in the volume of Section 13A awards in 2020/21 and 2021/22. However, in addition the government has asked local authorities to use the Section 13A legislative provision to “Top-up” Council Tax Support (CTS) claimants CTS awards by up to £150 where the claimant is not in receipt of a full 100% CTS award (i.e. the resident had a balance to pay on their Council tax account). This effectively is not a discretion as all local authorities are required to make the awards.

3.6 Council Tax Reduction Scheme

- 3.6.1 The Local Government Finance Act 2012 replaced the Council Tax Benefit scheme with a new locally determined Council Tax Reduction Scheme (also known as a local Council Tax Support scheme) from April 2013. This is effectively now a Council Tax discount.
- 3.6.2 Each local authority is required to annually set a local Council Tax Reduction scheme for working age claimants. The government continues to operate a statutory national scheme for pensioners, which provides them with broadly the same level of Council Tax Support as they received under the previous Council Tax Benefit scheme but has been adjusted by the government since its introduction to incorporate a number of welfare reform initiatives.
- 3.6.3 The local Council Tax Reduction scheme was initially funded through a specific central government grant set at 90% of each local authority’s Council Tax Benefit expenditure. The government funding since 2014/15 has been rolled into the government’s overall funding settlement and due to the overall cuts in funding for local government effectively increases the initial 10% funding reduction.
- 3.6.4 Since 2013/14, the City Council has agreed a Council Tax Reduction scheme which mirrored the previous Council Tax Benefit scheme, i.e. the City Council absorbed the government’s 10% funding cut and did not pass the cut on to the borough’s working age claimants. Technically this means that the original Council Tax Reduction Schemes (Default Scheme) Regulations are mirrored within the City Council’s local scheme, with the addition that rates used to calculate the discount are updated each year, and War Disabled Pensions, War Widow, Pensions and Armed Forces Compensation scheme payments are disregarded in full when calculating a claimant’s income.
- 3.6.5 It is recommended that the Council should retain the same Council Tax Reduction Scheme in 2021/22.
- 3.6.6 The Council has in previous years conducted two consultations on the Council’s website in relation to the Council Tax Reduction scheme. The results were limited, but the vast majority of responses were positive.

3.6.7 There is no statutory requirement to consult residents where there is no significant change to a Council's existing scheme.

4. Council Taxbase

4.1 Background

4.1.1 The Council is required for Council Tax purposes to notify the preceptors and levying bodies of the Council Tax Base.

4.1.2 The position is that: -

- a) the Council must approve and notify the preceptors and levying bodies of the Council Tax Base by 31 January each year,
- b) the appropriate figure must be calculated using the Valuation List and Council Tax records as at 30 November.

4.2 The Calculation of the Taxbase

4.2.1 The calculation of the Council Tax Base is by way of a statutory prescribed formula, which is set out at Appendix 1. The legislative changes relating to the Council Tax Reduction scheme resulted in a change to the formula for 2013/14 onwards (The Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012). The change being that an estimate of the number of Band D equivalents relating to the Council Tax Reduction scheme has to be deducted from the overall taxbase. This amendment means that local authority taxbases from 2013/14 onwards are significantly lower than in previous years. However, the reduction was initially compensated for by a new Council Tax Support grant, which the government calculated based on 90% of the Council's previous Council Tax Benefit expenditure. The grant has subsequently been rolled into the government's overall funding settlement.

4.2.2 Appendix 2 shows details of the distribution of properties by Band, and the calculated equivalent Band D properties (known as the "relevant amount") within each Band after applying the formula.

4.2.3 To calculate the Council Tax Base the "relevant amount" figures for each Band have been aggregated and then adjusted to take account of the estimated collection rate and Ministry of Defence properties. The estimated collection rate used in the calculation for 2020/1 was increased to 97% from 96% in the previous year. It is recommended that this percentage should revert back to 96% for 2021/22 due to the likely on-going reduction in collection rates nationally arising from the pandemic and the associated difficulties in accurate forecasting.

- 4.2.4 The Council Tax Base is calculated, for the whole of the City for 2021/22 as 133,817.98 equivalent Band D properties, for Montpelier Square 100.40 equivalent Band D properties and for Queens Park is 3,514.63 equivalent Band D properties.
- 4.2.5 The Tax Base calculation assumes that the recommendations in this report in relation to the level of Council Tax discounts (including the Council Tax Reduction Scheme) are approved.

