

CABINET

**COUNCILLOR GARETH LYON
CORORATE AND DEMOCRATIC SERVICES AND
PORTFOLIO HOLDER
REPORT NO. FIN1907**

5 FEBRUARY 2019

KEY DECISION? ~~YES~~/NO

**COUNCIL TAX EMPTY PROPERTY PREMIUM CHARGE 2019/20 AND
COUNCIL TAX DISCOUNT – PROPERTIES UNDERGOING MAJOR REPAIR
OR STRUCTURAL ALTERATION**

SUMMARY AND RECOMMENDATIONS:

SUMMARY

Council Tax - Empty Homes Premium Charge

Since 2013, Councils have been able to use their discretion to charge an additional 50% of a properties Council Tax liability as a premium, on long-term empty properties, which have been unoccupied and unfurnished for more than 2 years. This charge is known as the Council Tax Empty Homes Premium Charge (premium charge).

Rushmoor BC applied this premium charge of 50% from 1 April 2013.

New legislation has been introduced allowing billing authorities to increase the premium charge over three incremental changes from 1 April 2019. These increases are as follows:-

- 1) Empty Homes Premium increased to 100% from 1 April 2019 for those properties which are empty for two years and over (200% Council Tax becomes payable).
- 2) Empty Homes Premium increased to 200% premium from 1 April 2020 for those properties which are empty for five years and over (300% Council Tax becomes payable); and
- 3) Empty Homes Premium increased to 300% premium from 1 April 2021 for those properties, which are empty for 10 years and over.

The Government has explained that the reason for these changes is to help reduce the number of long-term empty properties, as it will give local authorities the tools to increase the Council Tax Charge adding an incentive for owners of long-term empty homes to bring them back into use.

This report seeks approval to increase the premium charge in line with the incremental changes outlined in points 1), 2) and 3) above.

This report also seeks approval of a Council Tax Empty Homes Policy, which

details what discounts or exemptions empty properties are entitled to and under what circumstances the premium charge may be waived, for example, where an owner has been actively trying to sell the empty property on the open market.

Council Tax Discount – Properties undergoing major repair work or structural alteration.

This report also seeks approval for properties that are empty and unfurnished and undergoing major repair work or structural alteration, that the discount is changed back to 50% discount for 12 months, for adoption through full council.

RECOMMENDATIONS

Cabinet are recommended to:-

- 1) Approve an increase in the amount of Council Tax Empty Homes Premium charged for long-term empty properties from 1 April 2019 to 100%, 1 April 2020 to 200% and 1 April 2021 to 300%, for adoption through Full Council.
- 2) Approve the Council Tax Empty Homes Policy, which details the amount of Council Tax Charged for empty properties, and in what instances a resident can appeal against the premium charge.
- 3) Delegate the responsibility to waive the premium charge in certain circumstances and resolve disputes to the Executive Head of Financial Services, in consultation with the Corporate and Democratic Services Portfolio Holder.
- 4) Approve the level of discount for homes that are empty due to undergoing major repairs or structural alterations back to 50% discount for 12 months, for adoption through full Council.

1. INTRODUCTION

- 1.1 The council has power to vary the level of certain council tax discounts, and to introduce local discounts as well as imposing an Empty Homes Premium for properties, which have been empty for a period in excess of two years. This report details proposed changes to the premium charge from 1 April 2019.
- 1.2 Recent legislation now allows the council to charge a higher premium for long-term empty properties, which can increase further depending on how long a property has been empty.

2. BACKGROUND

- 2.1 The Local Government Finance Act 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.

- 2.2 As a result of this flexibility, the council currently award the discounts outlined in paragraphs 2.3 and 2.4 for properties which are unoccupied and unfurnished and properties that are unoccupied and unfurnished but undergoing major repair work or structural alteration.
- 2.3 Unoccupied and unfurnished properties are awarded a 100% discount for the first two months, followed by the full 100% liability once the two months have expired.
- 2.4 Properties, which are unoccupied and unfurnished and undergoing major repair work or structural alteration, are awarded a 50% discount for 6 months, followed by the full 100% liability once the 6 months have expired.
- 2.5 If these two categories of properties have been unoccupied and unfurnished for 2 years or longer, they are charged a premium charge of 50% on top of the 100% liability, meaning 150% of the Council Tax becomes payable. The premium charge of 50% was agreed at full Council on 23rd January 2013 and came into effect on 1 April 2013.

