

COUNCIL

Review of the Empty Homes Charging Policy Use of Discretionary Powers

19 December 2018

Report of Interim Financial Services Manager

PURPOSE OF REPORT

To inform members of new discretionary powers available with regard to council tax premiums, applicable to long term empty homes and to review existing discount arrangements in relation to empty and substantially unfurnished properties.

This report is public.

RECOMMENDATIONS OF COUNCILLOR WHITEHEAD:

- (1) That Council determines whether to retain its existing Empty Homes Council Tax Charging Policy for 2019/20 (*Option 1 as set out in the report*), or to amend it to:
 - Levy an increasing “premium” of Council Tax, in line with new discretionary powers, on long term empty dwellings that have been empty and unfurnished for over two years, subject to statutory exemptions and locally determined exceptions. *Option 2 as set out in the report.*
 - Use the policy guidelines set out in Appendix A to this report when determining applications for exceptions to the payment of a premium, for properties that have been vacant for more than two years. *Option 3 as set out in the report.*
 - Amend the 1 month discount period applicable to empty and unfurnished properties. *Option 4 as set out in the report.*
- (2) That the S151 Officer be authorised to finalise the Council’s Empty Homes Charging Policy in line with (1) above, and to include “policy guidelines” for locally determined exceptions in line with Government guidance when available, and make all other necessary arrangements for its implementation.
- (3) That the S151 Officer be authorised to advertise the variations to the Empty homes Charging Policy in accordance with statutory provisions.

1. PREMIUMS – LONG TERM EMPTY HOMES

1.1 Current Scheme

- 1.1.1 The Council currently levies an additional “premium” of 50% above the 100% charge, on all empty properties that are not exempt and have been so for a period of two years. These are classed as long term empty properties. The Empty Homes Charging Policy in this regard has generally worked well and generates income for the Council and its precepting authorities, whilst encouraging owners of long term empty properties to bring their property back into use.
- 1.1.2 The vast majority of Councils have introduced this 50% premium on long term empty homes. Where Councils have applied the premium consistently every year, the Government reports a nine per cent fall in the number of long term empty homes.

1.2 New Discretionary Provisions

- 1.2.1 Under new legislation the Government has introduced provision (effective from 1 April 2019) for Councils to double the rate of Council Tax on properties empty for two years or more. Further amendments have also been introduced for future years, allowing Councils to triple the Council Tax on homes left empty for five to ten years and to quadruple it on those empty for more than a decade.
- 1.2.2 Specifically the legislation provides discretion from:
 - (i) **1 April 2019:**
To levy a 100% premium of Council Tax due on properties that have been empty and unfurnished for at least two years, subject to statutory exemptions and locally determined exceptions; and
 - (ii) **1 April 2020:**
To levy a 200% premium of Council Tax due on properties that have been empty and unfurnished for at least five years, subject to statutory exemptions and locally determined exceptions; and
 - (iii) **1 April 2021:**
To levy a 300% premium of Council Tax due on properties that have been empty and unfurnished for at least ten years, subject to statutory exemptions and locally determined exceptions; and
- 1.2.3 Alongside these new powers, the Government propose to publish revised guidance for Councils on the use of premiums. It is suggested that this guidance will take into account issues relating to low demand areas and ensure that the use of a premium does not hinder complex regeneration schemes. In the past, Government has suggested that exceptions should be allowed for properties “genuinely” on the housing market for sale or rent, although this has proven a difficult concept for Councils to evaluate.
- 1.2.4 Subject to Government guidance, officers have developed “Policy Guidelines” to be used in determining local exceptions where the premium will not be charged. (**See Appendix A**). The Policy Guidelines provide reference to exceptions from charges in the following circumstances:

- For those owners who are genuinely attempting to sell or let their property which has been vacant for at least two years
- Those owners who are experiencing particular legal or technical issues which is preventing the sale or letting of the property
- Those owners who are in negotiation with the Council with a genuine view to letting the property under the Council's scheme(s).
- Cases where the dwelling has remained empty beyond a two year period due to exceptional and /or unforeseen circumstances and / or occasionally any other circumstances, proven to be beyond the control of the owner/liable person.
- Cases where imposition of the Council Tax Premium would result in hardship and a reasonable person would regard the imposition as unfair.

