

EAST HERTS COUNCIL

EXECUTIVE

Date: 3 DECEMBER 2019

REPORT BY EXECUTIVE MEMBER FOR FINANCE AND SUPPORT SERVICES

COUNCIL TAX LONG TERM EMPTY HOMES PREMIUMS

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

1.1 To propose changes to the Council Tax long term empty homes premiums from April 2020 option B below.

<u>RECOMMENDATIONS FOR EXECUTIVE</u>	
(A)	consider the options for Council Tax Long Term Empty homes premiums as detailed within this report.
(B)	recommend that OPTION B (100% only premium) be proposed to Council

1. BACKGROUND

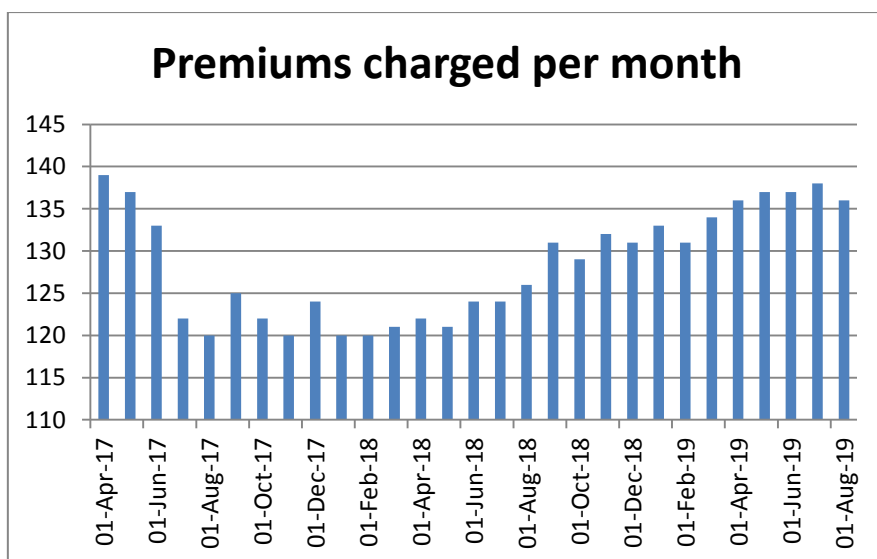
1.1 Since April 2013 Local Authorities in England have been given delegated powers under Section 11B of the Local Government Finance Act (LGFA) 1992 (revised by the LGFA 2012) to increase Council Tax by adding up to **50%** to the Council Tax charge on

some long-term empty properties. This is known as the 'Long Term Empty Premium'.

1.2 This authority chose not to introduce the charge until April 2017. The impact of the charge has been monitored since its introduction to determine its impact on; the number of empty properties, avoidance of the charge and debt recovery.

1.3 Properties are classified as Long Term Empty when they have been empty for and substantially unfurnished for 6 or more months, and not excluded by exemptions. The LGFA is applied to those properties that had been empty for 2 or more years.

1.4 A review of the 139 properties that were empty for 2 or more years when the charge was introduced demonstrates that 42% (58) have subsequently been occupied, and that there is no evidence of avoidance. Those properties, still unoccupied are with a small exception, paying the additional premium. The graph below demonstrates the number of properties being charged the premium each month. It illustrates a marked reduction in long term empty properties immediately after the introduction, but an increasing number thereafter.



1.5 It should be noted that many empty properties are exempt from the charge. These include those left empty by a deceased person pending probate (266 @1.8.19) and those left empty due to entering a care home (76 @ 1.8.19).

1.6 Excluding the exempt properties (above), at 1 August 2019 there were 588 empty properties in East Herts, 138 of which had been empty for 2 or more years. The age profile of 2 plus years, long term empty properties at 1.8.19 is shown below.

Empty period	Number
Over 2 but less than 5 years	69
5 years but less than 10 years	50
10 or more years	19

2. Report

2.1 The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 revised the LGFA 1992 effective from the 1 April 2019, with a step changed approach to the maximum premium that could be applied. This enabled the amount of long term empty premium that an authority could choose to charge to be increased as follows;

- For the financial year beginning on the 1 April 2019 the maximum premium was increased from 50% to 100%.
- For the financial year beginning on the 1 April 2020 the maximum premium for property empty for less than 5 years remained at 100%, but for property empty for 5 or more years the maximum increased to 200%
- For the financial year beginning on the 1 April 2021 the maximum premium for property empty for less than 5 years remained at 100%, but for property empty for 5 but less than

10 years the maximum increased to 200%, and those 10 years and over increased to 300%.

2.2 The table below summarises these changes.

		Maximum premium
2013-2019	Empty for 2 or more years	50%
2019-2020	Empty for 2 or more years	100%
2020-2021	Empty for 2 years or more but less than 5 years	100%
	Empty for 5 or more years	200%
2021 onwards	Empty for 2 or more years , but less than 5 years	100%
	Empty for 5 or more years but less than 10 years	200%
	Empty for 10 or more years	300%

2.3 If these new multipliers where implemented the impact on the existing LTE empty properties, and the premium income is illustrated below.

