

# Cheltenham Borough Council

Council 16 December 2019

## Review of Council Tax Premium on Empty Properties

|                                 |   |
|---------------------------------|---|
| <b>Accountable member</b>       | <b>Councillor Rowena Hay</b>  |
| <b>Accountable officer</b>      | <b>Jayne Gilpin, Head of Revenues and Benefits</b>  |
| <b>Ward(s) affected</b>         | <b>All</b>  |
| <b>Key/Significant Decision</b> | <b>Yes</b>  |
| <b>Executive summary</b>        | <p>Ever since 2013 Councils have been able to use their discretion to charge additional council tax, a premium, to long term empty properties which have been unoccupied and unfurnished for more than 2 years. This Council first introduced the 50% premium from 1<sup>st</sup> April 2018. Following the introduction of revised legislation Council approved an increase in the premium to 100% from April 2019 with further incremental changes once properties have been empty for 5 and 10 years.</p> <p>Since April 2018 227 properties have become subject to the premium and 85 of these have become occupied. The purpose of this report is to approve the on-going level of the Empty Property Premium.</p> |
| <b>Recommendations</b>          | <p><b>Council is recommended to</b></p> <p><b>Approve the level of Council Tax Empty Homes Premium detailed in appendix 2 and as follows:</b></p> <ul style="list-style-type: none"><li><b>a) 100% in respect of properties which have been unoccupied and unfurnished for more than 2 years from 1st April 2020</b></li><li><b>b) 200% in respect of properties which have been unoccupied and unfurnished for more than 5 years from 1st April 2020</b></li><li><b>c) 300% in respect of properties which have been unoccupied and unfurnished for more than for 10 years from 1st April 2021</b></li></ul>   |

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| <b>Financial implications</b>  | <p>Point 4.6 shows the potential council tax that could be raised as a result of the proposals in this report.</p> <p>However, it should be noted that the actual council tax collected may be lower than the figures stated as owners of empty properties may bring them back in to use more quickly.</p> <p>These changes will also impact on the Housing Revenue Account as they will apply to council owned empty properties managed by Cheltenham Borough Homes.</p> <p><b>Contact officer: Paul Jones, Executive Director, Finance and Assets</b><br/> <a href="mailto:paul.jones@cheltenham.gov.uk">paul.jones@cheltenham.gov.uk</a>, 01242 264365</p> |
| <b>Legal implications</b>  | <p>Section 11b Local Government Finance Act 1992 (as amended) allows the Council to charge a council tax premium. Section 67(2) of that Act provides that the power to decide to introduce a premium can only be exercised by full Council.</p> <p>The Rating (Property in Common occupation) and Council Tax (Empty Dwellings) Act 2018 provides for the premium to be increased as detailed in 2.1 of the report</p> <p><b>Contact officer: sarah.farooqi@tewkesbury.gov.uk, 01684 272012</b></p>   |
| <b>HR implications (including learning and organisational development)</b> | <p>None</p>   |
| <b>Key risks</b>   | <p>As outlined in Appendix 1</p>  |
| <b>Corporate and community plan Implications</b>                           | <p>The proposal to increase the council tax premium will support the Council's priority to reduce the number of empty properties and increase the housing supply</p>  |
| <b>Environmental and climate change implications</b>                       |   |
| <b>Property/Asset Implications</b>   | <p>These changes will apply to any council owned empty properties</p> <p><b>Contact officer: Dominic Stead, Head of Property and Asset Management</b> <a href="mailto:dominic.stead@cheltenham.gov.uk">dominic.stead@cheltenham.gov.uk</a>, 01242 264151</p>  |

