

Cabinet

10 July 2019

**Review of the Council Tax Long Term
Empty Premium Charges**

Ordinary Decision



Report of Corporate Management Team

John Hewitt, Corporate Director, Resources

Councillor Alan Napier, Cabinet Portfolio Holder for Finance

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To consider the opportunities, risk and issues associated with reviewing the Council's policy in terms of Empty Homes Discounts and the policy of applying a 50% premium on properties which have been unoccupied and unfurnished for more than 2 years, where councils now have the power to:
 - (a) apply a maximum 100% premium on such properties (from April 2019); along with
 - (b) the power to apply a maximum 200% premium on properties which have been unoccupied and unfurnished for more than 5 years (from April 2020).
- 2 Seek permission to consult on changing the council's policy of charging a 50% premium on long term empty homes from April 2020.

Executive summary

- 3 Since April 2013, councils have been able to apply a maximum 50% Council Tax Premium on properties that have been unoccupied and unfurnished for more than 2 years.
- 4 In line with the majority of councils, Durham introduced the Premium charge from April 2013. This resulted in an initial sharp reduction in the

number of long term empty properties (approximately 33% in the first 6 months), after which the numbers have been fairly static, along with an increase in revenue to the council from those properties that were not brought back into use.

- 5 Following a change in legislation, which came into effect from April 2019, councils now have the power to charge a 100% Council Tax Premium for properties which have been unoccupied and unfurnished for more than 2 years and will be able to charge a 200% Premium on those properties which have been unoccupied and unfurnished for 5 years or more from April 2020.
- 6 To implement these powers the council would need to change its adopted policy on Long Term Empty Property Charges, the advantages of implementing these changes would be as follows:
 - (a) There will be a further incentive for the owners of long term empty properties to bring them back into use, potentially boosting the supply of properties available to rent in the County and making a positive impact on our Housing and Homeless strategies. The majority of long term empty properties are in the lowest Council Tax band (A), often in the more deprived areas of the County and could therefore be a useful source of affordable housing.
 - (b) In addition, where properties are not brought back into use there is a potential further increase in revenues to the council (£1.83 million if there was no reduction in the number of long term empty properties), providing the opportunity for MTFP savings.
- 7 The council could also consider applying the empty homes premium charge to long term empty properties which require or are undergoing major repair work to make habitable which the council currently charges at 100%, with no long term empty property premium levied. Charging 200% Council Tax on these properties (i.e. applying a 100% premium) could generate a further £26,000 in revenue.
- 8 Applying a Long Term Empty Property Premium encourages the owners of these properties to bring them back into use. This in turn makes a positive contribution to the Council Housing and Homelessness Strategies.
- 9 In April 2013, when the council introduced the current policy, there was a 33% reduction in the numbers of long term empty properties.
- 10 Increasing the premium provides a further financial disincentive for absent landlords to retain long term empty properties. However, the potential benefits of the proposals need to be considered in the context that in some areas where there is low demand for rental properties,

some owners may feel forced into letting properties to avoid paying the premium. In turn, this could result in property management problems where properties are let to unsuitable tenants.

Recommendation(s)

- 11 It is recommended that Cabinet:
- (a) note the change in legislation and the powers to increase the Council Tax empty homes premium charge;
 - (b) agree to consult over a 12 week period (July 2019 and October 2019) on the implementation of these powers by amending its Long Term Empty Property Charges Policy to increase the empty homes premium charge from April 2020 as follows:
 - (i) charge a 100% empty homes premium on properties that have been unoccupied and unfurnished for between two and five years at 1 April 2020;
 - (ii) charge a 200% empty homes premium on properties that have been unoccupied and unfurnished for five years or more at 1 April 2020; and
 - (iii) charge the empty homes premium on properties that have been unoccupied and unfurnished for two years or more that require or are undergoing major repairs.
 - (c) note that a further report will be presented to Cabinet in the autumn outlining the results of the consultation and making recommendations on any policy changes for 2020/21.

Background

- 12 Billing Authorities in England, Scotland and Wales have had the power to increase council tax on properties which have been 'unoccupied and substantially unfurnished' for a period of two years or more. This is known as the 'empty homes premium'. In England this was introduced in the Local Government Finance Act 2012 and was effective from 1 April 2013. It is for the billing authority (the district or unitary council) to decide whether to levy an empty homes premium.
- 13 From 1 April 2013, in England, billing authorities were given the powers to charge up to 150% on properties which had been unoccupied and substantially unfurnished for at least two years. A period of occupation of over six weeks qualifies as a break in the empty period, effectively 'resetting the clock' for the purposes of the empty homes premium.
- 14 Liability for the empty homes premium is determined by the length of time that the property has been empty and unfurnished. An individual who purchases a property in England which has already been empty for two years may be required to pay the premium as soon as they take ownership. Billing authorities are not required to apply a discount or exemption if the buyer subsequently renovates the house without living in it. Where an empty property has benefited from a discount or exemption from council tax, the two-year qualifying period for the empty homes premium begins from the date on which the property became empty, not from the date at which the discount or exemption ended.
- 15 In England, the empty homes premium cannot apply to homes that are empty due to the occupant living in armed forces accommodation for job-related purposes, or to annexes being used as part of a main property. In addition, guidance for local authorities in England, published in May 2013, stated:

'The government's intention behind the decision to provide billing authorities with the power to charge a premium was not to penalise owners of property that is genuinely on the housing market for sale or rent'.

