
REPORT FOR: CABINET

Date of Meeting:	17 January 2019
Subject:	Changes to Council Tax Long Term Empty Property Premiums
Key Decision:	Yes
Responsible Officer:	Dawn Calvert Director of Finance,
Portfolio Holder:	Adam Swersky – Portfolio Holder for Finance and Resources
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	Appendix 1 – Equality Impact Assessment

Section 1 – Summary and Recommendations

This report sets out a proposal for Harrow to change its policy with regards to the Premium charged to Council Tax payers regarding properties which have been empty for a continuous period of at least 2 years. The changes arise from the flexibility granted to Local Authorities in the November 2017 budget announcement, and the subsequent changes to Section 11B of the Local Government Finance Act (LGFA) 1992, subsections (1) to (3), as introduced by the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018.

Recommendations:

Cabinet is requested to:

1. Agree that the Authority exercises its discretion and changes the premium charged to long term empty property from 1.5 times the standard Council Tax for the said band, to the new ratios as set out in the table below (expressed as additional percentages of annual Council Tax);

2.

Long term empty property criteria giving rise to additional Council Tax premiums;	From 1/4/2019 Financial Year	From 1/4/2020 Financial Year	From 1/4/2021 Financial Year
For Properties which have remained empty for at least 2 Years	100%	100%	100%
For Properties which have remained empty for less than 5 Years	N/A	100%	100%
For Properties which have remained empty for at least 5 & but less than 10 Years	N/A	200%	200%
For Properties which have remained empty for at least 10 Years	N/A	N/A	300%

3. Recommend the determination to Full Council as required by legislation.

Reason: (for recommendation)

Agreeing the proposed changes to the Council Tax Premium will result in the Council generating an extra £60,000 in Council Tax revenue annually. More importantly it will discourage owners from keeping much needed residential property in the borough empty.

Section 2 – Report

Introduction

Harrow has a Housing crisis with little or no affordable homes available to rent in the Borough. Additionally empty homes tend to attract anti-social behaviour and the involvement of public services in dealing with empty home issues generally lead to a disproportionate cost compared to what is spent on issues arising from occupied dwellings. The Council therefore has a responsibility to change behaviours and this report proposes increasing the “long term empty” premium to support that objective.

Currently, the Local Government Finance Act 1992 allows a billing authority to determine that a long term empty dwelling will not qualify for a discount and that the amount of council tax shall be increased by a percentage of not more than 50%. A long term empty dwelling is defined as a dwelling which has been unoccupied and substantially unfurnished for a continuous period of 2 years.

On the 22/11/2012 Cabinet agreed that Harrow Council would, with regards to long term empty property, charge a council tax premium of 50% on top of the normal council tax charge, with effect from 1/4/2013, for properties which met the definition of “long term empty”.

Following recent changes in legislation, deriving from the announcement in the budget speech of 22/11/2017, local authorities now have the flexibility to increase this premium charge from 50% to 100% immediately and up to 300% over time, depending on the length of time a property remains empty.

This report asks that Cabinet agree to change its Council Tax Discount & Premium policy to increase the charge levied on long term empty properties to between 100% and 300% of the standard Council Tax that would be applicable for the relevant banded property, in line with the maximums allowance under the legislation. It is further proposed that the above change is implemented with effect from 1/4/2019.

This will mean that all long term empty properties will be liable to pay an empty property premium, which will be calculated by taking the council tax liability that would normally be levied at the relevant band amount (assuming no reductions for any reasons, including single person discounts) and adding on the percentage increases as set out in the table below depending on the length of time the property has been empty. For clarification this would mean a property which has been empty for at least 2 years would be charged double the amount of council tax for the property’s band (or 100% premium).

This will affect approximately 61 households and raise around £60k annually.

	From 1/4/2019	From 1/4/2020	From 1/4/2021
Long term empty property criteria giving rise to additional Council Tax premiums;	Additional CT premium percentage applicable	Additional CT premium percentage applicable	Additional CT premium percentage applicable
For Properties which have remained empty for at least 2 Years	100%	100%	100%
For Properties which have remained empty for less than 5 Years	N/A	100%	100%
For Properties which have remained empty for at least 5 but less than 10 Years	N/A	200%	200%
For Properties which have remained empty for at least 10 Years	N/A	N/A	300%

Consultation Outcome & Impacts

Consultation Feedback

A 4 week consultation was carried out on-line between the 29th October 2018 and 23rd November 2018

There was little response to the consultation, with only two responses having been received, one being from the GLA.