## **1. Background**

- 1.1 The Local Government Finance Acts of 2003 and 2012 introduced some amendments to the Local Government Finance Act 1992, giving discretionary powers for councils to set the level of council tax discount on empty properties.
- 1.2 Appendix 2 shows how the council is using its discretionary powers to set the various discount levels on empty properties including the premium
- 1.3 This Council decided to introduce the 50% empty homes premium in respect of properties which have been empty and unfurnished for more than 2 years from April 2018.
- 1.4 Further legislation came in to force from November 2018 allowing Councils to increase the premium to 100%, making the council tax charge double the usual amount. It also provided for the premium to increase further once a property has been continually empty for 5 and 10 years.
- 1.5 At the meeting on 10 December 2018, full Council unanimously agreed to increase the premium to the maximum level allowed.
- 1.6 Unoccupied and unfurnished properties are awarded a 25% discount for the first 6 months, followed by the full 100% liability once the 6 months has expired. The premium then becomes due once a property has been unoccupied and unfurnished for 2 years
- 1.7 The empty property classification starts when the property becomes unoccupied and unfurnished. It does not start again as a result of a change in owner or tenant.
- 1.8 Where a property is undergoing structural alterations a 25% discount can be awarded for up to 12 months. The discount period sits within the empty period.
- 1.9 If an empty property becomes occupied or furnished this must be for a period of at least 6 weeks before a new empty period starts and the 25% discount can apply.
- 1.10 The decisions made so far support the council's strategy to bring empty homes back in to use more quickly and generate additional council tax income.
- 1.11 Certain types of empty properties which are prescribed by legislation can qualify for a full exemption and are not classified as empty properties for the purpose of empty property charges. A list of these exemptions is shown in appendix 3.

## **2. Review of Empty Homes Premium**

- 2.1 The table below shows the level of premium set by this Council on 10 December 2018.

| Start date for level of premium | Properties which have been empty for 2 years or more | Properties which have been empty for 5 years or more | Properties which have been empty for 10 years or more |
|---------------------------------|--|--|---|
| From 1 <sup>st</sup> April 2018 | 50% premium<br>1.5 x council tax liability           | 50% premium<br>1.5 x council tax liability           | 50% premium<br>1.5 x council tax liability            |
| From 1st April 2019             | 100% premium<br>2 x council tax liability            | 100% premium<br>2 x council tax liability            | 100% premium<br>2 x council tax liability             |
| From 1 April 2020               | 100% premium<br>2 x council tax liability            | 200% premium<br>3 x council tax liability            | 200% premium<br>3 x council tax liability             |
| From 1 April 2021 onwards       | 100% premium<br>2 x council tax liability            | 200% premium<br>3 x council tax liability            | 300% premium<br>4 x council tax liability             |

**2.2** There are two exceptions provided for in legislation where the premium does not apply. These are

- Where the property is left empty by a serving member of the armed forces who is absent from the property as a result of such service
- Empty annexes

**2.3** No further exemptions are currently included.

**2.4** Since April 2018 when it was first introduced 227 properties have become subject to the premium. A breakdown of these properties is as follows

|            |  |
|------------|--|
| 227        | Properties have become subject to premium                                      |
|            | Of these:  |
| 85         | have become occupied   |
| 23         | Are being renovated, used as 2 <sup>nd</sup> homes or qualify for exemptions   |
| 7          | Have been demolished, merged with other units or are subject to business rates |
| <b>112</b> | <b>Properties are currently subject to the premium</b>                         |

**2.5** Of the 112 properties, 36 have been continually subject to the premium since April 2018. 18 of these will have been empty for 5 years on 1<sup>st</sup> April 2020 and will be liable to three times the council tax charge if the recommendation in this report is approved.

**2.6** The Government issued a guidance document in May 2013 when the premium was first introduced which is in appendix 4. The guidance was not updated following the change in legislation in 2018.

**2.7** The guidance suggests that Councils should decide whether to include properties which are genuinely on the market for sale or rent in their determination of properties subject to the premium.

- 2.8 The guidance is just guidance and is not binding. The majority of Councils, like Cheltenham, have not provided an exception for properties on the market for sale or rent.
- 2.9 In 2019/20, 299 out of 317 Councils are charging the premium. 82 of those charging the premium set at 50% and 217 have set the level at 100%. Random checks of 40 council websites have been made and only one of those checked excepted properties on the market for sale.
- 2.10 Letters were issued to all council tax payers subject to the premium advising them that Council would be considering the level of premium and inviting them to email any comments and issues. Information to this effect was also on the Council's website. These emails have been forwarded to all members prior to this meeting.

