

REVIEW BY THE RESIDENTS' SERVICES SELECT COMMITTEE ON THE EMPTY HOMES COUNCIL TAX PREMIUM

Relevant Cabinet Member & portfolio	Cllr Eddie Lavery Cabinet Member for Residents' Services
Officer Contact	Liz Penny, Democratic Services
Papers with report	Appendix A

HEADLINES

Summary	<p>Cabinet is requested to consider the findings and recommendations of the Residents' Services Select Committee following its review into the Council's application of the Empty Homes Council Tax Premium.</p> <p>The Committee has proposed increases in the Premium added to Council Tax liabilities will help reduce the number of such empty properties in the Borough and provide an additional financial incentive for owners to sell or bring their empty properties back into use sooner.</p>
Putting our Residents First Delivering on the Council Strategy 2022-2026	<p>The Committee's recommendations support the adopted Council Strategy and its commitments to residents of 'Thriving, Healthy Households' and 'A Digital-Enabled, Modern, Well-Run Council', specifically:</p> <ul style="list-style-type: none">• Sound financial management.• Live in good quality, affordable homes in connected communities.• Work to prevent homelessness, including rough sleeping.
Financial Cost	<p>The proposed premium changes will yield additional Council Tax revenue for the Council, though will initially require an element of cover within the Council's budget, with benefits, therefore, being realised over the medium-term.</p>
Relevant Select Committee	Residents' Services Select Committee
Ward(s) affected	All

RECOMMENDATIONS

That Cabinet considers the findings of the Committee's review and decides whether to support their recommendations below as part of the Council Tax setting process and MTFB budgets recommended to full Council:

Committee recommendations

That Cabinet recommends to Council:

1. To increase the current Empty Homes Council Tax Premium, applicable to non-exempt properties empty for more than two years, from the current 50% to 100% from the 2023/24 financial year;
2. To phase in increases to the current Empty Homes Council Tax Premium, applicable to non-exempt properties empty for more than five / ten years, to the maximum premium allowable of 200% / 300% respectively and from financial years 2024/25 and 2025/26 respectively;
3. To note the 2 specific circumstances where the application of the Premium cannot be applied, as set out in the report.

Reasons for recommendations

The Residents' Services Select Committee undertook a review into the Council's application of the Empty Homes Council Tax Premium on non-exempt properties and has recommended increasing these to the maximum levels permitted, based on whether properties have been unoccupied for over 2, 5 or 10 years. In essence, this is a % premium charge, applied in addition to the existing Council Tax charged, on those properties that are left empty and substantially unfurnished for a number of years and without a valid reason to make them exempt from paying Council Tax, of which there were 144 in the Borough as of October 2022.

It is anticipated that the proposed increases in the Premium added to Council Tax liabilities will reduce the number of such empty properties in the Borough and provide an additional financial incentive for owners to sell or bring their empty properties back into use sooner. Moreover, the Premium will raise additional Council Tax income and potentially reduce the Council's expenditure on temporary accommodation and homelessness. It is recognised that the benefit from these initiatives is likely to be over the medium-term, following a period of initial recovery activity. However, it is anticipated that the overall cost benefit to the Council will outweigh the costs associated with recovery of the debt.

If Cabinet concurs with the Select Committee's recommendations, then these will need to be formally recommended to and adopted by full Council as part of the Council Tax Base calculations at the January 2023 Council meeting and incorporated into the Council's budget going forward. If agreed, the revised policy will need to be published and appropriately communicated by the Council generally and to those impacted.

Alternative options considered / risk management

Cabinet could choose to not support the recommendations or amend them.

SUPPORTING INFORMATION

Background to the Empty Homes Premium

The Local Government Finance Act 2012 introduced the power to charge premiums in addition to the standard Council Tax for properties that have been unoccupied (empty) and substantially unfurnished for more than two years. Since 1 April 2013, billing authorities have been able to charge this premium of up to an extra 50% of the Council Tax on the property.