'The government expects billing authorities to consider the reasons why 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'.
- 16 Applying a Long Term Empty Property Premium encourages the owners of these properties to bring them back into use. This in turn makes a positive contribution to the Council Housing and Homelessness Strategies.

- 17 In April 2013, when the council introduced the current policy, there was a 33% reduction in the numbers of long term empty properties.
- 18 Increasing the premium provides a further financial disincentive for absent landlords to retain long term empty properties. However, some owners may find it impossible to let properties where there is no demand and some owners of long term empty properties could feel forced into letting properties to avoid paying the premium, which could result in property management problems where properties are let to unsuitable tenants.

Legislative Changes – Additional Powers

- 19 From April 2013 to March 2019, the maximum empty homes premium that a local authority in England could set was 50% (effectively making the owner liable for a 150% Council Tax charge).
- 20 In the November 2017 Budget, the Chancellor announced the government's intention to legislate to bring the maximum charge for long term empty homes in England up to 200%, with the chancellor making the following statement:

'I want to address the issue of empty properties. It cannot be right to leave property empty when so many are desperate for a place to live, so we will legislate to give local authorities the power to charge a 100% council tax premium on empty properties'.
- 21 The Rating (Property in Common Occupation and Council Tax (Empty Dwellings) Act 2018 subsequently included provisions to implement this commitment and went further by incorporating the power to charge even higher premiums for properties which have been unoccupied and unfurnished for 5 years and 10 years.
- 22 Subsection 1A of Section 11B of LGFA 1992 amended this figure to 100% from 1 April 2019 (making the owner liable for a 200% Council Tax charge). Subsection 1B also incorporated provisions to charge an additional 200% premium on properties which have been unoccupied and unfurnished for 5 years or more from 1 April 2020 (making the owner liable for a 300% Council Tax charge) and (subject to further legislative changes) a 300% premium on properties which have been unoccupied and unfurnished for 10 years or more from 1 April 2021 (making the owner liable for a 400% Council Tax charge).
- 23 Billing authorities (district and unitary councils) have the discretion over whether to adopt these powers and implement policy changes locally, and at what rate it should be set at. The Act provides that the 100% ceiling on the empty homes premium came into force for the 2019-20

financial year. It also provides that the 100% ceiling can apply to long-term empty properties as of 1 April 2019 irrespective of when they became empty.

- 24 The possibility of ‘phasing’ an increase in the empty homes premium over several years is not currently available to councils as the legislation (s.11b Local Government Finance Act 1992) only allows for one ‘blanket’ resolution by the council for one percentage for all long term empty homes.
- 25 There have been no changes to the criteria for class B (unoccupied furnished) exempt empty properties and the maximum Council Tax that can be charged for such properties (100%). Class B exempt properties covers those managed by Registered Social Landlords.

Durham’s Current Policy

- 26 Since 1 April 2013, Durham County Council has charged the previous maximum 50% empty homes premium on all long term empty properties, the policy decision having been taken by Cabinet in December 2012. Nationally, 299 out of 326 councils (92%) applied an empty property premium in 2018/19, with the majority of councils choosing to implement the maximum 50% premium.
- 27 Figures at the end of April 2019 show the following number of properties in Durham subject to the empty homes premium along with the premium charge they generate:

Council Tax Band	Number of properties incurring a LTE Premium Charge	Premium Charged
A	1,083	£734,189.70
B	94	£71,594.88
C	56	£48,748.92
D	57	£56,176.08
E	27	£32,181.91
F	11	£15,288.42
G	12	£19,226.27
H	4	£7,911.02
Total	1,344	£985,317.20

NOTE: The figures above are for total Council Tax revenues. The council’s share of the Council Tax revenues generated is circa 80%, therefore the income attributable to the Council is circa £788,000.