### **3. The Empty Homes Premium from April 2019**

- 3.1 Approval is being sought to continue charging the empty homes premium from 1st April 2020.
- 3.2 The level of premium being proposed, as detailed in 2.1 above and appendix 2 is the maximum allowed in legislation.
- 3.3 The exceptions provided for in legislation will continue to apply but no further exceptions are being proposed.

### **4. Reasons for recommendations**

- 4.1 The analysis in 2.9 above shows that more than half of the properties that become subject to the premium are subsequently either used differently or are occupied.
- 4.2 Government has reported that nationally, where Councils have been charging the premium consistently year on year, there has been a significant reduction in the number of homes being charged the premium.
- 4.3 Empty properties are reviewed regularly by the Revenues and Benefits Section and the Empty Homes Team.
- 4.4 With increased pressure to find housing for people in need the Council wants to encourage homeowners to bring long term empty homes into use to the benefit of all residents. Increasing the empty homes premium to the maximum allowed will send a clear message to owners that it is not acceptable to keep properties empty for long periods, often creating a local nuisance and wasting housing resource.
- 4.5 There are a number of enforcement options available to the Council to make owners bring empty homes back into use, for example, Empty Dwelling Management Orders and Compulsory Purchase Orders. Using these enforcement powers will be considered in individual cases, based on the circumstances.
- 4.6 Based on the current properties subject to the premium and the council tax level for 2019/20 the income generated from the premium set at 100% is approximately £19,000 for this Council, £119,000 for Gloucestershire County Council and £23,000 for the Police .

## 5. Alternative options considered

5.1 The alternative are as follows:

- Set the level of premium for long term empty properties to a lower level than recommended in this report.
- Set the premium at Zero
- Identify classes of property to be excepted from being charged the premium

5.2 These options do not provide any further incentive for property owners to bring properties back in to use

## 6. Consultation and feedback

6.1 As detailed in point 2.10 of this report comments received in respect of the premium have been made available to members.

6.2 There is a legal requirement for the Council to publish any decision using these powers in a local newspaper within 21 days of the decision.

6.3 Once a property is classed as unoccupied and unfurnished a letter is sent to explain how the charge escalates the longer the property is empty and the level of premium once it has been empty for 2 years. If Council approves the recommendation in this report the Council Tax team will contact all council tax payers likely to be subject to the premium from April 2020 to advise them. This will be done before the end of January.

## 7. Performance management – monitoring and review

7.1 The impact of the premium will be monitored closely by the Revenues and Benefits team.

7.2 The empty property discount classes and the premium will be reviewed and further changes will be considered as required.

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| <b>Report author</b> | <b>Contact officer: Jayne Gilpin,<br/>Jayne.gilpin@cheltenham.gov.uk, 01242 264323</b>   |
| <b>Appendices</b>    | <ol style="list-style-type: none"><li>1. Risk Assessment</li><li>2. Council Tax discounts on empty properties</li><li>3. List of statutory exemptions for certain empty properties</li><li>4. Guidance Document on Empty Homes Premium</li></ol> |

