

**Technical Reforms of Council Tax**  
**Determining the circumstances in which dwellings should not be**  
**liable to the empty homes premium**  
Response from the Empty Homes Network to government consultation



## Introduction

### The Empty Homes Premium

We welcome the discretion offered to local authorities to set council tax rates that can act as a disincentive against leaving homes empty long-term.

### About the Empty Homes Network

We are a national network launched in 2001 as the *National Association of Empty Property Practitioners* with the support of the government and the Empty Homes Agency. Since 2002 we have been fully independent. Most of our members work for local authorities in private sector housing or housing enabling teams; we also have members belonging to housing associations, regeneration companies and private sector firms. Our main role is to support one another to make work in tackling empty homes as effective as possible by sharing best practice and information. We also seek to ensure that national policy is informed by the experience of our members.

## General comments

### The relationship between central and local government

We think that paragraph 1.3 contains contradictory policy positions. It starts by saying that “it will be for individual billing authorities to design their own schemes for applying the Premium in their local area” but then goes on to state that the government thinks that there are circumstances where the Empty Homes Premium should not apply. This shows little confidence in the ability of local authorities to arrive at appropriate scheme and exemptions that meet local circumstance.

We think that the starting position should be that local authorities should be expected to bring their creativity, insights and local knowledge into the construction of their local schemes and the Secretary of State should, in the main, hold his or her powers in reserve. Centrally-imposed criteria should only be introduced where it is clear, based on an evaluation of evidence or entirely uncontroversial policy considerations, that it would be appropriate to do so.

## Responses

### **Q.1 Do you agree with the Government's proposals on the circumstances in which property should not be liable to the empty homes premium?**

We address the 3 proposed sets of circumstances individually. As we don't agree with all of the proposals the single answer to Q1 would be "No".

*A - A dwelling which is genuinely on the market for sale or letting*

This criterion is highly problematic both in principle and in practice. Virtually throughout England a home that is "genuinely on the market" will be sold or let long before 2 years have elapsed, if it is being offered at the appropriate price. The only circumstances in which this would not be true (if indeed there are any) would be where there is a total collapse of the housing market. Almost by definition, therefore, a home that has been empty for 2 years will not have been "genuinely on the market" for two years, making it difficult to see the rationale for a general exemption of this nature.

This significant downside to this proposal is that it is an invitation to empty homes owners to challenge the imposition of the empty homes premium and for what should be a simple administrative exercise to become mired in expensive bureaucratic and quasi-judicial processes such as appeal tribunals. What constitutes "genuinely on the market"? Does the home only need to have been "genuinely on the market" at the point when the dwelling becomes eligible for the premium? How much time will the local authority be expected to devote to establishing the marketing history of the property? Will powers be given to local authorities to require estate agents and others to disclose the information they may have at their disposal that would throw light on the position?

We do not know why the government considers that "*authorities will already have in place tools for assessing whether dwellings would qualify for this exception in their locality*". As far as we are aware, the only circumstances in which the local authority would be applying this criterion is in the context of an application for an Empty Dwelling Management Order. Few authorities have introduced such orders and they are made reluctantly in the context of homes that are, for the most part problematic and which according to CLG have on average been empty for 7 years. EDMO cases are known to absorb significant amounts of officer time, sufficient to deter many local authorities from even using the EDMO powers at all; and it is relevant that local authorities will make the assessment of whether a dwelling is genuinely on the market in the context of presenting a detailed case to a hearing by a Residential Property Tribunal.

In short, we do not think local authorities in general "have in place" the tools needed and where they are required to establish this collecting the evidence is a labour-intensive process not appropriate for the relatively routine task of collecting council tax.

We envisage that some local authorities would introduce exemptions from the empty homes premium for particular streets or areas where the housing market has failed and where they feel that the imposition of the empty homes premium would be unduly punitive: such exemptions

might apply whether a home was being marketed or not. This is exactly the kind of local judgment that central government cannot make: the discretion of local authorities should be respected.

In summary we strongly disagree with this exception.

*B - A dwelling which is the sole or main residence of a member of the armed forces, who is absent from the property as a result of such service.*

We agree that the circumstances around service personnel are sufficiently unusual to warrant this exception.

*C - An annex deemed unoccupied because it is being treated by the occupier of the main dwelling, as part of that main dwelling.*

In the light of the broad policy objective of making best use of English housing stock, keeping a self-contained annex empty is a waste of useful housing accommodation. It can be the case that such annexes have received special consideration under planning laws to allow them to be built or that they have absorbed public funds in the provision of disabled facilities, meaning that the community has a legitimate interest in their beneficial use. Where the use of the dwelling is particularly closely tied to the main dwelling there may already be a planning condition in place that means the annex would be exempt (class "T"). Where the tie between the main dwelling and the annex is less tight, the justification for any special treatment is correspondingly less.

With the introduction of the so-called "bedroom" tax to encourage better use of social housing it seems inequitable to penalise social housing tenants for under-occupying their properties while giving special tax breaks to private sector owners to make it easier for them to under-occupy their properties.

We would restate the position that exceptions of this nature should be left to local discretion, which in this case might be applied to individual circumstances.

***Q.2 Do you consider that these circumstances should be set out in regulations?***

We suggest that regulations should be restricted to the very clearest circumstances only. We would only support the introduction of regulations for situation B above.

***Q.3 Are there any other circumstances in which property should not be liable to the empty homes premium, and why?***

Possibly – but such circumstances are probably local in character and should be left to local discretion.

9<sup>th</sup> November 2012

### **Version history**

(The Empty Homes Network is a democratic organisation that seeks to operate in as open and transparent a way as reasonably possible. All Empty Homes Network consultation responses are presented in draft form for our members to comment on to ensure that they reflect as closely as possible the views and experiences of our members. Where appropriate votes are taken by the Executive to resolve issues where diverging views are held).

Version 1 14<sup>th</sup> October 2012

Versions 1a and 1b 14<sup>th</sup> October 2012

- Typos corrected

Version 2 (final) 9<sup>th</sup> November 2012

- Further typographical errors corrected
- Changed expressions in one or two places.

### ***For further information or clarification***

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