3. COUNCIL TAX (EMPTY DWELLINGS) ACT 2018

- 3.1 The Council Tax (Empty Dwellings) Act 2018 provides for the Council Tax Premium to be increased from 1 April 2019 as follows:-
- From 1st April 2019 – 100% premium (200% Council Tax Liability, for properties which have been empty for 2 years or more).
 - From 1st April 2020 – 200% premium (300% Council Tax Liability, for properties which have been empty for 5 years or more).
 - From 1st April 2021 – 300% premium (400% Council Tax Liability, for properties which have been empty for 10 years or more).
- 3.2 Approval is being sought to increase the premium charge in line with the incremental changes outlined in paragraph 3.1.
- 3.2 The premium charge does not apply to any empty property qualifying for an exemption, for example whilst waiting for probate to be granted or where the owner is now in a care home.
- 3.3 Guidance provided by the former Department of Communities and Local Government (DCLG) in May 2013, has prescribed two further classes of properties, which are exempt from the premium charge. These are:-
- Military personnel who are absent from a property due to serving elsewhere; and
 - An annexe

- 3.4 The Government also expects billing authorities to consider the reasons why the properties are unoccupied and unfurnished, including whether they are available for sale or rent, and decide whether they want such properties to be included in their determination.
- 3.5 As a result of this guidance, a policy has been created to detail the level of Council Tax charged for an empty dwelling and in what circumstances a premium charge can be waived. See appendix 1.
- 3.6 To summarise, the policy contains the following:-

- The empty properties, which are exempt from Council Tax and where the council cannot make any amendments to the amount payable.
- The discounts empty properties are entitled to where the Council can make variations to the amount payable.
- Instances where the council is not entitled to impose a premium charge.
- Discretionary powers to waive the premium charge
- How to request a waiver from the premium charge.

Any decision to waive the premium charge and to resolve disputes shall be delegated to the Executive Head of Finance in consultation with the Corporate and Democratic Services Portfolio Holder, in line with the recommendations by the former DCLG and outlined in the Council's Council Tax Empty Homes Policy.

- 3.7 Full details of this guidance can be found at the following web link: <https://www.gov.uk/government/publications/council-tax-empty-homes-premium>

Reasons for Recommendations

- 3.8 The intention of the change is to encourage owners of long-term empty properties to bring them back into use. This also meets the council's aims and those of the Council's corporate empty homes group.
- 3.9 Empty properties as well as serving no useful purpose often attract a disproportionate amount of public resources. Sometimes becoming an environmental nuisance or the target for anti-social behaviour and neighbour complaints.
- 3.10 There is a shortage of homes both locally and nationally. Through charging the maximum permitted by the legislation, it is hoped that owners of empty properties are going to be more likely to bring their empty properties back into use more quickly than under the current charges, therefore providing more housing locally.

- 3.11 Any of the additional income received can be used for services within Rushmoor.
- 3.12 The Corporate Empty Homes Group welcomes the increase to the premium charge, which it hopes will have a positive impact to support bringing empty properties back into use.

4 ALTERNATIVE OPTIONS

- 4.1 The council could choose to leave the level of Premium Charge at 50% or even remove the premium charge altogether.
- 4.2 However, by removing the premium charge or leaving it at the current rate, it could have a detrimental impact on bringing long-term empty properties back into use if the financial incentive is lost.

5 CONSULTATION

- 5.1 A public consultation is not required before making any changes to the long-term empty home premium charge.