2. Empty and Substantially Unfurnished Properties (Review)

- 2.1.1 In January 2018, Council approved a reduction in the previous discount arrangement allowing six months at 100% discount for empty and unfurnished properties to one that provides 100% discount for up to one month. The change resulted in council tax income generation, estimated in the region of £700k for the Council and its precepting authorities in the district, of which it is estimated that 90k will be retained by the Council.
- 2.1.2 The policy change has a minor negative financial impact upon Council Housing, where a Council property remaining empty and unfurnished between tenancies for a period in excess of one month will accrue empty charges. However, the policy also acts as an incentive to help bring council houses back into use in less time, in much the same way as private properties.
- 2.1.3 Most housing associations and social housing providers remain unaffected by this policy, as due to their charitable status, they remain entitled to a six month exemption on their empty property
- 2.1.4 There has been a minimal number of complaints about the loss of discount and this general policy review provides an opportunity to consider whether this particular policy principle is having the desired effect.

3. ADDITIONAL INFORMATION

- 3.1 Any changes to the Empty Homes Charging Policy must be approved prior to the beginning of the financial year; they cannot be changed in-year.
- 3.2 Exemption status continues to apply to all empty properties in the usual way for those properties left empty by patients in hospital, deceased persons, receiving or providing care etc. No additional charges will be incurred on a property that is exempt.

4. OPTIONS AND OPTIONS ANALYSIS

Option 1: Retain the Empty Homes Charging Policy for 2019/20 in its existing format.

- The retention of the existing policy would be a missed opportunity to adopt new discretionary powers in relation to premiums, with the potential to generate additional revenue and incentivise owners to bring long standing empty homes back into use.

Option 2: Levy an incremental “premium” of Council Tax, in line with new discretionary powers, on long term empty dwellings that have been empty and unfurnished for over two years, subject to statutory exemptions and locally determined exceptions.

In support of the new provisions, The Secretary of State for Communities (Rt Hon James Brokenshire MP) said:

- We’re determined to do everything we can to ensure our communities have the housing they need. That’s why we’re giving Councils extra flexibility to increase bills and incentivise owners to bring long standing empty homes back into use.
- By equipping Councils with the right tools to get on with the job, we could potentially provide thousands more families with a place to call home
- Councils will be able to use funds from the premium to keep Council Tax levels down for hard working families.

Option 3: Use the policy guidelines set out in Appendix A to this report when determining applications for exceptions to the payment of a premium, for properties that have been vacant for more than two years.

In the light of a decision to increase charges under Option 2, officers have developed “Policy Guidelines” to be used in determining local exceptions where the premium will not be charged:

- These guidelines provide protection for genuine cases, who perhaps through no fault of their own are unable to dispose of their property at a given time, or alternatively in a small number of cases, if the imposition of a higher premium would result in hardship.

Option 4: Amend the 1 month discount period applicable to empty and unfurnished properties.

- Under current legislation Council has scope to increase or remove the current one month discount period. However, the system works well in its present format and has generally been accepted, providing some

limited relief for those liable for charges, to allow for the changeover of occupiers, particularly tenants.

- To date we have had only one notable complaint from a local landlord, that the current policy of a one month discount period for empty properties unfairly penalises responsible landlords who are looking to re-let. In this case, of the seven void periods showing on record since 2003, five of the seven were for 28 days or less.
- The matter was previously considered at full Council in December 2017 and as such, a month was determined to be a reasonable average period to allow for turnover.

5 OFFICER PREFERRED OPTIONS AND COMMENTS

5.1 Option 2 and Option 3 are the preferred options in line with the following comments:

- (i) Option 2 is the preferred option for long term empty homes; to levy an incremental premium of council tax in line with the maximum allowed under new discretionary powers. This initiative should encourage owners to return them to use, whilst providing additional income to the council and its major precepting authorities
- (ii) Option 3 is the preferred option to adopt in relation to policy guidelines for determination of future exceptions from the charge, given the potential for increased charges in owning a long term empty property. This will enable the Council to administer the policy as intended, in line with government guidelines.
- (iii) It is felt that Option 4 should not be considered in relation to empty and unfurnished properties, as the policy is working well and is fair to owners, whilst encouraging them to bring dwellings back into occupation at the earliest opportunity.