Current 50% extra	A	B	C	D	E	F	G	H	Totals
Number affected	17	13	29	25	17	27	7	3	138
additional individual charge	£ 595.30	£ 694.52	£ 793.73	£ 892.95	£ 1,091.38	£ 1,289.82	£ 1,488.25	£ 1,785.90	
Total premium income	£ 10,120.10	£ 9,028.72	£ 23,018.27	£ 22,323.75	£ 18,553.52	£ 34,825.05	£ 10,417.75	£ 5,357.70	£ 133,644.85

From April 2020	A	B	C	D	E	F	G	H	Totals
100% for up to 5 years									
Number affected	3	3	19	16	10	15	2	1	69
additional individual charge	£ 1,190.60	£ 1,389.03	£ 1,587.47	£ 1,785.90	£ 2,182.77	£ 2,579.63	£ 2,976.50	£ 3,571.80	
200% for more than 5 years									
Number affected	14	10	10	9	7	12	5	2	69
additional individual charge	£ 2,381.20	£ 2,778.07	£ 3,174.93	£ 3,571.80	£ 4,365.53	£ 5,159.27	£ 5,953.00	£ 7,143.60	
Total premium income	£ 36,908.60	£ 31,947.77	£ 61,911.20	£ 60,720.60	£ 52,386.40	£ 100,605.70	£ 35,718.00	£ 17,859.00	£ 398,057.27

From April 2021	A	B	C	D	E	F	G	H	Totals
100% for up to 5 years									
Number affected	3	3	19	16	10	15	2	1	69
additional individual charge	£ 1,190.60	£ 1,389.03	£ 1,587.47	£ 1,785.90	£ 2,182.77	£ 2,579.63	£ 2,976.50	£ 3,571.80	
200% for more than 5 years but less than 10 years									
Number affected	13	7	7	4	4	8	5	2	50
additional individual charge	£ 2,381.20	£ 2,778.07	£ 3,174.93	£ 3,571.80	£ 4,365.53	£ 5,159.27	£ 5,953.00	£ 7,143.60	
300% for more than 10 years									
Number affected	1	3	3	5	3	4	0	0	19
additional individual charge	£ 3,571.80	£ 4,167.10	£ 4,762.40	£ 5,357.70	£ 6,548.30	£ 7,738.90	£ 8,929.50	£ 10,715.40	
Total premium income	£ 38,099.20	£ 36,114.87	£ 66,673.60	£ 69,650.10	£ 58,934.70	£ 110,924.23	£ 35,718.00	£ 17,859.00	£ 433,973.70

2.4 The value of any additional revenue generated from an increase in premiums would be shared in accordance with the precepts.

	Precept %	Current	2020	2021
HCC	76.15%	£ 101,770.55	£ 303,120.61	£ 330,470.97
Police	10.53%	£ 14,072.80	£ 41,915.43	£ 45,697.43
EHC	9.47%	£ 12,656.17	£ 37,696.02	£ 41,097.31
Parish /Town	3.85%	£ 5,145.33	£ 15,325.20	£ 16,707.99
Total		£ 133,644.85	£ 398,057.27	£ 433,973.70

2.5 The intention of the provision to charge premiums is to encourage empty property owners to bring them back into use. Therefore if this is successful and the additional premiums act as an incentive the additional revenue may not materialise.

2.6 If the additional premiums are not paid, one of the permitted recovery options is to attach a charge to the property which would be paid when the property was sold (plus the statutory **interest** of 8% that is added).

In order to apply for a charging order the debt must be a minimum of £1,000. Once a charging order is granted then an application can be made to the court for an order to force the sale of the property. However, there is no minimum level stated for this. The court would then have to consider:-

- The size of the Judgment debt as against the value of the property;
- The conduct of the debtor i.e. whether he has made any effort to make payment;
- If there is any other steps which the Judgment creditor could take to enforce the debt.

The court has varied powers to deal with an application for an order for sale which can include the following:

- It has the power to make an instalment order in relation to the judgment debt.
- It can give the debtor time to raise the money that is owed to the creditor.
- The Court can also attach conditions to the order for sale as it deems appropriate in the circumstances.

2.7 The Department for Communities and Local Government issued a guidance document on "Council Tax – Empty homes premium (Guidance for properties for sale and letting)" in May 2013. It states that the guidance should not be treated as an interpretation of the legislation or statutory guidance and recognises that billing authorities are free to make their own decisions when administering the premium. It does however

remind authorities that there are two exemptions from the premium, specifically,

- a dwelling which would otherwise be the sole or main residence of a member of the armed services, who is absent from the property as a result of such service.
- a dwelling, which forms part of a single property that is being treated by a resident of that property as part of the main dwelling.

