
Subject: COUNCIL TAX PREMIUM FOR LONG-TERM EMPTY PROPERTIES DIRECTLY IMPACTED BY COVID-19

Meeting and Date: Cabinet – 7 September 2020

Report of: Mike Davis, Strategic Director (Corporate Resources)

Portfolio Holder: Councillor Chris Vinson, Portfolio Holder for Finance, Governance and Digital

Decision Type: Non-Key Decision

Classification: Unrestricted

Purpose of the report: To provide temporary relief from the 200% Council Tax premium on long-term empty properties impacted by Covid-19.

Recommendation: It is recommended that Cabinet uses the Council's discretion under Section 13A 1(c) of the Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012) to reduce the additional Council Tax premium charged on properties empty for over 5 years from 200% to 100% for the period from 1 April 2020 to 30 June 2020 provided the property has been occupied by 30 September 2020 subject to individual Council Tax payers meeting the eligibility and qualification criteria set out in sections 9 and 10 of this report and complying with the application process, evidential requirements and award conditions set out in sections 8, 11 and 12 respectively of this report.

1. Summary

- 1.1 Dover District Council currently charges a council tax premium on properties that are classed as 'long term empty' (see explanation in subsequent paragraphs). This premium was designed to encourage property owners to get properties back into use as soon as possible. From 1 April 2020, where a property has been unoccupied and unfurnished for 5 years or more, the premium is 200% (therefore the liable person pays 'normal' council tax plus the further 200%, making the full charge 300%).
- 1.2 Although the Council does not want to reduce the incentive to bring long-term empty properties back into use, it is recognised that the lockdown introduced by the government to reduce the spread of Covid-19 will, in some cases, have inhibited the completion of building works and/or the letting of properties. The Council therefore proposes to waive the recently introduced additional 100% premium (making a total of 200%) on properties empty for 5 years or more, for the first quarter of 2020/21, if the properties are subsequently let by 30 September.

2. Introduction and Background

- 2.1 Section 12 (2) of the Local Government Finance Act 2012 allowed local authorities to set a council tax rate for long-term empty properties of up to 150% of the normal liability from 1 April 2013. Dover District Council did not introduce the additional premium until 2019, which, by then, had increased to a 100% premium (200% Council Tax is payable). A 'long-term empty property' must have been unoccupied and substantially unfurnished for at least two years.

- 2.2 The premium may be applied when a given property has been empty for two years or more, irrespective of how long its current owner has owned it. Therefore, it is possible for an individual to become the owner (buy, inherit, be gifted etc) of a property which has already been empty for two years and be liable for the premium immediately. This scenario may occur if, for instance, the individual does not occupy the property immediately because they wish to extend or renovate the property.
- 2.3 If the property is occupied for a period of six weeks or less, it is regarded as not having been occupied for the purposes of the two-year period. Occupancy of a long-term empty property for more than six weeks 'resets the clock' for this purpose.

3. Changes to the Long-term Empty Premium in 2019 and Relevant Legislation

- 3.1 The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 amends section 11B of the LGFA 1992 and increases the premium's maximum level to 100% for 2019, and 200% from 2020 as follows:

Premium rate	Properties affected	Date from
100% (200% Council Tax)	Properties empty 2 years but less than 5 years	1 April 2019
200% (300% Council Tax)	Properties empty 5 years or more	1 April 2020

4. Approval of the Empty Property Premium

- 4.1 On 29 January 2020 the Council approved, under Section 11B of the Local Government Finance Act 1992 (as amended by the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018), increasing the maximum premium for Council Tax that can be charged for unoccupied and unfurnished properties (as detailed in the table above).
- 4.2 Section 11B of the Local Government Finance Act 2012 states in part 5 –
(5) A billing authority may make a determination varying or revoking a determination under this section for a financial year but only before the beginning of the year.
- 4.3 The Regulations therefore state there can be no changes to the premium within the financial year.
- 4.4 That being the case, the council will need to consider an alternative way of helping council taxpayers, in appropriate cases. How can this be achieved?

5. The Billing Authority's Power to Reduce Amount of Council Tax Payable

- 5.1 Section 13A 1(c) of the Local Government Finance Act 1992 (as amended by the Local Government Finance Act 2012) permits billing authorities to reduce the amount of Council Tax that a person is liable to pay to an extent to which they see fit. This includes the power to reduce an amount to nil.
- 5.2 This may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced. The cost of any such reduction is to be borne 100% by the billing authority, even though, in the case of DDC, we only retain circa 10% of the Council Tax collected.
- 5.3 This is the recommended approach for the temporary changes to the empty property premium for those customers, directly impacted by the COVID 19 pandemic, who, on 1 April 2020, have been subject to the increase in empty property premium of 200% (300% total Council Tax charge), and were unable to bring their property back into use from 1 April 2020 to 30 June 2020.

5.4 Those customers who are able to provide sufficient information and evidence to the council¹ to demonstrate that they were unable to bring their empty property back into use, or to sell it, during the period 1 April 2020 – 30 June 2020, will not be charged the 200% premium for that period, but will instead be charged the 100% premium (effectively putting them on an even footing with the charge for properties empty 'for 2 years but less than 5 years').

6. How Many Customers are Likely to be Affected?

6.1 The numbers will be very small when compared to the overall council tax base. There are, at the time of writing, 40 customers who have been subject to the 200% premium from 1 April 2020 and were still liable for it on 30 June 2020. Worst case scenario costs for these cases are set out in the options appraisal later in this report.