Since the introduction of The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 it has been possible from April 2019 to increase this premium to 100% (i.e., pay double the standard Council Tax charge in total) for non-exempt properties that remain empty longer than two years. The Act also phased in over the next two years further increases for properties empty for longer than five years (200%) and ten years (300%).

The premium was welcomed at the time by local authorities and the Local Government Association as a way to empower councils to reduce the number of empty properties and bring them back into use.

The Select Committee Review

The Residents' Services Select Committee held a witness session on 19 October 2022. At this meeting, Members considered the viability of increasing the Empty Homes Council Tax Premium, applicable to non-exempt properties empty for more than two years. The Committee had the opportunity to question and solicit evidence from the following witnesses:

- A Hillingdon resident affected by a long-term empty property
- Maureen Pemberton, Head of Revenues
- Iain Watters, Director – Strategic and Operational Finance
- Debby Weller, Housing Policy & Strategy Manager

Hillingdon position and comparisons

The Committee were made aware that Hillingdon Council currently charged a 50% Empty Homes Premium for all non-exempt properties over 2 years old, also irrespective of whether they are empty for 5 or 10 years. This means that such properties pay their existing Council Tax charge plus an additional 50% of that Council Tax charge on top, i.e., the premium.

The Committee were informed that London Boroughs such as Harrow, Hounslow, Brent, and Ealing were already applying maximum premiums permitted, which were:

Period Empty	Maximum premium added	Total paid
2+ years	100%	Double the Council Tax charge
5+ years	200%	Three times the Council Tax charge
10+ years	300%	Four times the Council Tax charge

Similarly, the adjacent local authorities of Buckinghamshire, Slough and Spelthorne also apply the maximum premiums.

Members noted that in October 2022, there were 144 Hillingdon properties attracting the current premium of 50%, yielding £396k of income for the Council. It was noted that increasing the premium to 100% would have potentially yielded an additional £132k (see Table 1 under Financial Implications).

Resident testimony

The Committee first considered it important to get direct testimony from someone affected by a non-exempt empty property. Tina, a Hillingdon resident, attended the Select Committee and recounted her experience of living next door to a property empty for 13 years due to an ongoing probate issue. The Committee heard that her neighbouring house was in a state of disrepair and was no longer habitable; the garden was overgrown and there was a rat infestation. Fly-tipping was also an issue. Whilst the Council had helped, where it could, to tidy up the property by cutting the grass etc., Members were told that the condition of the neighbouring property was negatively impacting the value of Tina's own property and she anticipated that it would be difficult to sell should she wish to move on.

The Committee acknowledged that this case was very complicated due to probate issues and that legal advice would need to be sought in such cases. However, in general terms, Members believed that the proposed increase in the Council Tax premium would help to bring further pressure to bear on the owners of such properties and would act as an additional mechanism to encourage them to bring their empty properties back into use.

Application of the premium

The Committee learnt that the premium could only be charged on non-exempt properties, where that property was empty and substantially unfurnished and did not apply where properties are deemed to be second homes.

Members noted that there are several exemptions for empty properties where Council Tax is not charged and, therefore, premiums cannot be applied e.g., properties where the liable party has gone into a care home, where probate is awaited or where the sole liable party is in prison. A full list of such properties was shown to the Committee and is set out in Appendix A. As of October 2022, there are 716 such empty properties with valid reasons to be empty.

In addition, the Committee noted that the Council Tax (Prescribed Dwellings) (England) Amendment Regulations SI 2012/2964 provided that a premium cannot be applied in the 2 circumstances below, as referenced in recommendation 3 from the Committee:

- When a property is left empty by a member of the Armed Services, who is away from the property as a result of their service;
- Where a property forms part of a single property, for example, an annexe.

The Committee's review, therefore, was focussed on those empty (non-exempt) properties that do not have a valid reason to be empty in terms of Council Tax legislation.