6 CONCLUSION

- 6.1 Any “Empty Homes Premium” for properties empty for more than two years must be seen to operate fairly and be equitable to all owners, whilst also making sense in the context of the broader local strategy for dealing with empty homes.
- 6.2 Whilst there is the potential for the Council to raise additional revenue in choosing to adopt these discretionary powers, the opportunity to encourage owners to bring their long standing dwelling back into occupation is seen as a greater reward for the Council.

RELATIONSHIP TO POLICY FRAMEWORK

The proposals are developed in support of the Council's Medium Term Financial Strategy, whilst also supporting ambitions within the Council Plan regarding health and wellbeing.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Additional charges will impact upon owners of long term empty dwellings and the additional tax they pay will depend on the Council adopting these flexibilities. Any extra revenue generated will help to relieve pressure on overall Council Tax levels.

At the same time, if the Council adopts new "Policy Guidelines" for local exceptions, in the main, local taxpayers who have genuine reason for retaining ownership of their property will no longer be penalised.

FINANCIAL IMPLICATIONS

Based on existing housing numbers that would be affected and the existing collection rates, the proposed changes to the charging Policy would generate the following estimated additional Council Tax income:

Summary	Additional Collection	@ 90%	
	Fund Income	Collection Rate	LCC Share
2019/20	£117,288	£105,559	£13,215
2020/21	£209,299	£188,369	£23,582
2021/22	£239,651	£215,686	£27,002

The additional income is allocated to the precepting authorities in proportion to their precept. For a detailed analysis see **Appendix B**.

The primary reason for altering the charging policy is to bring long term empty homes back into use, not to increase the Council Tax income. If the policy is successful in achieving this aim it is expected that the additional income will be lower than the forecast in **Appendix B**. In addition, the use of local exceptions will reduce the potential income further.

The return to use of long term empty properties will enhance the value of New Homes Bonus (NHB) received by the Council. The additional NHB income received due to this cannot be quantified as there are several other factors that interlink to complete the calculation.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has contributed to the production of financial comments.

LEGAL IMPLICATIONS

Under the Local Government Finance Act 1992 ("the 1992 Act") the Council, as the billing authority introduced a charging policy, and determined that the amount of Council Tax shall be increased by a percentage of 50% to long term empty dwellings that have remained empty

over two years.

The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 provides Councils with a power to increase charges on long term empty properties with effect from 1 April 2019. The Council in making such a determination must do so before the beginning of the financial year.

Any such determination must be published in at least one newspaper circulating in its area before the end of twenty one days beginning on the date of the determination.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

None.

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Council Tax Premium – Policy Guidelines for Determining Local Exceptions

1. Purpose

This document sets out the factors that Lancaster City Council (The Council) will take into account when deciding if an exception to payment of the Council Tax Premium can be granted.

The Council Tax Premium is a 100% increase on the Council Tax set in 2019, making the total charge 200% on properties which have been unoccupied and unfurnished for a period of at least two years ("long term empty dwellings"). From 2020 it is proposed to levy a 200% premium for dwellings that are classed as long term empty for a period in excess of five years. From 2021 it is proposed to levy a 300% premium for dwellings that are classed as long term empty for a period in excess of ten years.

Each case will be treated strictly on its merits and all applicants will be treated equally and fairly through administration of the scheme.

2. Statement of objectives

The Council will consider waiving the Council Tax Premium for applicants who meet the qualifying criteria as specified in these guidelines. The Council will treat all applications on their individual merits, and will seek through the operation of these guidelines to grant exceptions to liability for the Council Tax Premium:

- For those owners who are genuinely attempting to sell or let their property which has been vacant for at least two years
- Those owners who are experiencing particular legal or technical issues which is preventing the sale or letting of the property
- Those owners who are in negotiation with the Council with a genuine view to letting the property under the Council's scheme(s).
- Cases where the dwelling has remained empty beyond a two year period due to exceptional and /or unforeseen circumstances and / or any other circumstances, proven to be beyond the control of the owner/liable person.

