

This report will be made public on 22 January 2019

To: Cabinet
Date: 30 January 2019
Status: Key Decision
Responsible Officer: Charlotte Spendley, Assistant Director - Finance, Customer & Support Services
Portfolio Holder: Councillor Malcolm Dearden, Cabinet Member for Finance

SUBJECT: EMPTY HOME PREMIUMS

SUMMARY:

From 1 April 2019, billing authorities will be given the ability to amend long term empty home Council Tax premiums. This report reviews these proposals and recommends that some changes are introduced from the new financial year 2019/20.

REASONS FOR RECOMMENDATIONS:

Cabinet is asked to agree the recommendations set out below to ensure the empty homes are encouraged to be occupied and income to the council is maximised whilst giving consideration to the district's Council Tax charge payers, ensuring they are treated in a reasonable and consistent manner.

RECOMMENDATIONS:

Cabinet is asked to:

1. To receive and note report C/18/63.
2. To recommend to Full Council to adopt the new Council Tax empty home premiums from the 2019/20 financial year onwards as demonstrated in Table 1.
3. To recommend to Full Council to remove the exemption of a property when it is 'actively marketed' if it meets the premium criteria rules (3.3 to 3.5).

1. BACKGROUND

- 1.1 On 20 November 2013 Council resolved ‘to apply a long term empty home premium at the maximum of 50% effective for council tax bills due from 1 April 2014 onwards’ in accordance with changes in legislation.
- 1.2 This legislation provided the Council discretion to apply a premium of up to 50% of the Council Tax charge on those properties that have been empty for more than two years. This provision was introduced by Central Government as a tool to assist local authorities in the drive to bring empty properties back into use.
- 1.3 On 1 November 2018 amendments were laid to the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 which enables Councils to apply a higher amount of premium for long term empty dwellings with effect from 1 April 2019.
- 1.4 This enactment increases the premium’s maximum level to 100% until 1st April 2020, thereafter to 200% until 1st April 2021, and thereafter to 300%, in each case depending upon the amount of time the property is empty (Table 1). Decisions on whether to apply a premium, and the exact rates to be charged, will remain a matter for individual local authorities, which will take into account local circumstances.

2. AMENDMENTS

- 2.1 Amendments will allow Council’s to introduce an increase in the existing premium and two further phases of premium as detailed in Table 1.

Table 1

Introduction date	Premiums that can be applied
1 April 2019	100% premium for properties empty 2 years +
1 April 2020	100% premium for properties empty 2 – 5 years 200% premium for properties empty 5 years +
1 April 2021	100% premium for properties empty 2 – 5 years 200% premium for properties empty 5 – 10 years 300% premium for properties empty 10 years +

- 2.2. The amendments have effect for financial years beginning on or after 1 April 2019 and it does not matter if the start date of the property being empty is before this comes into force.
- 2.3 It is expected that doubling the cap on the premium will allow local authorities to strengthen the incentive for owners of empty homes to bring them back into use.

- 2.4 No public consultation is required to introduce this change. The policy change received Royal Assent on 1 November 2018.
- 2.5 Liable parties will be able to appeal via standard Council Tax appeal routes if they disagree with the granting of a premium on an account based upon facts of an individual case, for example, they state that the property is not empty. The principle of a premium will not be open to appeal.

3. EXEMPTIONS

- 3.1 The legislation provides criteria where the premium cannot be applied. They are:
- a) An 'occupier' is in the armed force, or
 - b) An annex is occupied as part of the main dwelling.
- 3.2 English regulations suggest that demonstrable attempts to sell the property could be grounds for exemption from the premium but no such requirement was introduced. However, guidance for local authorities in England, published in May 2013, stated:
- The government's intention behind the decision to provide billing authorities with the power to charge a premium was not to penalise owners of property that is genuinely on the housing market for sale or rent.*
- The government expects billing authorities to consider the reasons why properties are unoccupied and unfurnished, including whether they are available for sale or rent, and decide whether they want such properties to be included in their determination.*
- 3.3 Within existing arrangements there can be administration difficulties with Council Tax payers putting properties on the market for sale or rent to take advantage of the exemptions or by simply placing furniture in the property to avoid the premium. Whilst the possible income generated is significant the likelihood of realisation of this income is slight.
- 3.4 Due to this difficulty to administer this exemption correctly and fairly and as there is no legal definition of what is 'actively marketing', this cannot be tested through the appeal system as it is our own local decision.

Problems that arise from this possible exemption are:

- Proving that a property is being actively marketed if a taxpayer is choosing not to place the property with an agent. Examples have included putting a card in a local shop window to advertise availability to rent or sell.
- There is nothing to stop a taxpayer putting the property up for sale to claim the exemption then immediately withdrawing it from sale.
- Websites offering properties for sale, particularly flats. Do not give the property number so it is difficult to independently check a property remains for sale or rent
- Once a property has been sold subject to contract in the majority of cases it is no longer being actively marketed for sale so in theory the premium exemption should end. We have no way of knowing when or if this happens so are losing out on revenue.
- If a long term empty property is purchased in a poor state of repair the new owner is immediately liable for a premium as they cannot claim any exemption

and are unhappy the seller had no premium and therefore they have not been notified it will apply.