Eligible Properties in Hillingdon

Members were informed that in October 2022, there were 144 non-exempt empty properties in Hillingdon attracting the 50% empty homes premium. In approximately 60% of these cases, the empty homes premium was charged to a company or public organisation. The remaining 40% were privately owned. It was acknowledged that it was far easier to collect on commercial properties, with the private cases generally being more resource intensive and the costs of debt recovery could at times outweigh the financial benefit of recovering the Council Tax in the short-term, whereas in the medium-term additional income would be more likely to be realised.

Challenges

The Committee noted cases where there were probate issues or other complications, and it was often difficult to establish who was liable to pay Council Tax in order to charge the premium. Members welcomed that officers monitored all cases and collected the tax due whenever possible; however, Members recognised this was particularly challenging in cases of family disputes and probate issues and could be very resource intensive. In all cases, it was noted, Council Tax could not be charged until six months after probate had been decided.

Once liability was established, Members were informed that recovery activity for the collection of debt accrued by the owners of empty properties followed the normal route for each year with the Council issuing statutory reminders and making an application to the Magistrates Court for liability orders.

The Committee was advised that for those properties where it is more difficult to collect debts, this may involve the Council resorting to using powers to obtain a charge on a property and, either awaiting, or forcing a sale. It was noted that such activity can be resource intensive and would require a financial outlay by the Council before legal costs can be recovered from the proceeds of a sale further down the line.

Despite the challenges, the Committee considered that increasing the premium should help bring some properties back into use but noted that it was not possible to quantify this at present. Where appropriate, it was advised that the Council's Antisocial Behaviour Team could also be involved to bring additional pressure to bear; however, overall service responsibility for empty properties lay with the Private Sector Housing Team of the Council.

Connected activity

The Committee noted the Private Sector Housing Team would be developing an Empty Homes Strategy in 2023 to set out a pathway to progress for the Council. Further research would be conducted, as part of this, into other Councils' good practice, potential enforcement activity, costs and benefits and grant funding. Members welcomed that all tools would be considered to establish the most cost-effective and appropriate way forward for individual empty home cases.

Financial considerations

Along with the prospective benefits in reducing the number of empty homes over time, the Committee was also mindful of the financial implications to the Council should it be decided to increase the premium to their maximum permitted levels.

It was noted by Members that whilst increasing the Council's Empty Homes Premium from 50% to 100% (and by further percentages for longer periods) would yield additional income for the Council, experience had shown that, due to the property being empty, recovery can take an extended period of time. As a result, it would 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 in the short-term. However, in the medium-term, the additional income was more likely to be realised once recovery processes were undertaken.

Table 1

Based on the current position and number of non-exempt empty properties the increase in liability from the proposed premium changes is reflected below

Band	No Of Props	Empty 2-5 yrs	Empty 5-10 yrs	Empty 10 yrs+	50% (current premium)	Proposed new maximum premiums by the Select Committee		
						100% All properties from 1.4.2023	200% Extra Income 24/25	300% Extra Income 25/26
A	6	3	3		£9,953	£13,270	£3,317	
B	14	9	5		£27,094	£36,126	£6,451	
C	46	28	14	4	£101,743	£135,658	£20,643	£5,898
D	31	14	12	5	£77,135	£102,849	£19,906	£8,294
E	11	6	2	3	£33,455	£44,607	£4,055	£6,082
F	11	5	3	3	£39,536	£52,715	£7,188	£7,188
G	21	19	2		£87,090	£116,120	£5,529	
H	4	2	2		£19,906	£26,541	£6,635	
Total	144	86	41	15	£395,912	£527,886	£73,724	£27,460

Whilst the Committee noted that the 50% premium could be increased to 100% for all non-exempt properties over 2 years empty during the forthcoming financial year, it was also suggested that in-line with legislation, any further maximum increases in the premium for non-exempt properties empty for longer than five years (200%) and ten years (300%) may wish to be phased in over subsequent years. Other local authorities have taken such a phased approach.