- Cases where imposition of the Council Tax Premium would result in hardship and a reasonable person would regard the imposition as unfair.

3. Claiming a Local Exception to the Council Tax Premium

A claim must be made on an application form provided by the Council and signed by the owner of the vacant property or their representative. The claimant must include any relevant supporting evidence.

A Council Officer may make an appointment to visit any applicant who for whatever reason is unable to complete the application form or to confirm the details provided which may necessitate being given access to the premises.

The Council may request any (reasonable) evidence in support of an application but the applicant will be asked to provide the evidence within one month of such a request although this will be extended in appropriate circumstances.

The Council reserves the right to verify any information or evidence provided by the Applicant, with third parties where appropriate.

Payment of Council Tax including the premium may not be withheld whilst awaiting the outcome of an application or the review of a previous decision.

4. Period of Exception

In all cases, the Council will decide the length of time for which an exception will be awarded on the basis of the evidence supplied and the facts known.

The start date of an exception will normally be the date the application is received by the Council providing the Council is satisfied the reasons for the exception existed at that time and the exception will continue for a period of twelve months subject to those circumstances continuing.

The Council will review the award and request confirmation that the circumstances leading to the award of the exception remain applicable. The Council reserves the right to make routine inspections of the property at any point during the period of the exception.

The Council will comply with any Regulations issued by the Secretary of State in relation to any application and have regard to any related national policy guidance.

5. Awarding an Exception to liability for the Council Tax Premium

In deciding whether to award an exception to payment of the Council Tax Premium, the Council will take into account the following criteria:

5.1 For those owners who are genuinely attempting to sell or let their property which has been vacant for at least two years:

- Has professional advice and assistance been obtained?
- A professional Estate Agent with specialist knowledge of the locality must have been engaged.
- Have any offers to purchase or rent the property been received?
- If Yes – why were those offers refused?
- Written confirmation of the reasons for refusal will be required from a professional agent
- Is the sale price or rental in line with recent sale or rental prices for similar properties in the locality?
- If no, does this property have special features that reasonably warrants a higher value or rent?
- Has the property been put up for sale by public auction?

5.2 For those owners who are experiencing particular legal or technical issues which is preventing the sale or letting of the property

- Is there a legal difficulty or issue which is preventing the sale or letting of the property?
- A Solicitor's or Legal Conveyancer's letter should be produced in evidence detailing the reasons preventing sale or letting.
- Is a sale or letting being delayed by the actions of a Public Body?
- Full details must be provided

5.3 Those owners who are in negotiation with the Council with a genuine view to letting the property under the Council's Management Scheme(s)

- Has there been a genuine expression of interest in transferring management of a property to the Council with a view to letting the property to local people with housing needs?
- The Council's Empty Homes Officer will be asked to confirm details of the expression.
- The exception would only be applied from the date of signing the approval notice.

5.4 Cases where the dwelling has remained empty beyond a two year period due to exceptional and /or unforeseen circumstances and / or occasionally any other circumstances, proven to be beyond the control of the owner/liable person.

- Are the circumstances exceptional or unforeseen?
- Decision based on evidence, considered on the merits of each individual case.

5.5 Cases where imposition of the Council Tax Premium would result in hardship and a reasonable person would regard the imposition as unfair.

- Will imposition of the Council Tax Premium result in the owner suffering hardship?
- Granting an exception under this criterion is likely to be the exception rather than the rule as it is expected the majority of exceptions will have been granted under earlier criteria.

6. Changes of Circumstances

The Council may need to revise the decision to grant an exception to the Premium if it becomes aware that the circumstances of an applicant have materially changed. Individuals must immediately advise the Council of any change in circumstances affecting the decision within 21 days of the change. Failure to do so may result in the exception being revoked in full.

7. Notification

The Council will inform the applicant in writing of the outcome of their application within 28 days of receipt, or as soon as possible after. Where the application is unsuccessful, the Council will set out the reasons why this decision was made and explain the right of review.

8. The right to seek a review

As the exceptions to the Premium in this policy are determined locally any decisions are not subject to a statutory appeals mechanism. The Council will therefore operate its own procedures for dealing with appeals against a refusal to award an exception to the Premium.

Decisions will be determined at management level by the Revenues Manager.