The key messages from the GLA (see Appendix 1 attached) and the other respondent were;

Respondent	
GLA	<p><i>“The GLA supports the proposals for the revised long term empty property premiums proposed by Harrow in its consultation. The Mayor is committed to tackling London’s housing crisis; as such, the GLA has welcomed the additional flexibilities provided to billing authorities by central government, with the aim of bringing more empty homes back into use.</i></p> <p><i>The Council has proposed these changes based on the clear rationale that the increases in the premium are intended to change behaviour, in order to reduce the number of properties that are ‘long-term empty’. The borough faces a housing shortage, as do other areas of London. In addition, the Council notes that empty homes tend to attract anti-social behaviour and consequent additional costs to public services</i></p> <p><i>Whilst reducing the number of empty homes is clearly the primary objective of the premium, the GLA has previously encouraged billing authorities to consider the impact of the additional revenue councils can raise from the current 50% empty homes premium, when determining schemes for council tax support. If the increases in the premium permitted under the new legislation result in significant additional revenues, we recommend the Council should take these into account if, in the future, it is reviewing changes to its council tax support scheme”.</i></p>
Other	<p>They agreed with the current policy that if a property is not in use as anyone’s sole or main residence that they should pay more council tax</p> <p>They agreed with the proposal that if it has not been used for between 2-5 years the Council Tax charge should be 200%</p> <p>They agreed with the proposal that if a property has not been used for between 5-10 years the Council Tax charge should be 300%</p> <p>They agreed with the proposal that if a property has not been used for over 10 years the Council Tax charge should be 400%</p> <p>Their general comments were:-</p> <p>I believe that if the property is left empty for over 5 years then there should be an investigation on the reasons behind this and also a complete inspection should be done on the property to investigate its state.</p> <p>If it is found that the property is not in up to specified standards and the owner is not putting any effort to maintain the property then some sort of order must be issued to make the owner sell the property to either a property developer or housing agency or at a cheaper rate to first time buyers so that they can get the property up to standard and either rent it out or sell to others who need help to get on property ladder.</p> <p>Response was from a Harrow Council Tax payer.</p>

Impacts

In Harrow, there are still 554 properties which have been empty for more than 6 months but of this number, 548 have been empty for less than 2 years.

The proposals will impact on an additional 6 existing empty properties on top of the 79 that are already affected by the earlier adopted policy. (The current adopted policy in Harrow sets out that the premium can only be charged once a property has been empty for more than 2 years).

Of the 79 properties to which the premium currently applies, and where the owners are paying this premium, the following would apply;

48 have been empty for between 2 – 5 years	And would become subject to the 100% premium in 2019/20, i.e. 200% Council Tax charge,
15 have been empty for between 5- 10 years	And would become subject to the 100% premium in 2019/20 and be liable for 200% premium from 2020/21
16 have been empty for more than 10 years	And would become subject to the 100% premium in 2019/20, 200% premium in 2020/21 and 300% premium in 2021/22.

The additional 6 would fall into the first category, and be charged 200% of the existing Council Tax.

Based on the current figures it would appear that this policy change would impact on very few owners. Additionally, those owners who can demonstrate that their properties are genuinely on the market for sale or rent could be potentially exempted, but a change in policy would be an incentive for those that have chosen to keep their property empty. These properties can be seen as a wasted resource when there is homelessness in the borough and can, in some cases, lead to properties becoming poorly maintained impacting on not just the empty property itself, but also adjoining properties.

Exceptions

There are exemptions from this premium already covered in legislation where for example a property is left empty due to the council taxpayer being in a home; or having gone elsewhere to receive or provide care; or where they have passed away and probate has not yet been granted. In addition to this when the reforms were introduced in 2013 further clarity was given that these premiums must not apply to:-

- a) Properties left empty where the council tax payer is not at the property due being a member of the armed services and is required to live elsewhere due to this;
- b) An unoccupied annexe which is being used by a resident of the main property
- c) Properties which are subject to a planning condition which prevents occupation of a continuous period of 28 days

These exceptions will remain, which will give protection to those who have to leave their homes empty through no fault of their own or due to specific prescribed reasons.