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| <p><b>Background information</b></p> | <ol style="list-style-type: none"> <li>1. The Local Government Finance Act 1992<br/><a href="http://www.legislation.gov.uk/ukpga/1992/14/contents">http://www.legislation.gov.uk/ukpga/1992/14/contents</a></li> <li>2. The Local Government Act 2003<br/><a href="http://www.legislation.gov.uk/ukpga/2003/26/contents">http://www.legislation.gov.uk/ukpga/2003/26/contents</a></li> <li>3. The Local Government Finance Act 2012<br/><a href="http://www.legislation.gov.uk/ukpga/2012/17/contents">http://www.legislation.gov.uk/ukpga/2012/17/contents</a></li> <li>4. The Council Tax (Prescribed Class of Dwellings (England) Regulations 2003<br/><a href="http://www.legislation.gov.uk/uksi/2003/3011/contents/made">http://www.legislation.gov.uk/uksi/2003/3011/contents/made</a></li> <li>5. The Council Tax (Prescribed Class of Dwellings (England) Regulations 2012<br/><a href="http://www.legislation.gov.uk/uksi/2012/2964/contents/made">http://www.legislation.gov.uk/uksi/2012/2964/contents/made</a></li> <li>6. The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012<br/><a href="http://www.legislation.gov.uk/uksi/2012/2965/contents/made">http://www.legislation.gov.uk/uksi/2012/2965/contents/made</a></li> <li>7. Report to council 11/12/2017 – Council Tax Premium on Empty Properties<br/><a href="https://democracy.cheltenham.gov.uk/ieListDocuments.aspx?CId=143&amp;MId=2706&amp;Ver=4">https://democracy.cheltenham.gov.uk/ieListDocuments.aspx?CId=143&amp;MId=2706&amp;Ver=4</a></li> <li>8. The Rating (Property in Common occupation) and Council Tax (Empty Dwellings) Act 2018<br/><a href="http://www.legislation.gov.uk/ukpga/2018/25/contents/enacted">http://www.legislation.gov.uk/ukpga/2018/25/contents/enacted</a></li> </ol> |
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| The risk  |   |              |             | Original risk score (impact x likelihood) |                |       | Managing risk |   |          |                     |                              |
|-----------|---|--------------|-------------|---|----------------|-------|---------------|---|----------|---------------------|------------------------------|
| Risk ref. | Risk description  | Risk Owner   | Date raised | Impact 1-5                                | Likelihood 1-6 | Score | Control       | Action  | Deadline | Responsible officer | Transferred to risk register |
|           | If it becomes difficult to collect the higher council tax or owners use tactics to avoid the premium then the estimated additional income may not be fully realised | Jayne Gilpin | 16/12/2019  | 1   | 3              | 3     | Accept        | Monitor and review  |          | Jayne Gilpin        |                              |
|           | If owners continue to leave properties empty the number of long term empty properties will not reduce   | Jayne Gilpin | 16/12/2019  | 2   | 3              | 6     | Accept        | Monitor and consider enforcement action in individual cases |          | Jayne Gilpin        |                              |
|           |   |              |             |   |                |       |               |   |          |                     |                              |
|           |   |              |             |   |                |       |               |   |          |                     |                              |
|           |   |              |             |   |                |       |               |   |          |                     |                              |

**Explanatory notes**

**Impact** – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

**Likelihood** – how likely is it that the risk will occur on a scale of 1-6  
 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

**Control** - Either: Reduce / Accept / Transfer to 3rd party / Close

**Guidance**

Types of risks could include the following:

- Potential reputation risks from the decision in terms of bad publicity, impact on the community or on partners;
- Financial risks associated with the decision;
- Political risks that the decision might not have cross-party support;
- Environmental risks associated with the decision;
- Potential adverse equality impacts from the decision;



- Capacity risks in terms of the ability of the organisation to ensure the effective delivery of the decision
- Legal risks arising from the decision

Remember to highlight risks which may impact on the strategy and actions which are being followed to deliver the objectives, so that members can identify the need to review objectives, options and decisions on a timely basis should these risks arise.

**Risk ref**

If the risk is already recorded, note either the corporate risk register or TEN reference

**Risk Description**

Please use “If xx happens then xx will be the consequence” (cause and effect). For example “If the council’s business continuity planning does not deliver effective responses to the predicted flu pandemic then council services will be significantly impacted.”

**Risk owner**

Please identify the lead officer who has identified the risk and will be responsible for it.

**Risk score**

Impact on a scale from 1 to 5 multiplied by likelihood on a scale from 1 to 6. Please see risk [scorecard](#) for more information on how to score a risk

**Control**

Either: Reduce / Accept / Transfer to 3rd party / Close

**Action**

There are usually things the council can do to reduce either the likelihood or impact of the risk. Controls may already be in place, such as budget monitoring or new controls or actions may also be needed.

**Responsible officer**

Please identify the lead officer who will be responsible for the action to control the risk.

For further guidance, please refer to the [risk management policy](#)

**Transferred to risk register**

Please ensure that the risk is transferred to a live risk register. This could be a team, divisional or corporate risk register depending on the nature of the risk and what level of objective it is impacting on