

East Herts Council Report

Executive

Date of Meeting: 28 September 2021

Report by: Councillor Geoffrey Williamson, Deputy Leader and Executive Member for Financial Sustainability

Report Title: Council Tax Long Term Empty Homes Premium

Wards(s) affected: All

Summary of Report

To propose changes to the Council Tax long term empty homes premiums from April 2022 as per Option D in the report.

RECOMMENDATIONS FOR EXECUTIVE:

To recommend to Council the increase of the Long Term Empty Premium from April 2022, including the discretion to remove the premium for up to 12 months when new owners occupy within 12 months of purchase.

1.0 Proposal(s)

1.1 That Executive consider the proposal to increase the long term empty premium from April 2022 as per Option D in the report.

2.0 Background

2.1 At a meeting of the Overview and Scrutiny committee on 8 June 2021, Members considered the report and supported the recommendation as detailed, in particular Members wished

for the Executive to include the dispensation for those properties purchased by a new owner.

- 2.2 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'.
- 2.3 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%.

2.4 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%

2.5 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.

2.6 The intention of the provision to charge premiums is to encourage empty property owners to bring them back into use.

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.

3.0 Report

3.1 This authority chose not to introduce any premium charge until April 2017 when a 50% premium was introduced. A further increase to 100% was introduced from April 2020, with no further additional premiums being added for the properties empty for the longest periods. **It was agreed that**

a review of the increased premiums would take place after a year before considering any further increases.

3.2 The impact of the charge has been monitored to determine its impact on; the number of empty properties, avoidance of the charge and debt recovery.

3.3 At 31 March 2020 there were 396 Long term empty properties, compared with 479 at the end of 2021. Those subject to premiums on those dates are detailed below.

	31.3.2020	31.3.2021
Empty period	Premium	Premium
Over 2 but less than 5 years	72	100
5 years but less than 10 years	40	45
10 years but less than 20 years	10	12
20 years plus	10	10
	132	167

- 184 properties classified as LTE at 31 March 2020, where still empty at 31 March 2021.
- 44 of those attracting a premium at 31 March 2020 were no longer classified long term empty at 31 March 2021.

3.4 So whilst there has been an overall increase in the number of long term empty properties, there was been some movement in those which were subject to a premium. There is insufficient evidence to suggest that the current level of premium is sufficient to encourage the return of those properties empty for the longest time to be brought back into use.

- 3.5 Customers who purchase properties that have been empty for long periods are often frustrated that the premium 'clock' does not stop with a change of owner. However the charge is property specific not owner specific and accordingly the qualifying period does not reset.
- 3.6 Increasing the premiums to the maximum permitted may therefore act as a disincentive for the properties to be sold to owners willing to occupy the property once renovations are completed. Consideration could be given to introducing a discretion to remove the premium for up to one year in these circumstances.
- 3.7 It should be noted that many empty properties are exempt from the charge. These include those left empty by a deceased person pending probate and those left empty due to entering a care home.
- 3.8 Increasing the premiums could result in increased revenue generated through the taxbase, but the intention of charging the premiums remains to encourage the properties to be brought back into use. The value of any additional revenue generated from an increase in premiums would be shared in accordance with the precepts.
- 3.9 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).
- 3.9.1 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.

3.9.2 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.

3.10 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.

3.11 What others are currently doing:

WHBC:	Option D
NHDC:	Option B
Stevenage:	Option A
Hertsmere :	Option D
Luton:	Option D
Dacorum:	Option D
Buckinghamshire :	Option D
Watford:	Option D

4 Options.

- 4.1 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.
- 4.2 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.
- 4.3 The table below lists the options available. There is no obligation to change from the current option B.
- 4.4 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.
- 4.5 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.

4.6 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 of more years but less than 10 years	200%
	Empty for 10 or more years	300%

5.0 Risks

None

6.0 Implications/Consultations

Community Safety

No

Data Protection

No

Equalities

No

Environmental Sustainability

No

Financial

Finance had been consulted and support the proposal.

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

No

Specific Wards

All wards

7.0 Background papers, appendices and other relevant material

7.1 Empty Homes premium guidance paper

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/797672/Empty_home_premium_guidance.pdf

7.2 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

7.3 Legislation

<http://www.legislation.gov.uk/ukpga/2012/17/section/12/enacted>

<http://www.legislation.gov.uk/ukpga/2018/25/section/2>

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