

Empty Properties (Council Tax Premium & Empty Dwelling Management Orders)

Committee name	Residents' Services Select Committee
Officer reporting	Maureen Pemberton, Head of Revenues Debby Weller, Housing Policy and Strategy Manager Mark Billings, Head of Housing Options, Homelessness & Standards
Papers with report	N/A
Ward	All

HEADLINES

In February 2022 officers presented a report to the Environment, Housing and Regeneration Select Committee setting out the current position regarding empty residential properties in the Borough and the potential tools for bringing empty properties back into use. Following the meeting, the Committee Chair requested additional information regarding the use of the Council Tax Premium and Empty Dwelling Management Orders and this is set out in the body of this report.

This report provides information in relation to the statutory basis for charging council tax for empty properties in the London Borough of Hillingdon. It sets out the current level of charges and provides information regarding the ongoing review of empty properties within the Borough being conducted by the Revenues Service, in conjunction with the Business Assurance and Counter Fraud Team.

RECOMMENDATION

That the Residents' Services Select Committee notes the position on Council Tax charges for empty properties and Empty Dwelling Management Orders.

SUPPORTING INFORMATION

Legislative Basis for Charging Council Tax

Council Tax was introduced on 1 April 1993 enabled by the Local Government Finance Act 1992. The LGFA 1992 specified a number of exemptions and discounts in relation to occupied and empty properties. Some of the statutory exemptions for empty properties have since been replaced by local discounts enabled by the Local Government Finance Act 2012 including the power to charge a premium in addition to the standard council tax for properties that have been unoccupied and substantially unfurnished for more than 2 years.

Unoccupied properties exempt from council tax charges

Unoccupied properties that are identified as exempt from council tax in the LGFA 1992 (as

amended) are shown in Table A with the numbers of properties recorded for each category at the end of June 2022.

Table 1

Unoccupied properties exempt from council tax		
Class	Description	No
B	Unoccupied property owned by a charity. The exemption will only apply for up to 6 months.	25
D	Property left unoccupied by someone who has gone into prison, except for those in prison for non-payment of council tax or fines.	7
E	Property left unoccupied by someone who has moved into a hospital or nursing home, in order to receive personal care.	126
F	Properties left unoccupied following the death of the occupier. The occupier must also have been the owner and in occupation when they died. This exemption will last for up to 6 months following the grant of probate or letters of administration after which the full council tax will become due.	531
G	Property left unoccupied because occupation is prohibited by law.	6
H	An unoccupied property, held vacant, awaiting to be occupied by a Minister of Religion.	1
I	Property left unoccupied by someone who has moved elsewhere (other than a hospital or care home) in order to receive personal care because of old age, disability, illness, past or present alcohol or drug dependence or past or present mental disorder.	6
J	Property left unoccupied by someone who has moved elsewhere in order to provide personal care to an individual because of old age, disability, illness, past or present alcohol or drug dependence or past or present mental disorder.	3
K	Unoccupied property owned by a full-time student, and which was their last sole or main place of residence.	0
L	Unoccupied property which has been repossessed.	6
Q	Unoccupied property where the liable person	0

	is acting as a trustee in bankruptcy.	
T	An unoccupied annex which forms part of a single dwelling.	0
U	Property solely occupied by the severely mentally impaired.	360
W	Occupied annex to an occupied dwelling, which is the home to a dependent relative of the person living in the other dwelling.	5
	Total Empty and exempt property	1,076

Other Empty Property Charges

In addition to the properties in the above list, the LGFA 1992 identified other classes of unoccupied properties for council tax purposes. Historically, these were;

- Empty and furnished properties. Eligible, for a 25% reduction indefinitely
- Properties undergoing structural repairs and refurbishment. Eligible for a 100% reduction for up to 1 year whilst the property was undergoing such repairs and remained empty and substantially unfurnished
- Properties that were empty and substantially unfurnished. Eligible for an exemption from council tax for up to 6 months.

In 2013 the statutory exemptions/discount for empty properties were removed from the legislation governing the administration of council tax. At the same time local authorities were given the power to set a local discount for such properties.

The Council resolved on 17 January 2013 to remove the reduction for empty and furnished properties from 1 April 2013 and introduce local discounts. The local discounts introduced at this time were equivalent to the previous statutory exemptions for empty and unfurnished properties and those undergoing structural works.

In April 2020 the local discounts for empty properties were removed, leaving only the Empty Home Premium in place for empty properties which is effectively a surcharge of 50% extra council tax charged for properties empty for more than 2 years.

Table 2 below includes the number of properties as reported previously to the Select Committee in February 2022 and the current position, which demonstrates the extent for volatility in properties being reported empty.