In terms of additional income, based on figures for October 2022, there were 144 properties attracting the Empty Property Premium of 50% yielding £396k of income for the Council. Table 1 above shows that by increasing this to 100%, for example, could potentially yield an additional £132k in 2023/24, with additional income potentially gained for higher premiums in later years.

Finance Officers have also advised that any changes to the premium would need to be reflected in the Council Tax base calculations, and therefore, would require the approval of the full Council when it sets this in January each year.

Findings and recommendations from the Committee

The Committee met again on the 24 November 2022 to consider all the evidence and testimony received and finalise their report and recommendations.

In conclusion, the Committee found there was an imperative to look at all measures to bring empty properties back into use, acknowledging that a stronger financial incentive would be the most productive, through maximising the use of the Empty Homes Council Tax Premium afforded in law to local authorities. The Committee welcomed the fact that this would further encourage owners to sell or refurbish the property, potentially reduce the Council's expenditure on temporary accommodation and homelessness and lead to an improvement in the condition of some such properties currently impacting upon neighbours.

The Committee recognised that by applying the maximum premium next financial year for properties over 2 years empty, and then the further maximum premiums for those over 5 and 10 years in a phased manner, that this would increase income to the Council over the medium-term and outweigh the short-term costs associated with recovery of the debt. The Committee also noted that the premium would not be applicable for armed forces personnel on duty and annexed properties as set out in law.

To take the outcomes of the review forward, the Committee has, therefore, made the following recommendations to Cabinet / full Council:

- 1. To increase the current Empty Homes Council Tax Premium, applicable to non-exempt properties empty for more than two years, from the current 50% to 100% from the 2023/24 financial year;**
- 2. To phase in increases to the current Empty Homes Council Tax Premium, applicable to non-exempt properties empty for more than five / ten years, to the maximum premium allowable of 200% / 300% respectively and from financial years 2024/25 and 2025/26 respectively;**
- 3. To note the 2 specific circumstances where the application of the Premium cannot be applied, as set out in the report.**

About the Committee

The Residents' Services Select Committee, established in May 2022, is chaired by Councillor Wayne Bridges and its remit includes reviewing and making recommendations to Cabinet on all housing and housing policy related matters. Other Members of the Committee are Councillors Sullivan (Vice-Chairman), Farley (Opposition Lead), Gohil, Smallwood, Gardner and Punja.

RESIDENT BENEFIT & CONSULTATION

The benefit or impact upon Hillingdon residents, service users and communities

The recommendations in this report are designed with the purpose of bringing empty properties back into use and potentially reducing the Council's expenditure on temporary accommodation and homelessness. It is also anticipated that they will result in a reduction in associated anti-social issues, where experienced in local streets and neighbourhoods.

Consultation Carried Out or Required

The Committee received professional advice and witness testimony, along with research from other local authorities and relevant publications, as outlined in this report, before making its recommendations.

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance has reviewed this report and concurs with the financial implications set out above, noting the recommendation to increase the Council's Empty Properties Premium from April 2023 from 50% to 100% for eligible properties vacant for than 2 years, with further increases to be applied in later years in line with Government guidelines.

Whilst the increase in the premium will yield additional Council Tax revenue for the Council, it is recognised that collection of the additional premium will initially require an element of cover within the Council's budget, with benefits therefore being realised over medium-term.

Legal

The Borough Solicitor confirms that the legal implications are included in the body of the report.

BACKGROUND PAPERS

[Council tax : empty properties - House of Commons Library \(parliament.uk\)](#) - May 2020

[LGA - Get in on the Act: Rating \(Property in Common Occupation\) and Council Tax \(Empty Dwellings\) Act 2018](#)

Appendix A

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 the table below with the numbers of properties recorded for each category at the end of June 2022:

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 is acting as a trustee in bankruptcy.	0
T	An unoccupied annex which forms part of a single dwelling.	0
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	716