7. How the Scheme Would Work

Application process

7.1 A letter/e-mail will be sent to all customers who have been subject to the new increase in long term empty premium from 1 April 2020 (who were still subject to that premium on 30 June 2020) inviting an application. The letters will invite an application for relief from the additional 100% premium. There will be a formal application process, which will only be available on-line. A form must be completed and evidence uploaded by 31 October 2020.

7.2 The processing of the application and implementation of the decision will be a manual process managed by the Council Tax Manager and Compliance Team Leader. The temporary financial assistance given to customers will be a council tax write-off under Section 13A 1(c) and therefore approval of the write-off should be made by EKS or DDC officers.

8. **Customers eligible to apply**

8.1 The following person(s) would be eligible to apply:

- Customers who have been subject to the new increase in long term empty premium from 1 April 2020, who are still subject to that premium on 30 June 2020.
- Customers must be the person/company responsible for paying the Council Tax for a property subject to a long-term empty premium.

9. **Qualifying criteria**

9.1 Customers must be able to provide and upload evidence supporting that COVID 19 emergency arrangements were a direct impact to them in –

- building work ceasing resulting in a failure to bring the property back into use;
- letting agents unable to or delayed in undertaking their normal arrangements to rent the property to tenants;
- estate agents being unable to or delayed in marketing and/or selling the property
- confirmation that the property was occupied or sold by 30 September 2020.

Note – where the property is sold and not occupied, the premium will continue to be charged at 200% for the new owner and there will be no reduction granted to them.

¹ Under the Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) (Amendment) (England) Order 2013, Section 13A 1 (c) reduction of Council Tax liability is not a function that can be delegated to contractors and so the decisions will be taken by EKS or DDC officers based on information and advice provided by Civica.

10. **Acceptable evidence**

10.1 Acceptable evidence is as follows:

- Evidence of building works required to the property and confirmation from the builders that the delay or failure to complete is a direct result of the COVID19 emergency procedures;
- Correspondence from the managing agents or letting agents confirming that the property was due to be let but this failed as a result of COVID19 emergency procedures;
- Correspondence from the managing agents or letting agents confirming that the property was delayed in being let out due to COVID19 emergency procedures;
- Correspondence from the estate agents confirming that as a direct result of COVID19 emergency procedures, the property could not be marketed for sale;
- Correspondence from the estate agents confirming that the sale of the property was placed on hold as a result of COVID19 emergency procedures;
- Correspondence from the customers solicitor that confirms the sale of the property was placed on hold as a result of COVID19 emergency procedures.

11. **The award**

11.1 If the above criteria are met and evidence provided, customers will be advised their application is successful and a hold placed on all payments and the account until the property is brought back into use. Should the application not be successful, customers will be written to (or e-mailed) with an explanation of why the award cannot be made.

- The reduction will not be immediately applied, as if the property is not occupied or sold by the relevant time of 30 September 2020, we would have to then apply the charge again.
- The premium for the period of 1 April 2020 through to 30 June 2020 will be reduced from 200% to 100% (200% Council Tax payable) to bring in line with the long-term empty premium for properties unoccupied and unfurnished for 2 years or more.
- The award will not be applied to the account until further confirmation is received that the property is occupied or sold, which must be confirmed at the latest by 31 October 2020.
- Once confirmation that the property is sold or occupied is received, the award will be applied and the remaining balance on the Council Tax account shall be payable by no later than 31 March 2021.
- Failure to bring the property back into use by occupation or the sale of the property by 30 September 2020 will mean the application is null and void and no award will be applied. The hold will be removed from the account and instalments re-instated for payment by 31 March 2021.
- The account will then be monitored 6 weeks from 30 September 2020 to ensure that occupation exceeds the 6 weeks rule. If it does not, the original award will be removed and the customer re-billed.

12. **Identification of Options**

Option 1

12.1 Reduce the premium on properties empty for 5 years or more from 200% to 100% (the premium they have been paying already).

Option 2

12.2 Reduce the premium on properties empty for 5 years or more from 200% to 0% then the maximum cost would be £31,000 for one quarter, or £124,000 for a whole year.

13. **Evaluation of Options**

Option 1

- 13.1 The maximum cost to Dover DC would be £15,500 for one quarter's relief (1 April 2020 – 30 June 2020), or £62k for a whole year. This would also place long term empty property owners onto the same footing as short term empty property owners. This is also the same basis that they have been on for some time and does not implement the increase that coincided with the lockdown. The cost to the Council is also reasonable and proportionate.
- 13.2 For these reasons this is the preferred option.

Option 2

- 13.3 Reduce the premium on properties empty for 5 years or more from 200% to 0% then the maximum cost would be £31,000 for one quarter, or £124k for a whole year.
- 13.4 If option 2 is adopted then these customers would then be paying less than those with unoccupied and unfurnished properties for 2 years or more but less than 5 years. This outcome would be perverse and expensive. For these reasons this is not the preferred option.

14. Resource Implications

- 14.1 The cost of the proposed scheme is £15.5k if all eligible Council Taxpayers apply. The costs will be met from the Council's contingency fund.

15. Corporate Implications

- 15.1 Comment from the Strategic Director (Corporate Resources): The Director has been involved in the production of this report and has no additional comments (MD).
- 15.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.
- 15.3 Comment from the Equalities Officer: This report does not specifically highlight any equality implications, however in discharging their duties members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>.

16. Appendices

None.

17. Background Papers

None.

Contact Officer: Mike Davis, Strategic Director (Corporate Resources)