28 A breakdown of the above properties by postcode and by Council Tax Band can be seen at Appendix 2.

29 When it was introduced in April 2013 there were 2,007 properties subject to the empty homes premium within the county. After an initial sharp drop (approximately 33% in the first six months), suggesting that either the rationale behind the legislation to bring properties back into use had worked to some extent or people who were occupying these properties became registered, the numbers have since been fairly static as shown below (figures taken as at October each year unless stated):

	2013	2014	2015	2016	2017	2018	April 2019
Number of dwelling classed as long term empty and subject to a LTE premium	1,280	1,413	1,591	1,576	1,528	1,448	1,364
Total number of dwelling classed as empty	7,630	8,252	8,147	7,642	8,013	7,637	7,511
Percentage of empty dwellings subject to LTE premium	16.78%	17.12%	19.53%	20.62%	19.07%	18.96%	18.16%

30 The national position is shown in the table below:

	2013	2014	2015	2016	2017	2018
Number of dwelling classed as long term empty and subject to a LTE premium, of which	56,055	56,482	58,756	59,443	60,898	62,419
- 10% LTE Premium	47	295	125	282	139	473
- 25% LTE Premium	428	443	444	258	245	228
- 50% LTE Premium	55,580	55,744	58,187	58,903	60,514	61,718
Total number of dwelling classed as empty	480,322	460,881	448,999	443,197	454,558	472,918
Percentage of empty dwellings subject to LTE premium	11.60%	12.10%	13.10%	13.30%	13.40%	13.20%

- 31 The proportion of empty properties subject to the Long Term Empty Property Premium in Durham has been consistently higher than the national average over the last five years. Circa 81% of these are in the lowest council tax band (Band A) and will be subject to an additional charge of circa £673 in 2019/20.
- 32 Approximately 30% of the long term empty properties in Durham have been identified as being owned by landlords as opposed to private individuals.

Increasing the premium to 100% for Long Term Empty Properties (Empty 2+ Years) with effect from 1 April 2020

- 33 Increasing the empty homes premium to 100% with effect from April 2020 would, if the number of properties subject to it stayed the same, result in an increase in the Taxbase of 489.4 band D equivalents, with a potential annual increase in total Council Tax revenue of approximately £0.985 million – circa £0.788 million of which would be able to be built into the Medium Term Financial Plan (MTFP).
- 34 At Band A, this would mean that the premium levied would result in an additional charge of circa £1,346 (based on 2019/20 council tax levels).
- 35 Unsurprisingly, the collection of the Council Tax charges for properties subject to the empty homes premium has proved to be more challenging, with an in year collection rate of 85.62% for 2018/19 compared to the overall Council Tax in year collection rate of 96.65%. However, over time the collection rate does improve, as demonstrated in the table below:

Financial Year	Recovery Rates – Accounts Subject to the LTE Premium			
	In Year Position – As at Year End		Position as at 31 March 2019	
	% Recovered	% Outstanding	% Recovered	% Outstanding
2013/14	83.04%	16.96%	98.01%	1.99%
2014/15	81.30%	18.70%	96.50%	3.50%
2015/16	79.38%	20.62%	95.18%	4.82%
2016/17	79.42%	20.58%	92.83%	7.17%
2017/18	85.39%	14.61%	91.54%	8.46%
2018/19	85.62%	14.38%	85.62%	14.38%

- 36 The Customer Relationship Management system (CRM) records show that in 2018/19 the Council received 7 complaints from customers objecting to having to pay additional Council Tax in relation to unoccupied properties.
- 37 If the policy was amended to double the premium and this was successful in reducing the number of long term empty properties by bringing them back into use (occupied or furnished) this would have a positive impact on the Council's New Homes Bonus, should this regime continue post the Comprehensive Spending Review and Fair Funding Review.
- 38 The New Homes Bonus Scheme is a non-ringfenced payment received from the Ministry of Housing, Communities and Local Government (MHCLG).
- 39 It is paid to local authorities for every home added to their council tax register, after deducting recent demolitions. The homes qualifying for the New Homes Bonus may be newly built, conversions or empty homes returned to use.
- 40 Under this scheme, which commenced in 2011/12, the Council originally received an award equivalent to six years Council Tax on each property brought back into use.
- 41 Currently, for each new home meeting the criteria, that award has now reduced to the equivalent of the national average for that home's council tax band paid every year for four years.
- 42 The DCLG determine the amount paid by the increase in the number of dwellings added to the tax base between CTB1 submissions (October each year) less the number of long-term empty properties.
- 43 Therefore, increasing the number of new builds in the database or decreasing the number of long-term empty properties both increase the number of dwellings assessable for New Homes Bonus.

Increasing the premium to 200% for long term empty properties that have been empty for over 5 years with effect from 1 April 2020

- 44 In addition to £0.985 million of additional council tax revenues that could potentially be raised in 2020/21 by increasing the premium charge to 100% from 1 April 2020, a further £0.845 million could potentially be raised by taking up the full powers available in 2020/21 by introducing a premium of 200% for properties that have been unoccupied and unfurnished for more than 5 years on 1 April 2020.