Legal Background

The Local Government Finance Act 2012 inserted new clauses into the LGFA 1992. Under s11A(2) of the LGFA 1992, the council is required to make a determination regarding any change to reducing discounts on unoccupied

properties, whilst s11A(6) requires that the determination be published in a local newspaper within 21 days of the determination. There is no statutory requirement for consultation, although there are publication requirements.

The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 further amended the LGFA 1992, specifically Section 11B and subsections (1) to (3). The Act requires certain determinations to be made by full Council and this includes determinations under Section 11A and Section 11B as set out above.

When making policy decisions, the Council must take into account of all relevant material, including financial resources, consultation responses if consultation was carried out, and potential equality impacts in order to reach a decision.

Notice of any determination under this section must be published in a local newspaper within 21 days of the determination. There is no statutory duty to consult on these technical reforms.

Article 13 of the Council's Constitution states a key decision is an executive decision which:

- (i) is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (ii) is likely to be significant in terms of its effects on communities living or working in an area of two or more wards of the Borough.

A decision is significant for the purposes of (i) above if it involves expenditure or the making of savings of an amount in excess of £1m for capital expenditure or £500,000 for revenue expenditure or, where expenditure or savings are less than the amounts specified above, they constitute more than 50% of the budget attributable to the service in question.

Financial Implications

Government previously changed the rules on discounts and exemption flexibility to deliberately allow billing authorities to raise additional income streams to mitigate the loss of support grant. The policy change will raise only a negligible amount of money per year, but is designed to encourage people to get houses into use. The policy's objective is to ensure, that for those who leave properties empty in the hope they will benefit from house price increases, the owners will see a significantly increase in the cost of holding that investment; hopefully stopping owners from leaving property empty purely to speculate on future house prices.

Implementing these further changes will link to our Housing Strategy which was reviewed as part of the implementation of the Welfare Reform Act changes which supports bringing properties back into use through a raft of different means to minimise residents unable to find affordable homes including:-

- reducing under occupied properties by offering downsized accommodation either within or outside of the borough
- offering incentives to free up council housing where tenants no longer wish to live in the borough
- incentives for private landlords via renovation grants to bring properties back into use for the rental market.
- redeveloping existing council property to increase the number of units
- support to private landlords via rental schemes or our letting agency

Performance Issues

Considering the small number of properties affected, there are no expected performance issues that need to be considered.

It should be noted however that the levy of a higher additional charge on long-term empty properties may encourage behaviours that will encourage property owners to find ways of avoiding payment of any additional charges. As such additional checks may need to be undertaken to verify and/or challenge such claims.

Environmental Impact

None

Risk Management Implications

A tax payer will be able to challenge the application of the premium charge if they are affected personally, by making an appeal to the Valuation Tribunal; a process which already exists and is already dealt with by Revenues staff through the normal operational procedures for council tax administration. This risk will therefore be managed by existing processes in place.

Equalities implications

When making this decision, Cabinet should have due regard to the public sector equality duty. Cabinet must take account of the equality duty and in particular any potential impact on protected groups.

Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Corporate Priorities

The report addresses the Council's corporate priorities as the change in policy will ensure additional monies are raised from council tax to support services. By increasing the Council's tax base it also ensures this is an on-going process which will continue delivering the extra funds in future years.

Section 3 - Statutory Officer Clearance

Name: Sharon Daniels	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 3 December 2018		
Name: Baljeet Virdee	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 4 December 2018		

Name: Nimesh Mehta	<input checked="" type="checkbox"/>	Head of Procurement
Date: 3 December 2018		

Ward Councillors notified:	NO
EqIA carried out:	Yes
EqIA cleared by:	Alex Dewsnap

Section 4 - Contact Details and Background Papers

Contact:

Fern Silverio (Head of Service – Collections & Housing Benefits),
Tel: 020-8736-6818 / email: fern.silverio@harrow.gov.uk

Background Papers:

None

**Call-In Waived by the
Chair of Overview and
Scrutiny Committee**

NO – CALL IN APPLIES