2.8 It goes on to remind authorities that government's intention was not to penalise owners of property that is genuinely on the housing market for sale or rent. It suggests that consideration of the average completion/occupation time in the area be considered.

2.9 As the premiums do not start until a property has been empty for 2 years, this consideration would not apply within the current housing market in this area.

2.10 Increases in the number of empty properties that an authority has in its area, has a negative impact on the value of new homes bonus (NHB) it can claim. The calculation for NHB compares the number of physical properties less empty properties between years and after subtracting a 4% expected growth value, determines the base of the grant. For 2018 each property was worth 80% of the national band D average of £1336.80. This is received for each of 4 years, so the value to the Council is actually £5347.20 per property.

2.11 Overview and Scrutiny committee on 5 November 2019 considered the report and received a short presentation on the key points. Members supported the recommendation to introduce a 100% premium only, from April 2020. However

they also recommended that officers consider an appeal scheme against the application of the premium in cases where the property is uninhabitable.

2.11.1 In respect of the committee's recommendation the following has been consideration:

- The premium only applies after the property has been empty for 2 or more years.
- There is currently no statutory exemption from the standard Council Tax for properties that are uninhabitable.
- There is currently no local scheme for exemption from the existing 50% premium for properties that are uninhabitable.
- The Valuation Office Agency (VOA) who has responsibility for determining which properties are included in the Council Tax list, can remove a property from banding if it meets their determination of uninhabitable. Their definition and explanation are included at ERP B.
- The cost of any local discount would be borne by East Herts Council and not shared with the other preceptors.
- These properties are empty and therefore not somebodies main home needing improved facilities for basic daily living. They will have an asset value which will be enhanced by improvements which enable them to be reoccupied. The enhanced asset value will be realised by the owner if they sell it or move in.

2.11.2 In light of the above, officers do not consider that introducing an appeal system to avoid the premium is in the best interests of the other taxpayers in the district that would bear the full cost of any discount granted.

2.12 What others are currently doing:

	Current Premium charged	2020/21 100% & 200%	2021/22 100% & 200% & 300%
Dacorum	100%	Yes	Yes
Hertsmere	100%	Yes	Yes
St Albans	100%	Yes	Yes
Three Rivers	100%	Yes	Yes
Watford	100%	Yes	Yes
Welwyn Hatfield	100%	Yes	Yes
East Herts	50%		
North Herts	50%	Considering	Considering
Stevenage	50%	Considering	Considering
Broxbourne	No Premium	Considering	Considering

2.13 Options.

2.13.1 The LGFA delegated powers to billing authorities to change the long term empty premium rates if they chose to. They are not mandatory. Each authority can determine if it wishes to apply the maximum premiums or not.

2.13.2 A billing authority cannot however change the time frames. For example, introduce a 200% premium for properties empty for 3 or more year, rather than the 5 years specified in the delegated powers.

2.13.3 The table below lists the options available. There is no obligation to change from the current option A.

2.13.4 An Authority may for example, determine to introduce the provision available from April 2020 (option C) but not proceed to the option D available from April 2021 which includes the 300% premium for properties empty for more than 10 years. Consideration of progressing to option D could be introduced at a later date.

2.13.5 A billing authority which makes a determination 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 this subsection does not affect the validity of a determination.

2.13.6 East Herts has only recently (April 2017) introduced the 50% premium, and whilst it has been seen to be effective in encouraging 42% (58) of the then long term empties back into occupation, consideration needs to be taken of the financial impact on homeowners, and impact on collection rates of increasing the premium significantly to 200% and then 300% over a short time scale. It is therefore recommended that option B (100%) is implemented from April 2020, with a review of its impact during 2021 to consider if further increases are appropriate in our local context.

2.13.7 Options available

Option	Options available from	Maximum premium
A	Apr-13 Empty for 2 or more years	50%
B	Apr-19 Empty for 2 or more years	100%

C	Apr-20	Empty for 2 or more years but less than 5 years	100%
		Empty 5 or more years	200%
D	Apr-21	Empty for 2 or more years but less than 5 years	100%
		Empty for 5 or more years but less than 10 years	200%
		Empty for 10 or more years	300%

BACKGROUND PAPERS

1. Empty Homes premium guidance paper
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/797672/Empty_home_premium_guidance.pdf
2. Ministry of Housing, Communities and Local Governments' Fact Sheet on Empty Homes premium
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/694646/Higher_amount_for_long-term_empty_dwellings_factsheet.pdf
3. Legislation
<http://www.legislation.gov.uk/ukpga/2012/17/section/12/enacted>
<http://www.legislation.gov.uk/ukpga/2018/25/section/2>
http://www.legislation.gov.uk/ukpga/2018/25/pdfs/ukpga_20180025_en.pdf

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