- 45 At Band A, this would mean that the premium levied would result in an additional charge of circa £2,692 (based on 2019/20 council tax levels) for those properties that were empty for over five years on 1 April 2020.
- 46 Should the council's policy reflect the full powers available to it from April 2020, the Tax base would increase by 909.5 band D equivalents, resulting in a potential annual increase in total Council Tax revenue of approximately £1.83 million, circa £1.464 million of which would be able to be built into the MTFP, if the number of properties subject to it stayed the same. Appendix 3 provides breakdown according to property band.
- 47 Increasing the empty homes premium charge could encourage owners to pursue imaginative ways of avoiding becoming liable for it. Aside from unscrupulous ways such as saying properties are occupied by 'ghost' tenants, perhaps as sole occupiers therefore attracting a 75% charge, owners can try to get the properties reclassified as holiday homes and brought into rates with small business rates relief and therefore with nothing to pay.
- 48 Owners of long term empty properties can and will continue to be able to avoid the empty homes premium by furnishing their properties. It is likely that this practice would be more prevalent if there was an increase of the premium.

Benchmarking

- 49 In terms of other authorities in the North East, three have already made decisions to amend their policies in light of the legislative changes in the Rating (Property in Common Occupation and Council Tax (Empty Dwellings) Act 2018. The table below shows the current position for neighbouring councils:

Sunderland	Charging 100% premium from April 2019 and will charge 200% premium from April 2020.
Northumberland	Currently charge 50% premium and have no plans to change for 2020.
Stockton	Currently charge 50% premium and have no plans to change for 2020.
South Tyneside	Charging 100% premium from April 2019 and will charge 200% premium from April 2020.
North Tyneside	Do not charge empty homes premium
Newcastle	Charging 100% premium from April 2019 and will charge 200% premium from April 2020

Middlesbrough	Currently charge 50% premium and have no plans to change for 2020.
Gateshead	Currently charge 50% premium and have no plans to change for 2020.
Darlington	Currently charge 50% premium and have no plans to change for 2020.
Hartlepool	Currently charge 50% premium and have no plans to change for 2020.

- 50 It is worth noting that Durham is the only authority in the North East that retains a Local Council Tax Reduction Scheme in line with the former National Council Tax Benefit system and does not cap the level of support working age claimants can receive or require vulnerable working age claimants to pay a minimum amount of Council Tax.

Long Term Empty properties which require or are undergoing major repairs - currently in receipt of a Class D exemption

- 51 From 1 April 2013 the exemption for properties which required or were undergoing major repair works to make them habitable (class A – maximum period 12 months) was abolished.
- 52 This was replaced by discount class D and Local Authorities were given the discretion to set a discount of between 0% and 100% for properties that meet the criteria (maximum period 12 months). Durham has not awarded any discounts for such properties since 1 April 2013 and therefore properties which meet the criteria are charged 100% Council Tax.
- 53 In circumstances where a property is subject to the Empty Homes Premium and then subsequently meets the criteria for a class D discount, Durham has charged 100% Council Tax rather than 150% (for a maximum period of 12 months).
- 54 Neighbouring councils vary in their approach to the relationship between the empty property premium and locally set class D discounts, for example Newcastle and Northumberland currently adopt the same approach as Durham, however, Stockton, Sunderland and South Tyneside do not and have adopted the approach that where a property is subject to the empty homes premium, locally set discounts will not apply.

55 This approach appears to be consistent with s.11B (4) of the local Government Finance Act 1992 which says of the empty homes premium:

“(4) Where a determination under this section has effect in relation to a class of dwellings—

(a) the billing authority may not make a determination under section 11A(3), (4) or (4A) in relation to that class, and

(b) any determination that has been made under section 11A(3), (4) or (4A) ceases to have effect in relation to that class.”

56 If Durham was to change its approach and take a policy decision not to award a class D discount for properties subject to the empty homes premium, this would appear to be able to be successfully defended if appealed at a Valuation Tribunal based upon this legislation.

57 Currently Durham has 17 properties that fall into discount class D. The potential premium charge that would be forgone by not applying the empty homes premium (at 100%) in these cases is as follows:

Band	Number of properties	Premium Charge forgone
A	11	£15,020.06
B	1	£1,588.77
C	2	£3,491.10
D	2	£3,830.13
E	1	£2,321.47
F		
G		
H		
Total	17	£26,251.53

Hardship Relief

58 Section 13A of the Local Government Finance Act 1992 as amended by section 76 of the Local Government Act 2003 provides the Billing Authority (Durham County Council) with the power to reduce or remit council tax where it is considered that “hardship” would otherwise be caused.