6. IMPLICATIONS

Legal Implications

- 6.1 The legal provision to charge Council Tax on empty properties is contained within the Local Government Act 1992 and 2012 and their association regulations.
- 6.2 The Council Tax (Empty Dwellings) Act 2018 provides for an increase to the Council Tax Premium charge as outlined in paragraph 3.1.
- 6.3 There is no legal requirement to consult with residents regarding the increase to the premium charge; however, there is a legal requirement for the Council to publish a decision to begin using these powers, in a local newspaper within 21 days of the decision.

Financial and Resource Implications

- 6.4 Table 1 shows the number of properties affected and the additional income raised since the premium charge was applied in April 2013. Table 2 show what the additional income raised would have been if the premium charge was a 100%. These tables also demonstrate the number of accounts that are in arrears and the value of these arrears.
- 6.5 Table 1 shows that the council would have raised an additional £251k, of which, £32k would be retained by the Council..

6.6 Table 2 shows that if the premium charge was set at 100%, then the additional income raised would have been £502k, of which, 64k would be retained by the council.

6.7 These tables also reflect that on average, 126 properties have been charged the premium charge year on year from April 2013 and only 4 accounts, remain in arrears.

Table 1

Year	Number of Accounts	Value of Premium Charge (£)	Amount Retained by RBC (£)	Number of Accounts in Arrears	Value of Arrears (£)
2013	131	50,637	6,482	2	2,105
2014	138	53,587	6,859	4	5,078
2015	80	35,980	4,605	4	4,589
2016	117	47,903	6,132	5	5,426
2017	165	63,389	8,114	5	6,212
Total	631	251,497	32,192	20	23,409
Average	126	50,229.34	6,438.32	4	4,682

Table 2

Year	Number of Accounts	Value of Premium Charge (£)	Amount Retained by RBC (£)	Number of Accounts in Arrears	Value of Arrears (£)
2013	131	101,274.94	12,963.19	2	4,209
2014	138	107,174.22	13,718.30	4	10,156
2015	80	71,959.50	9,210.82	4	9,177
2016	117	95,806.04	12,263.17	5	10,852
2017	165	126,778.68	16,227.67	5	12,424
Total	631	502,993.38	64,383.15	20	46,819
Average	126	100,598.68	12,876.63	4	9,363.75

6.8 These tables also indicate that the number of long-term empty properties has not reduced since the introduction of the premium charge.

6.9 It is hoped that by increasing the amount of the premium charge to the maximum amount possible, this will encourage owners of properties to bring these properties back into use due to the significant financial implications.

6.10 It is important to note that at present, there are currently 110 domestic properties attracting the premium charge. However, 57 of these form part of the North Town Regeneration site and are due to be demolished before

31 March 2019. Therefore, this will affect the income received from the properties subject to the premium charge. This leaves 52 properties still subject to the premium charge.

6.11 Of the 52 remaining properties, these have been empty for the following number of years:-

- 2-5 years = 24 properties
- 5-10 years = 15 properties
- Over 10 years = 13 properties

6.12 The property that has been empty for the longest is being recorded on Council Tax records as having been empty for 26 years. However, this is as far back as our Council Tax Records go back so it is possible that this property has been empty for longer.

6.13 Of the 13 properties that have been empty in excess of 10 years; this is broken down by the number of years.

- 10 years = 1 property
- 11 years = 2 properties
- 12 years = 1 property
- 13 years = 1 property
- 14 years = 5 properties
- 17 years = 1 property
- 22 years = 1 property
- 24 years = 1 property
- 26 years = 1 property

7 RISKS

7.1 The implementation of the 50% premium charge in 2013/14 prompted a number of complaints from affected taxpayers. It is likely that any increase in the premium charge to 100% will have the same affect.

7.2 However, the number of complaints received is likely to be negligible against the potential number of properties that could be brought back into use. As outlined in paragraph 8.1, less than one percent of the properties in Rushmoor will be affected by this change.

7.3 The income generated from the increased premium charge may be less than that estimated in the report. The intention of the premium is to bring long-term empty properties back into use, so if the policy change is successful it will result in fewer properties paying the premium charge. However, it is not the additional income that is the driver for this change.