- 3.5 It is recommended that this exemption from the premium is ended with effect from the 1 April 2019. Taxpayers affected by the changes will be notified prior to the 1 April 2019 so they may make changes to the property and be encouraged to bring it back into effective use before they are impacted by the changes.

4. FINANCIAL IMPLICATIONS

- 4.1 Table 2 illustrates the estimated financial impact of keeping the existing premium with no changes. The figures in Tables 2 to 5 are based on existing accounts that are listed as empty and it should be noted that these details are tangible.

Table 2

Long term empty (empty 2 years+)	Accounts	CTax Base value	50% premium charge value	Total chargeable	FHDC Benefit
2018/19 projection	184	£276,650	£131,448	£408,098	£57,133

- 4.2 Tables 3, 4 and 5 illustrates the estimated financial impact of introducing the empty homes premium over the next 3 years as allowed in the new legislation.

Table 3: Year 1 – April 2019 (100% premium)

2019/20	Accounts	CTax Base value	Proposed Premium charge value	Charge value if premium unchanged	Proposed total chargeable	Additional Council tax chargeable	FHDC additional benefit
100% premium (empty 2 yrs+)	201	£299,928	£299,928	£449,892	£599,856	£149,964	£20,995

Table 4: Year 2 – April 2020 (100% & 200% premiums)

2020/21	Accounts	CTax Base value	Proposed Premium charge value	Charge value if premium unchanged	Proposed total chargeable	Additional Council Tax chargeable	FHDC additional benefit
100% premium (empty 2-5 yrs)	104	£152,476	£152,476	£228,714	£304,952	£76,238	£10,673
200% premium (empty 5 yrs+)	97	£147,452	£294,904	£221,178	£442,356	£221,178	£30,965
					£747,308	£297,416	£41,638

Table 5: Year 3 – April 2021 (100% & 200% & 300% premiums)

2021/22	Accounts	CTax Base value	Proposed Premium charge value	Charge value if premium unchanged	Proposed total chargeable	Additional Council tax chargeable	FHDC additional benefit
100% premium (empty 2-5 yrs)	70	£103,143	£103,143	£154,715	£206,286	51571	£7,220
200% premium (empty 5 yrs+)	94	£139,386	£278,772	£209,079	£418,158	209079	£29,271
300% premium (empty 10 yrs+)	37	£57,399	£172,197	£86,099	£229,596	143497	£20,089
					£854,040	£404,147	£56,580

5 MANDATORY PROCESS

- 5.1 A full Council resolution is required to introduce the amendments detailing exemptions and agreements of introduction dates and premium amounts.
- 5.2 Following any formal decision to change publication of the change must be published in the local press within 21 days.

6. RISK MANAGEMENT

6.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
Additional income to FHDC is not fully realised due to the impact of the current economic climate on collection rates.	High	Medium	Collection to be closely monitored.
Empty Home listed as for let or sale but to avoid premiums but not actively marketed	Medium	Medium	To define actively marketed within resolution to enable consistent and clear administration.

7. LEGAL, FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

7.1 Legal Officer's comments (DK)

There are no legal implications arising directly out of this report other than those already stated. The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 makes provision that, where two or more properties are occupied or owned by the same person, they may be treated for the purposes of non-domestic rating as one property and the Council can increase the percentage by which the council tax is payable in respect of a long-term empty dwelling.

7.2 Finance Officers comments (CI)

Taking advantage of the change in legislation to apply a higher Council Tax Empty Homes premium would result in additional Council Tax income for the Council. The cumulative estimated additional income over the next 3 years from applying the premium is £119,213 as outlined in the tables in section 4.2. If the proposed higher premiums are adopted then the additional income estimate will be factored into the 2019/20 final budget position to be presented in February.

7.3 Equalities and Diversities Implications

There are no equality or diversity issues regarding this report.

7.4 Communication comments (MR)

If agreed, the proposed changes should be communicated widely to ensure that those in the district that this change affects understand their obligations to pay council tax on empty homes. While there is a requirement for this change to be publicised in the local press, other communications channels should also be considered.

7.5 Resources comments

There are no significant resource implications expected from this report.

7.6 Transformation comments

There are no significant transformation implications expected from this report.

8 CONTACT OFFICERS AND BACKGROUND DOCUMENTS

8.1 Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Report author: Andrew Hatcher

Telephone: 01303 853348

Email: andrew.hatcher@folkestone-hythe.gov.uk

9.2 Appendices:

Appendix 1 – Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018

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