- 59 In order to be considered for the relief the council must satisfy itself that there is evidence of financial hardship and personal circumstances that justifies a reduction in council tax liability.
- 60 Each application for hardship is considered on its merits with issues that will need to be considered on each occasion including:
- All applications should be made in writing from the council tax payer, their advocate/appointee or a recognised third party acting on their behalf, using the relevant form and contain the necessary information.
 - All applications are only intended as short term assistance and will not extend beyond the current financial year, and should not be considered as a way of reducing council tax liability indefinitely.
 - Hardship relief or remission will be the exception and not the rule.
 - There must be evidence of hardship or personal circumstances that justifies a reduction in Council Tax Liability.
 - The council must be satisfied that the customer has taken reasonable steps to resolve their situation prior to application.
 - The council's finances allow for a reduction to be made and it is reasonable to do so in light of the impact on other council tax payers.
 - The council tax payer does not have access to other assets that could be realised and used to pay Council Tax.
 - All other eligible discounts/reliefs have been awarded to the council tax payer.
 - The liable person for a long term unoccupied domestic property has made their best efforts to sell or let the property and to levy a council tax charge would cause them exceptional financial hardship.
 - Has an appeal against the council tax band been made to the Valuation Office Agency, therefore an impact on charge/relief.
- 61 Reduced liability is only agreed to in exceptional circumstances. Instances where someone is in a situation not within these guidelines does not necessarily mean that they should be dismissed but should be

evaluated upon their own merits as there may be extenuation circumstances.

- 62 There have been no instances over the last five years of the Long term Empty Property Premium being withdrawn or remitted due to hardship, though there have been several instances where recovery of the premium has been deferred until completion of the sale of a property. This flexibility has proved beneficial in cases where the long term empty property an inherited dwelling, often in cases where the family member who originally resided in it originally had been admitted to residential or nursing care.

Consultation

- 63 Should Cabinet support the proposals set out in this report, a public consultation process over a 12 week period, planned to commence on 15 July 2019, would be undertaken.
- 64 This would allow the council to set out its overall approach for reviewing its policy (as detailed in this report) and provide an opportunity to comment on the proposals and to highlight any potential implications on individuals and agencies of progressing with the proposals. The key elements will include:
- an online questionnaire;
 - a presentation to the Durham branch of the National Landlords Association and Durham Social Housing Group;
 - targeted correspondence to the key organisations that offer welfare advice in the County.
- 65 During this period, meetings will also be held with the major precepting authorities to seek their views on the proposals as well as attending the County Durham Association of Local Councils and targeted correspondence to each town and parish council.

Equality Impact Assessment

- 66 The Equality Act 2010 aims to advance equality of opportunity and provide protection from discrimination for people based on their 'protected characteristics' of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 67 We are legally required under the public sector equality duty (PSED) to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and
- foster good relations between those who share a relevant protected characteristic and those who do not.

68 Should the council decide to implement the increased level of empty property premium from 2020/2021, there would be negative financial impact on the owners of these properties which remain unoccupied. In circumstances where the owners of long term empty properties are unable to sell or let them, this could lead to further debt and legal action to recover these debts. These impacts are unlikely to disproportionately impact in relation to health, wellbeing, gender, age, disability, race, sexual orientation, transgender status, religion or belief.

69 The potential to incentivise owners of long-term empty properties to bring them back into use, should prove positive for those groups more likely to experience housing issues such as younger people, single men and single parent families. Therefore, this policy may lead to positive impacts in relation to the council's approach to housing and homelessness. .

70 An Equality Impact Assessment Screening has been completed as part of the development of the proposals contained in this report and is attached at Appendix 4 and will be revisited if Cabinet agree to proceed with public consultation.

Conclusions

71 Durham County Council currently charges a 50% empty homes premium on properties that have been unoccupied and unfurnished for 2 years or more.

72 From April 2019 councils have been given the power to charge a maximum of 100% empty homes premium on properties that have been unoccupied and unfurnished for 2 years or more.

73 From April 2020 councils will be able to charge a 200% premium on properties that have been unoccupied and unfurnished for 5 years or more.

74 The majority of properties in the County are in the lowest property band (Band A) and bringing these properties back into use should help to boost the supply of low cost housing.

- 75 The increased premium charge for those long term empty properties that were not brought back into use could also be the source of extra revenue to Durham County Council.
- 76 Durham County Council currently do not charge the empty homes premium on properties that have been unoccupied and unfurnished for 2 years or more but require or are undergoing major repair work to make them habitable (class D - maximum period 12 months).
- 77 Charging the empty homes premium on long term empty properties that require or are undergoing major repair work to make them habitable will potentially increase revenue.
- 78 There is a strong case for increasing the empty homes premium charge in line with the powers contained in The Rating (Property in Common Occupation and Council Tax (Empty Dwellings) Act 2018.
- 79 These powers would increase the incentive for the owners of long term empty properties to bring them back into use which should increase the supply of low cost accommodation available to buy/let and would be consistent with the Councils stated Housing and Homelessness Strategy objectives.