Table 2

Empty Property (Class)	October 2021	June 2022
Furnished and Unoccupied PCLB 0% Discount	1,202	911
Unfurnished and unoccupied PCLC 0% Discount	947	747
PCLC 50% Premium charged as empty for over 2 years	230	163

Empty Home Premium

From 1 April 2013, billing authorities have been able to charge a premium on a class of property that has been unoccupied and unfurnished for two years or more. The premium, when introduced, was up to an extra 50% of the council tax on the property. Since 2019 it has been possible to increase this premium to 100% for properties that remain empty longer than 2 years.

Further increases are now possible for properties empty for longer than 5 years (200%) and 10 Years (300%). Hillingdon charges a 150% Empty Homes Premium. Table 3 shows the potential yield should the Council decide to increase the premium from 150% to 200%.

Table 3

Properties	LBH Council Tax	Increase @ 50%	Increase@100%	Potential Increased Yield
163	£224,441	£336,662	£448,883	£112k

There are currently 163 properties attracting the Empty Property Premium of 150% yielding £337K of additional income for the Council; increasing this to 200% will yield an additional £112k.

The 163 properties identified in Table 3 have a total of £538k outstanding liability in July 2022 equating to an average debt of £3,033 per property. Council tax liability on a Band D property, attracting a premium, is £2,488.30, demonstrating that there are significant arrears amongst this group.

Initially during the recovery process there can be difficulties ascertaining the correct liable parties etc. Once established, recovery activity for the collection of debt accrued by the owners of empty properties follows the normal route for each year with the Council issuing statutory reminders and making application to the Magistrates Court for liability orders.

Those more difficult to collect debts may involve the Council exhausting all other routes and resorting to using powers to obtain a charge on a property and, either awaiting, or forcing a sale. Such activity is resource intensive and requires a financial outlay by the Council before legal costs can be recovered from the proceeds of a sale further down the line.

As part of the Council's budget monitoring activities, the level of fees and charges are reviewed annually. Should the Council wish to increase the Empty Homes Premium, as part of their overall strategy, this can be implemented through the annual budget setting process – with a final decision to be made at the January 2023 meeting of Full Council.

From a perspective of bringing empty properties back into use, the advantage of charging the premiums possible is primarily about increasing the pressure on the owners of empty homes to take action.

Empty Dwelling Management Orders

An Empty Dwelling Management Order (EDMO) is a process which allows the Council to take over the management of empty residential properties with a view to agreeing with the owner a plan to bring them back into occupation. Ownership is not changed but an EDMO allows the Council to take over the management of an empty home. Costs incurred are recovered from the

rental income.

EDMOs were seen as a back-up power to be used as a last resort and regulations providing that EDMOs can only be sought where a property has been empty for two years (as opposed to a previous six months), and requiring the Council to give the owner at least three months' notice of the intention to apply for an order, came into force on 15 November 2012. EDMOs can only be pursued if the Council can provide evidence of environmental impacts such as anti-social behaviour and pest control around an empty property.

Applications made by local housing authorities under the Housing Act 2004 for EDMOs are determined by the Residential Property Tribunals. Government does not collect data on the number of EDMOs that have been issued, but it is clear that they are rarely used. A question to the Ministry of Justice answered in November 2012 confirmed that 38 Interim Empty Dwelling Management Orders had been approved since June 2010. EDMOs require financial and officer commitment from several Council services.

Officers will complete a review of our options for addressing empty homes and the financial implications during 2022/23 to inform an Empty Property Strategy.

FINANCIAL IMPLICATIONS

Whilst increasing the Council's Empty Properties Premium from 150% to 200% will yield additional income for the Council, experience has shown that due to the property being empty that recovery can take an extended period of time. As a result it will likely be necessary to provide for the risk of non-payment and therefore limit the extent to which sums due through the Premium can be applied to finance services in the short term. However, in the medium-term, the additional income is more likely to be realised once recovery processes are undertaken.

Work on empty properties within the Housing Service currently resides with the Private Sector Housing Team, should the Council want to pursue Empty Dwelling Management Orders (EDMOs) pump priming will be required into the team prior to any benefits being realised from bringing long-term empty properties back into use; however, it is worth noting that the use of EDMOs is considered to be the last resort with other options of bringing these properties back on stream deemed to be preferable through joint working with owners and landlords.

Both the Empty Properties Premium added to Council Tax liabilities and Empty Dwelling Management Orders should ultimately increase the amount of available properties in the Borough and reduce the Council's expenditure on temporary accommodation and homelessness; however, the benefit from these initiatives is likely to be over the medium term, following a period of initial investment, the cost benefit analysis of such a proposal will need to be considered in the context of the MTF refresh.

LEGAL IMPLICATIONS

None at this stage.

BACKGROUND PAPERS

[Empty Property report to Environment, Housing and Regeneration Select Committee February 2022](#)