An applicant (or their appointee or agent) who disagrees with a decision not to award an exception may dispute the decision. A request for a review must be made in writing to the Head of Shared Service, Revenues and Benefits within one calendar month of the written decision being issued.

The Head of Shared Service, Revenues and Benefits will review all the evidence held and may ask for further clarification to be provided. A decision will be made within 28 days of the request for a review. The decision will be notified to the claimant in writing, setting out the reasons for the decision.

LANCASTER CITY COUNCIL		(as at 15 November 2018)								APPENDIX B	
Long Term empty Properties		A	B	C	D	E	F	G	H	Total	
<i>A vacant dwelling (i.e. empty and substantially unfurnished) after two years.</i>											
Average Council Tax (excl parishes)		1,173.46	1,369.04	1,564.61	1,760.19	2,151.34	2,542.50	2,933.65	3,520.38		
Average Parishes		18.39	21.45	24.52	27.58	33.71	39.84	45.97	55.16		
Total Average Council Tax		1,191.85	1,390.49	1,589.13	1,787.77	2,185.05	2,582.34	2,979.62	3,575.54		
CURRENT POSITION:											
Total Long term empties (over 2 years)		125	50	25	19	12	3	3	0	237.00	
	90%	112.50	45.00	22.50	17.10	10.80	2.70	2.70	0.00	213.30	
Empty Homes Premium		595.92	695.25	794.56	893.89	1,092.52	1,291.17	1,489.81	1,787.77		
Revised Average Council Tax		1,787.77	2,085.74	2,383.69	2,681.66	3,277.57	3,873.51	4,469.43	5,363.31		
Current Income from Empty Homes Premium		67,041.00	31,286.25	17,877.60	15,285.52	11,799.22	3,486.16	4,022.49	0.00		150,798.23
PROPOSED POSITION:											
Total Long term empties (over 2 years) (2019)		125	50	25	19	12	3	3	0	237.00	
	80%	100.00	40.00	20.00	15.20	9.60	2.40	2.40	0.00	189.60	
Empty Homes Premium		1,191.85	1,390.49	1,589.13	1,787.77	2,185.05	2,582.34	2,979.62	3,575.54		
Revised Average Council Tax		2,383.70	2,780.98	3,178.26	3,575.54	4,370.10	5,164.68	5,959.24	7,151.08		
Income from Empty Homes Premium		119,185.00	55,619.60	31,782.60	27,174.10	20,976.48	6,197.62	7,151.09	0.00		268,086.49
										Additional Income	117,288.26
										90% colln. Rate	105,559.43
										Lancaster element	13,215.09
Long term empty (Over 5 years) (2020)		45	23	6	6	3	1	0	0		
Assumed % of chargeable properties		80%	36.00	18.40	4.80	4.80	2.40	0.80	0.00	0.00	67.20
Empty Homes Premium		100%	1,191.85	1,390.49	1,589.13	1,787.77	2,185.05	2,582.34	2,979.62	3,575.54	
Revised Average Council Tax			2,383.69	2,780.98	3,178.25	3,575.54	4,370.10	5,164.68	5,959.23	7,151.08	
Income from Empty Homes Premium			42,906.48	25,585.04	7,627.80	8,581.30	5,244.12	2,065.87	0.00	0.00	92,010.60
										Additional Income	209,298.86
										90% colln. rate	188,368.97
										Lancaster element	23,582.11
Long term empty over 10 years (2021)		14	8	3	3	0	0	0	0		
Assumed % of chargeable properties		80%	11.20	6.40	2.40	2.40	0.00	0.00	0.00	0.00	22.40
Empty Homes Premium		100%	1,191.85	1,390.49	1,589.13	1,787.77	2,185.05	2,582.34	2,979.62	3,575.54	
Revised Average Council Tax			2,383.69	2,780.98	3,178.25	3,575.54	4,370.10	5,164.68	5,959.23	7,151.08	
Income from Empty Homes Premium			13,348.68	8,899.14	3,813.90	4,290.65	0.00	0.00	0.00	0.00	30,352.38
										Additional Income	239,651.23
										90% Colln Rate	215,686.11
										Lancaster element @ 90% colln. Rate	27,001.97