Background papers

- Local Government Finance Act 1992
- The Rating (Property in Common Occupation and Council Tax (Empty Dwellings) Act 2018

Other useful documents

- Local Council Tax Support Scheme, Review of Discretionary Council Tax Discount on Unoccupied Properties & Calculation of Council Tax Base 2013/14 – Report to Cabinet 19 December 2012

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Appendix 1: Implications

Legal Implications

The Local Government Finance Act 2012 amended the Local Government Finance Act of 1992 and gave councils in England power to increase Council Tax on properties which have been 'unoccupied and substantially unfurnished' for a period of two years or more by a maximum of 50%. This is known as the 'empty homes premium'.

The Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012, which came into force on 30 November 2012 applies to the financial years beginning 1 April 2013 onwards and contains the rules which require the Council to calculate the Council Tax Base.

Part of the tax base calculation is the Councils policy in terms of any locally determined Council Tax discounts and premiums.

The Rating (Property in Common Occupation and Council Tax (Empty Dwellings) Act 2018 included provisions to increase the premium on properties that had been 'unoccupied and substantially unfurnished' for more than 2 years to 100% from 1 April 2019, and also incorporated the power to charge even higher premiums for properties which have been unoccupied and unfurnished for 5 years and 10 years from 1 April 2020.

Subsection 1A of Section 11B of LGFA 1992 amended the legislation to increase the maximum premium to 100% from 1 April 2019 (making the owner liable for a 200% Council Tax charge). Subsection 1B also incorporated provisions to charge a 200% premium on properties which have been unoccupied and unfurnished for 5 years or more from 1 April 2020 (making the owner liable for a 300% Council Tax charge) and a 300% premium on properties which have been unoccupied and unfurnished for 10 years or more from 1 April 2021 (making the owner liable for a 400% Council Tax charge).

Finance

If a 100% premium was charged on properties that have been unoccupied and unfurnished for between two and five years and a 200% premium was charged on properties that have been unoccupied and unfurnished for more than five years where properties are not brought back into use there is a potential further increase in Revenues to the Council (£1.83million if there was no reduction in the number of long term empty properties).

The council's share of the Council Tax revenues generated is circa 80%, therefore the income attributable this would be circa £1.464 million.

Consultation

Discussions have taken place with the County Durham Partnership Team and a 12-week web-based consultation is planned to be carried out between July 2019 and October 2019.

Equality and Diversity / Public Sector Equality Duty

The Equality Act 2010 aims to advance equality of opportunity and provide protection from discrimination for people based on their 'protected characteristics'. We are legally required under the public sector equality duty (PSED) to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and
- foster good relations between those who share a relevant protected characteristic and those who do not.

In relation to the empty property premium charge, this means that the Council needs to take account of the available data and broader evidence to actively consider how the charge might affect people who share a relevant protected characteristic and people who do not share it. The PSED does not prevent public authorities making difficult decisions but we must ensure that the decision-making process is fully informed by equality impacts and, where there is potential for negative impact, full consideration is given to mitigating actions and implementation of the final decision can be clearly justified.

Should the council decide to implement the increased level of empty property premium from 2020/2021, there would be negative financial impact on the owners of these properties which remain unoccupied. In circumstances where the owners of long term empty properties are unable to sell or let them, this could lead to further debt and legal action to recover these debts, however, there is no evidence to demonstrate a disproportionate impact in relation to the protected characteristics.

The potential to further incentivise owners of long-term empty properties to bring them back into use, should prove positive for those groups more likely to experience housing issues such as younger people, single men and single parent families. Therefore, this policy may lead to positive impacts in relation to the council's approach to housing and homelessness and contribute towards the advancement of our public sector equality duty.

Human Rights

None

Crime and Disorder

Any increase in the level of empty property premium could have a positive effect if the desired outcome of bringing long term empty properties back into use is successful, with the potential for less properties standing empty resulting in a reduction of vandalism and anti-social behaviour. However, where owners of long term empty properties feel forced into letting properties to avoid paying the premium this could result in property management problems where properties are let to unsuitable tenants

Staffing

None

Accommodation

None

Risk

The report outlines the potential increase in revenue from implementing the full powers to increase the empty homes premium charge from April 2020.

This is based upon the current number of properties classed as long term empty homes.

The purpose of the change in legislation however is to encourage the owners of these properties to bring them back into use and the success of this would result in a corresponding reduction in revenue. It is therefore difficult to accurately forecast the increase in revenue that could be achieved by charging a higher premium on long term empty properties.

Due to local factors some owners find it impossible to let properties as there is no demand.

The report shows that collecting accounts subject to the empty homes premium has proved to be more problematical than accounts not subject to it, with greater resistance from Council Tax payers and a lower in year collection rate.

Where owners of long term empty properties feel forced into letting properties to avoid paying the premium this could result in property management problems where properties are let to unsuitable tenants.