8 IMPACT ON RESIDENTS

- 8.1 The number of properties affected by the proposed change to the premium charge would be an average of 52 per annum (after removing those properties owned by Vivid Housing). This is against 40,353 properties in the borough. This would therefore, only affect a very small number of residents in the borough, approximately 0.2%.
- 8.2 However, all residents in the borough would benefit from these changes because:-
- Trying to discourage empty homes to free up housing
 - Empty properties as well as serving no useful housing purpose often attract a disproportionate amount of public resources. Sometimes becoming an environmental nuisance or the target for anti-social behaviour and neighbour complaints.
- 8.3 If the Council approves the recommendation the Revenues Ream will contact all Council Tax Payers likely to be affected by the revised empty homes premium from April 2019 to advise them of the change.
- 8.4 The Revenues and Benefits Service have devised a policy allowing them to waive the premium charge in certain circumstances.

9 COUNCIL TAX DISCOUNT – PROPERTIES UNDERGOING MAJOR REPAIR WORK

- 9.1 Under the Local Government Finance Act 1992, as amended, properties that are undergoing major refurbishment or structural alteration were exempt payment of Council Tax for twelve months, 100% of the Council Tax became payable thereafter.
- 9.2 The Local Government Finance Act 2012 amended this legislation and as a result, this exemption was abolished and gave discretionary powers for councils to set their own level of Council Tax discount on these properties.
- 9.3 On 23 January 2013, the Council determined that properties undergoing major repair work or structural alteration, would receive a discount of 50% for 12 months and then 100% Council Tax becomes payable, effective from 1 April 2013
- 9.4 On 30 January 2018, following the advice from the Revenues and Benefits Service, the Council determined to reduce the discount further so that 50% would be awarded for 6 months and then 100% Council Tax becomes payable, effective from 1 April 2018.
- 9.5 However, since the length of discount was reduced to 6 months, it has come to light, that it is, and remains, Governments intention that although local authorities are able to vary the percentage reduction awarded for these properties, or remove the discount altogether, local authorities are unable to vary the period of time that this discount is awarded for.

- 9.6 The number of discounts awarded under this new discount is low affecting 21 customers to a total value discount amounting to £4k.
- 9.7 If the Council approves the recommendation to move the discount back to 50% for 12 months, the Revenues team will contact all Council Tax Payers affected by this discount and award them their revised entitlement.
- 9.8 All future discounts will then be awarded at 50% for 12 months and this discount will be reviewed during the financial year 1 April 2019 – 31 March 2020.

10 CONCLUSIONS

- 10.1 In conclusion, the Cabinet is asked to approve the increase in the Empty Home Premium Charge as recommended in this report.
- 10.2 Approve the Council Tax Empty Homes Policy.
- 10.3 Delegate the responsibility to waive the Empty Homes Premium Charge in certain circumstances to the Executive Head of Finance in consultation with the Corporate and Democratic Services Portfolio Holder.
- 10.4 Approve the level of discount for homes that are empty due to undergoing major repairs or structural alterations back to 50% discount for 12 months, for adoption through full Council.
- 10.5 The Corporate and Democratic Services Portfolio Holder is supportive of these changes.

BACKGROUND DOCUMENTS:

Local Government Finance Act 1992

Local Government Finance Act 2012

Council Tax (Empty Dwellings) Act 2018

Council Tax – Empty Homes Premium. Guidance for properties for sale or letting

Council Tax Empty Homes Policy

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APPENDIX 1

Council Tax Empty Homes Policy

Council Tax Empty Property Charges

Some empty properties are exempt or receive a discount for Council Tax purposes. This means that a reduced amount of Council Tax is payable in respect of these properties. There are various classes and circumstances under which a property can be made exempt or receive a discount. These are listed below with a definition. These notes are for guidance only, further information can be obtained from the Council Tax Team on 01252 398912.

If a property has been unoccupied and unfurnished for a continuous period of two years or longer, then the property will be subject to a Council Tax Empty Homes Premium Charge of 100%. This is on top of the 100% liability, meaning 200% of the Council Tax will become payable.

If your bill indicates that a discount or exemption has been allowed, you must tell the Council within 21 days of any change of circumstances, which affects your entitlement.