5 Financial Implications

- 5.1 The 2021/22 tax base shows a growth of 0.84% when compared with the 2020/21 tax base. The growth will deliver around £502K in additional Council Tax income in 2021/22 for the Council.
- 5.2 The Council's decision in 2013/14 to implement a Council Tax Reduction Scheme which mirrored the previous Council Tax Benefit Scheme, effectively meant that the Council had to absorb the government's 10% cut in funding for the Council Reduction Scheme arrangements. However, the increased Council Tax income derived from the Council Tax discount changes implemented in 2013/14 more than covered the shortfall. This remains the case in 2021/22.
- 5.3 The Business Rate Retention scheme introduced within the Local Government Finance Act 2012 replaced the previous Formula Grant scheme from 1 April 2013. The Retention scheme Funding Baseline was scheduled to be recalculated for the next planned scheme Reset in 2020. However it has recently been announced that the government's Fair Funding Review, including the funding baseline, and the review / revision of the national Business Rate Retention scheme will not now take place in time for the 2021/22 financial year. Therefore the changes in the Council's Tax Base will therefore not have an effect on the Council's grant funding position for 2021/22.
- 5.4 On 1st October 2013 the Council made the City of Westminster (Reorganisation of Community Governance) Order 2013. This created a new parish of Queen's Park from 1st April 2014. The Queen's Park Community Council was elected on 22nd May 2014 and became a precepting authority. The Queen's Park taxbase of 3,514.63 equivalent Band D properties will result in an overall Council Tax income for the Community Council in 2021/22 (based on the existing precept level) of around £163k.

6. Legal Implications

- 6.1 The legal implications are outlined in the body of the report. There have been no relevant changes in legislation since last year's report.

7 Ward Members Comments

- 7.1 As this report relates to all wards, no Ward Member consultation was required.
- 7.2 The Ward Members for Queens Park were originally consulted as part of the City of Westminster (Reorganisation of Community Governance) Order 2013.

8 Outstanding Issues

- 8.1 There are no outstanding issues.

9. Reasons for Decision

- 9.1 The taxbase decision is sought in order that the Council complies with the requirements of the Local Government Finance Act 1992.
- 9.2 The retention of the same levels of Council Tax discount, for empty properties and second homes will continue to deliver additional Council Tax income for the Council without disadvantaging any vulnerable members of the community.
- 9.3 The recommendation to allow the Director of Revenues and Benefits to continue to determine any individual local discount claims will enable assistance to be given to individual Council Taxpayers if required, especially as there is no longer the ability for taxpayers to claim Discretionary Housing Payments (DHP) in relation to their Council Tax liability. This will also provide the mechanism for granting the local Council Tax discount for Care Leavers and other vulnerable Council Taxpayers.
- 9.4 The Council's proposed Council Tax Reduction Scheme will mean that the level of Council Tax support provided to the borough's working age claimants will effectively mirror that previously provided under the national Council Tax Benefit scheme.
- 9.5 The recommendation to set the Long-Term Empty Property Premium at the new maximum allowed for within current legislation aligns with the Council's City for All agenda and the Council's aim of a fairer Council Tax system for all residents.

10. Background Papers

- 10.1 There are no additional background papers.

IF YOU HAVE ANY QUESTIONS ABOUT THIS REPORT PLEASE CONTACT
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APPENDIX 1 – Taxbase Formula.

Formula for calculating the Council Tax Base.

For 2021 / 2022 the “relevant amount” for each band is to be calculated in accordance with the formula:

$$((H - Q + E + J) - Z) \times F / G$$

where:

H is the number of chargeable dwellings on the list on the relevant day, (30 November 2020) less an estimate of the number which are exempt.

For these purposes the authority is to take account of any alterations to the list which were shown as having effect on that day, or of any alterations which, though not shown on the list, the authority has been informed of by the Listing officer and had effect on that day. The authority is also to take account of the effect of the regulations under section 13 of the 1992 Act (“disabled reductions”), treating a dwelling as being in the band in respect of which the reduced amount is calculated.

Q is a factor to take account of the discounts to which the amount of council tax payable was subject on the relevant day based on the relevant discount percentage(s).

E is an adjustment to reflect any Council Tax Premium for long term empty properties.

J is an adjustment (positive or negative) in respect of changes in the number of chargeable dwellings or discounts or premiums during the period from the relevant day (i.e. 30 November 2020) to 31 March 2022 calculated as the difference between:

- (i) an estimate of the number of full year equivalent chargeable dwellings not on the list on the relevant day (30 November 2020) but which will be listed in that band for the whole or part of the year, plus
- (ii) an estimate of discounts which are estimated to be applicable on the relevant day, but which will not be applicable for the whole or part of the year, expressed as a full year equivalent number, based on the relevant discount percentage(s).
- (iii) an estimate of the aggregate of the number of chargeable dwellings which are on the list on the relevant day, but which will not be during the year, or part of the year, and the number which are not exempt on the relevant day, but which will be during the year or part of the year, plus
- (iv) the authority’s estimate of the number of discounts, other than those in the formula above, to which Council Tax dwellings calculated for item (H) in the formula above, will be subject for the whole or part year (based on the relevant discount percentage (s)).