Where the owner of a property subject to the premium does not pay their Council Tax this could jeopardise any help that they could receive from Council in bringing the property back into use.

Procurement

None.

Disability Discrimination Act

See above.

Appendix 2:**Breakdown of Premium Charge according to postcode and Council Tax property band**

Postcode area	Total Number of properties subject to LTE Premium	LTE Property Premium levied per Property Band (£)								
		A	B	C	D	E	F	G	H	Total
DH1	59	12,172	11,945	5,110	13,542	2,364	2,797			47,930
DH2	37	19,741	2,230	2,552			1,398			25,920
DH3	18	5,083	3,718	1,702		2,331		1,609		14,444
DH4	12	5,761		868	976		1,383			8,987
DH6	61	33,501	3,792	1,795	3,057	1,251				43,396
DH7	70	36,283	4,537	2,596	2,927	1,186		1,619		49,149
DH8	71	31,657	4,432	5,075	2,849	1,161		4,748	3,799	53,720
DH9	121	74,410	3,079	1,773	1,964	1,219				82,445
DL11	6		1,488	857	1,927		1,372			5,644
DL12	33	7,837	3,796	5,134	6,758	2,353	1,389			27,267
DL13	87	39,500	6,033	6,854	2,891	5,873	1,394	1,607		64,153
DL14	159	88,801	7,477	2,593	5,826	1,192	1,372			107,261
DL15	50	28,658	2,228	1,741						32,627
DL16	58	38,850	824	942	1,060					41,676
DL17	120	80,321	2,434		1,979				1,941	86,675
DL2	14	1,288	1,490	877	968	5,938	1,398	3,227		15,185
DL4	64	45,516		964						46,480

Postcode area	Total Number of properties subject to LTE Premium	LTE Property Premium levied per Property Band (£)								
		A	B	C	D	E	F	G	H	Total
DL5	33	19,296	2,501		2,144		1,416			25,357
NE16	3	633	739					1,583		2,955
NE17	0									
NE39	1						1,372			1,372
SR7	47	29,550	2,444	857		1,178				34,029
SR8	146	100,435	1,656	1,885	2,171	1,265			2,171	109,584
TS21	15	3,404	2,394	3,648	2,052	1,254				12,752
TS27	24	9,730	1,562	927	1,043	3,616		4,832		21,710
TS28	15	9,398	794							10,192
TS29	20	12,366			2,042					14,408
Grand Total	1,344	734,190	71,595	48,749	56,176	32,182	15,288	19,226	7,911	985,317

Appendix 3:

Breakdown of Premium Charge for properties that have been unoccupied and unfurnished for between 2 and 5 years and for over 5 years.

Empty for more than 2 years but less than 5 years			
Band	Number of properties	100% Premium	Additional Premium - 50%
A	630	855,576.48	427,788.24
B	50	76,468.42	38,234.21
C	33	57,518.80	28,759.40
D	32	62,766.18	31,383.09
E	16	37,937.82	18,968.91
F	5	13,822.66	6,911.33
G	7	22,495.84	11,247.92
Total	773	1,126,586.20	563,293.10

Empty for 5 years or more			
Band	Number of properties	200% Premium	Additional Premium - 150%
A	453	1,225,605.84	919,204.38
B	44	133,442.68	100,082.01
C	23	79,958.08	59,968.56
D	25	99,171.96	74,378.97
E	11	52,852.00	39,639.00
F	6	33,508.36	25,131.27
G	5	31,913.40	23,935.05
H	4	31,644.08	23,733.06
Total	571	1,688,096.40	1,266,072.30

Grand Total	1,344	2,814,682.60	1,829,365.40
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Appendix 4:

Durham County Council Equality Impact Assessment

Durham County Council Equality Impact Assessment

NB: The Public Sector Equality Duty (Equality Act 2010) requires Durham County Council to have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between people from different groups. Assessing impact on equality and recording this is one of the key ways in which we can show due regard.

Section One: Description and Screening

Service/Team or Section	Finance & Transactional Services - Financial Support Services Team
Lead Officer	Andrew Hall
Title	Review of the Council Tax Long Term Empty Premium Charges
MTFP Reference (if relevant)	CORXX
Cabinet Date (if relevant)	10 July 2019
Start Date	17/05/2019
Review Date	July 2019

Subject of the Impact Assessment

Please give a brief description of the policy, proposal or practice as appropriate (a copy of the subject can be attached or insert a web-link):

To consider reviewing the Council's position in terms of Empty Homes Discounts and the policy of applying a 50% premium on properties which have been unoccupied and unfurnished for more than 2 years, where Councils now have the power to:

- (a) apply a maximum 100% premium on such properties (from April 2019) along with
- (b) the power to apply a maximum 200% premium on properties which have been unoccupied and unfurnished for more than 5 years (from April 2020).