EXEMPTIONS

The table below shows exemptions for *unoccupied* dwellings:

CLASS	DEFINITION OF EXEMPTION
A	No exemption class from 01/04/2013 – see discounts overleaf
B	Empty and owned by charities (time limit of 6 months)
C	No exemption class from 01/04/2013 – see discounts overleaf
D	Left unoccupied by persons in detention (except for non-payment of Council Tax)
E	Left unoccupied by long-term patients in hospitals or care homes
F	Left unoccupied by deceased person (for up to 6 months after probate)
G	Unoccupied where occupation is prohibited by law
H	Unoccupied pending use by a Minister of Religion
I	Left unoccupied by people receiving care
J	Left unoccupied by people providing care
K	Left unoccupied by student(s) where the student(s) remain liable
L	Unoccupied where the mortgagee is in possession
Q	Unoccupied in the possession of a trustee in bankruptcy
R	Unoccupied caravan pitch or house boat mooring
T	Unoccupied Annexe which cannot be let separately without a breach of the Town & Country Planning Act

DISCOUNTS FROM 01 APRIL 2019

The table below shows discounts for **unoccupied** dwellings:

Property that is undergoing major structural repair works or structural alterations	50% discount for 12 months; then full Council Tax is payable
Property that is unoccupied and unfurnished	100% discount for 2 months; then full Council Tax is payable
Empty Property Premium	100% premium added to Council Tax where a property has been unoccupied and unfurnished for longer than two years.
Second Home Discount	No discount applicable. (Unless you leave a property empty because you are required to live somewhere else for work purposes, when you may be entitled to a 50% discount).

Exemption from the 100% empty homes premium

Two classes of property are exempt from the Council Tax Empty Premium Charge (premium charge). These are:-

- A property which was previously the sole or main residence of a member of the armed forces who is absent from the property as a result of such service; and
- An annexe, which is unoccupied because it is being used by the occupier as part of the main property.

Discretionary power to waive the empty premium charge in exceptional circumstances.

The premium charge is calculated from two years after the property became unoccupied and unfurnished. This may be before the current owner became liable for the property so the owner is liable for the charge when the two-year anniversary is reached, regardless of when their ownership of the property began.

There are exceptional circumstances in which we will consider waiving the premium charge:

- **Properties left to someone in a will and in need of renovation** – only where the new owner has taken action to return the property to occupation

within a period of six months from taking ownership and can provide evidence that the action has been continuous and realistic.

- **Properties for sale or rent** – only where the owner has taken genuine action to ensure the property will sell or let in local market conditions (realistic selling price or rent level) and advertised on the open market through an estate agent registered with the National Association of Estate Agents.
- **Properties with a restrictive covenant** – only where the owner is genuinely seeking to sell or rent the property in the local market conditions (realistic or selling price or rent level) advertised on the open market through an estate agent registered with the National Association of Estate Agents.

All requests for a waiver must be made in writing and sent to:

Rushmoor Borough Council
Local Taxation Section
Council Offices
Farnborough Road
Farnborough
Hampshire
GU14 8AB

Or e-mailing localtax@rushmoor.gov.uk

All requests must include documentary evidence showing genuine, continuous and realistic action is being taken to bring the property into occupation.

We will not waive the premium charge where evidence suggests that the owner hasn't taken all possible steps to return the property to occupation.

In the case of property for sale or rent, we will not waive the premium charge where evidence suggests that the owner has not taken reasonable steps to sell or let the property. Furthermore, we will not waive the premium charge if the asking price is too high and in the case of a property for rent, we will not waive the premium charge where evidence suggests that the rent is too high.

If a waiver is granted within the conditions stated in this policy, a review will be carried out every 6 months to ensure that the waiver should continue. If the conditions for the waiver are no longer in place the full charge will be reinstated and may be backdated if there is evidence to support this.

Any periods of occupation of six weeks or less will be disregarded when considering how long a property has been empty. Periods of occupation for six weeks or less will not give rise to a further period of discount or start a new period of two years before charging the premium charge.