Z is the total amount that the authority estimates will be applied pursuant to the authority's council tax reduction scheme in relation to the band, expressed as an equivalent number of chargeable dwellings in that band.

F is the amount of Council Tax payable in respect of dwellings situated in the same billing authority's area (or the same part of such an area) and listed in different valuation bands in the following proportions: -

5 : 6 : 7 : 8 : 9 : 11 : 13 : 15 : 18

where 5 is for band A (Disabled), 6 is for band A, 7 is for band B etc.

G is the number applicable to band D (i.e. 9).

Full Year Equivalents.

Where an authority estimates that discounts / exemptions etc. will apply for only part of the year, or that the dwelling will only be banded for part of the year, the full year equivalent must be calculated for the purposes of the above formula. This will be the number of days for which the dwelling is banded / exempt etc. divided by the number of days in the year.

Appeals.

For the purpose of calculating the Tax Base an authority may estimate the number of appeals against banding that may have an effect on the number of properties within each band.

Council Tax Base.

In order to calculate the Council Tax Base, the "relevant amount" for each band is aggregated and the sum multiplied by the Council's estimated collection rate. An adjustment is made to this figure in respect of MOD property in the area.

MOD Adjustment.

This adjustment is an amount, estimated to be equivalent to the number of Band D dwellings, in respect of where a contribution in lieu of Council Tax is to be made by the Ministry of Defence for Class O (exempt) dwellings.

APPENDIX 2. - Tax base Calculations for 2021/22

TAXBASE FOR THE WHOLE CITY.

DISTRIBUTION OF PROPERTIES BY BAND AS AT 30.11.20 FOR THE WHOLE CITY.	EQUIVALENT BAND "D" PROPERTIES FOR EACH AFTER APPLYING THE FORMULA $((H - Q + E + J) - Z) \times F / G$
BAND A : 1,701	BAND A : 939.00
BAND B : 6,615	BAND B : 4,226.44
BAND C : 15,793	BAND C : 11,992.89
BAND D : 22,829	BAND D : 19,881.75
BAND E : 23,663	BAND E : 25,336.06
BAND F : 18,527	BAND F : 23,710.92
BAND G : 23,692	BAND G : 35,621.67
BAND H : 16,216	BAND H : 30,643.00
Total : 129,036	Total : 152,351.73

Less Z - = 13,435.39
X Collection Rate (96%) = 133,359.68
Plus MOD Adjustment + 458.30

TAXBASE = 133,817.98

APPENDIX 2.

TAXBASE FOR MONTPELIER SQUARE ONLY.

DISTRIBUTION OF PROPERTIES BY BAND AS AT 30.11.20.	EQUIVALENT BAND "D" PROPERTIES FOR EACH AFTER APPLYING THE FORMULA $((H - Q + E + J) - Z) \times F / G$
BAND A : 0	BAND A : 0
BAND B : 0	BAND B : 0
BAND C : 0	BAND C : 0
BAND D : 1	BAND D : 4.00
BAND E : 0	BAND E : 0
BAND F : 0	BAND F : 0
BAND G : 3	BAND G : 4.58
BAND H : 47	BAND H : 96.00
Total : 51	Total : 104.58

Less Z = - 0
Plus MOD Adjustment = + 0
X Collection Rate (96%) = 100.40

TAXBASE = 100.40

APPENDIX 2.

TAXBASE FOR QUEENS PARK COMMUNITY COUNCIL.

DISTRIBUTION OF PROPERTIES BY BAND AS AT 30.11.20 FOR QUEENS PARK PARISH.	EQUIVALENT BAND "D" PROPERTIES FOR EACH AFTER APPLYING THE FORMULA $((H - Q + E + J) - Z) \times F / G$
BAND A : 56	BAND A : 29.33
BAND B : 277	BAND B : 180.44
BAND C : 833	BAND C : 630.67
BAND D : 1,941	BAND D : 1,704.75
BAND E : 1,885	BAND E : 2,093.97
BAND F : 238	BAND F : 312.00
BAND G : 32	BAND G : 49.58
BAND H : 3	BAND H : 6.00
Total : 5,265	Total : 5,006.75

Less Z = 1,345.68
X Collection Rate (96%) = 3,514.63
Plus MOD Adjustment + 0.00

TAXBASE = 3,514.63