Seek permission to consult on changing the council's policy of charging a 50% premium on long term empty homes from April 2020.

Who are the main stakeholders? (e.g. general public, staff, members, specific clients/service users):

- Social Landlords including RSL & private Landlords
- Individual Home Owners
- Council taxpayers
- Major Precepting Bodies (Police and Fire)
- Town & Parish Councils
- Organisations providing welfare advice and support

Screening

Is there any actual or potential negative or positive impact on the following protected characteristics?

Protected Characteristic	Negative Impact Indicate: Y = Yes, N = No, ? = unsure	Positive Impact Indicate: Y = Yes, N = No, ? = unsure
Age	?	?
Disability	?	N
Marriage and civil partnership (workplace only)	N	N
Pregnancy and maternity	?	?
Race (ethnicity)	?	N

Religion or Belief	?	N
Sex (gender)	?	?
Sexual orientation	N	N
Transgender	N	N

Please provide **brief** details of any potential to cause adverse impact. Record full details and analysis in the following section of this assessment.

There is potential for a negative financial impact on some individuals and businesses where they will be required to pay more Council Tax on long term empty properties. In circumstances where the owners of LTE properties are unable to sell or let them, this could lead to further debt and legal action to recover these debts.

There is very limited evidence available relating to personal characteristics of individuals subject to the LTE premium, so it is not possible to specify which equality groups are particularly affected. The proposed consultation will provide an opportunity to those affected to highlight any specific equality related impacts.

How will this policy/proposal/practice promote our commitment to our legal responsibilities under the public sector equality duty to:

- eliminate discrimination, harassment and victimisation,
- advance equality of opportunity, and
- foster good relations between people from different groups?

The proposal to change the council's charging premium policy on LTE homes from April 2020 (subject to consultation) should further incentivise the owners of LTE properties to bring them back into use, potentially boosting the supply of properties available to rent or buy in the County, leading to a positive impact on our Housing and Homeless strategies. This potential knock on effect should prove positive for those groups more likely to experience housing issues such as younger people, single men and single parent families. Therefore, this policy may lead to positive impacts in terms of age, sex and potentially pregnancy and maternity and help to advance our commitment to the public sector equality duty.

There are safeguards in place for those negatively financially impacted, such as hardship relief for **exceptional** circumstances. Although, there have been no instances over the last five years of the long-term empty property premium being withdrawn or remitted due to hardship, there have been several instances where recovery of the premium has been deferred until completion of the sale of a property. This flexibility has proved beneficial in cases where the long-term empty

property an inherited dwelling, often in cases where the family member who originally resided in it originally had been admitted to residential or nursing care. No data is held on how this has impacted in terms of equality.

Evidence

What evidence do you have to support your findings?

Please **outline** your data sets and/or proposed evidence sources, highlight any gaps and say whether or not you propose to carry out consultation. Record greater detail and analysis in the following section of this assessment.

Circa 81% of people subject to the current 50% LTE premium are in the lowest council tax band (Band A) and are currently subject to an additional charge of circa £673 (2019/20). Changing the policy to levy a 100% LTE premium on those properties empty between 2 to 5 years on 1 April 2020 would increase the premium levied to £1,346 (based on 2019/20 council tax levels at Band A) and for those properties empty more than 5 years to £2,692

Approximately 29% of long term empty properties empty between 2 and 5 years are owned by landlords which rises to 31.2% for properties empty for more than 5 years.

There is very limited evidence available relating to personal characteristics of individuals subject to the LTE premium, so it is not possible to specify which equality groups are particularly affected.

Durham County Council housing strategies and policies:

<https://www.durham.gov.uk/article/2813/Housing-strategies-and-policies>

Public Consultation

A consultation process is proposed to commence on 15th July 2019, which will provide an opportunity for those affected or potentially affected in the future to comment on the impact the proposals may have in their individual circumstances. The key elements will include:

- an online questionnaire;
- a presentation to the Durham branch of the national Landlords Association and Durham Social Housing Group;
- targeted correspondence to the key organisations that offer welfare advice in the County.

This impact assessment will be revisited if Cabinet agrees to proceed with public consultation.

Screening Summary

On the basis of this screening is there:	Confirm which refers (Y/N)
Evidence of actual or potential impact on some/all of the protected characteristics which will proceed to full assessment?	Revisited as the proposal progresses
No evidence of actual or potential impact on some/all of the protected characteristics?	N

Sign Off

Lead officer sign off: Andrew Hall – Assessment & Awards Team Leader	Date: 17/05/2019
Service equality representative sign off: Equalities Team Leader	Date: 30 May 2019

If carrying out a full assessment please proceed to section two.

If not proceeding to full assessment please return completed screenings to your service equality representative and forward a copy to equalities@durham.gov.uk

If you are unsure of potential impact please contact the corporate research and equalities team for further advice at equalities@durham.gov.uk