

# **Title of report: Council Tax Premiums on Second Homes & Empty Properties**

**Meeting: Council**

**Meeting date: Friday 9 February 2024**

**Report by: Cabinet Member Finance and corporate services**

## **Classification**

Open

## **Decision type**

This is not an executive decision

## **Wards affected**

All Wards

## **Purpose**

To confirm the council's policy on the levying of empty homes and second homes Council Tax Premiums. And, to approve delegated powers to the Section 151 Officer to implement the policy in line with guidance and regulation, once published by Government, in respect of discretionary areas within Council Tax legislation.

## **Recommendation(s)**

**That:**

- a) Cabinet recommends that implementation of the following be approved:**
  - I. application of the current premium of 100% for all dwellings which are unoccupied but substantially unfurnished (empty dwellings) from a period of 1 year with effect from 1 April 2024;**
  - II. application of a premium of 100% for all dwellings which are unoccupied but substantially furnished (second homes) with effect from 1 April 2025; and**
  - III. that the S151 Officer has delegated authority to implement the policy in line with the council's requirements and guidance issued by the Secretary of State or regulation.**

## Alternative options

1. Council could choose not to approve the additional Council Tax premiums. This is not recommended as this will prevent the generation of additional potential Council Tax income for the council.
2. The discretion given to councils to charge a premium is intended to be used as part of a wider strategy to help bring long-term empty homes back into use to provide safe, secure and affordable homes and to support councils in increasing the supply of affordable housing the enhancing the sustainability of local communities.

## Key considerations

3. As billing authority, the council is required to set the overall council tax for the following financial year. Council approved the net tax base on which the 2023/24 precept is in part based at its meeting on 10 February 2023; the remaining precept elements are set by other authorities and the council acts as the collecting agent for those precepted sums.
4. The application of Council Tax premiums in respect of second homes and empty dwellings was considered by Council on 10 February 2023 as part of the 2023/24 budget setting process. It was resolved that additional premiums be applied: 100% premium for second homes and 100% premium for properties which have been empty and unfurnished for a period of between 1 and 2 years, subject to legislation being approved. The proposed changes were carried unanimously
5. The Government's Levelling Up and Regeneration Act 2023 received Royal Assent in October 2023 and included discretionary options for the application of Council Tax premiums on empty properties and second homes. The changes outlined in the Act are noted below:
  - a) To bring forward the period from 2 years to 1 year where an unoccupied and substantially unfurnished dwelling (empty dwelling) can be charged a premium of 100%. All other empty dwelling premiums remain unchanged, namely:
    - i. a premium of 200% where the dwelling has remained empty for a period of 5 years or more; and
    - ii. a premium of 300% where the dwelling has remained empty for a period of 10 years or more.
  - b) To enable the charging of a 100% premium for any dwellings which are:
    - i. not a sole residence; and
    - ii. substantially furnished.
6. Whilst Council Tax legislation is largely mandatory for billing authorities; permitted discounts, disregards and exemptions are determined by statute with no discretion allowed, there are an increasing numbers of areas where a billing authority may determine the type and level of charges to be levied. The main discretionary areas are noted below:
  - a) second homes (substantially furnished premises which are not a sole or main residence);
  - b) unoccupied and substantially unfurnished premises;
  - c) unoccupied and substantially unfurnished premises which require or are undergoing structural repairs; and
  - d) premiums in respect of premises which have been unoccupied and substantially unfurnished for a period of 2 years or more.
7. Each billing authority is able to determine the level of discount (if any) to be granted and the amount (percentage) of premium by the 31 March in advance of the financial year in which the

changes are to be implemented. Where a change to policy is proposed, a decision is required by full Council under Sections 11A, 11B and 11C of the Local Government Finance Act 1992.

8. The proposed changes to empty dwellings will take place with effect from 1 April 2024; the proposal in respect of second homes will take effect from 1 April 2025 to comply with the requirements of the Levelling Up and Regeneration Act 2023 to provide a notice period of 12 months to second home owners.
9. In accordance with legislation, subject to full Council approval, the details of the resolution will be published in at least one local newspaper within 21 days of the decision.

### **Empty dwellings: changes to premiums**

10. Section 79 of the Act permits billing authorities in England to impose an empty dwellings premium after 1 year instead of 2. This gives effect to a commitment made by Government in the Levelling Up White Paper.
11. Section 79 (1) (a) provides that billing authorities must have regard to any guidance issued by the Secretary of State when deciding whether to implement an empty dwellings premium and it is expected that the current guidance drafted by Government in 2013 will be updated. It is also expected that regulations will be introduced during 2024 to allow for some exemptions and these changes will be effective from 1 April 2024. This report recommends that Council approve delegated powers to the Section 151 Officer to implement the policy in line with guidance and regulation once published by Government.
12. In addition, Section 79 (2) of the Act provides that from 1 April 2024, a property can be charged an empty dwellings premium at 100% after one year, even if it became empty before 1 April 2024.

### **Second homes: introduction of premiums**

13. At present, English billing authorities may only impose an empty dwellings premium on properties that are 'unoccupied and substantially unfurnished'. This term is defined via case law, not in legislation. However, it does not cover dwellings that are not a sole or main residence but are furnished. An empty dwellings premium could therefore not be imposed on properties that are maintained as second homes for regular use by their owners.
14. Section 80 of the Act will insert a new section 11C into the Local Government Finance Act 1992. This will permit billing authorities to apply a premium to properties that have no resident and are "substantially furnished". The maximum Council Tax charge in these cases would be a standard 100% charge plus, if the recommendations are accepted by Council, a premium of 100% making a total Council Tax charge of 200% in respect of such properties.
15. There would be no requirement for a property to have been used as a second home for a fixed period of time before the premium can apply.
16. As with other changes introduced by the Act, section 11C (3) requires that the first decision to levy this type of premium must be taken at least 12 months before the financial year in which it would apply. A decision by Council before 31 March 2024 is therefore required to provide the 1 year notice to apply the premium from 1 April 2025.
17. The Act provides that a dwelling cannot be subject to both a second homes premium and an empty dwellings premium imposed under section 11B of the 1992 Act, and that an existing empty dwellings premium would cease to apply to a property which became subject to a second homes premium.

## Empty Dwellings and Second home: exemptions from premiums

18. A Government consultation paper on proposals to exempt categories of dwellings from the Council Tax premiums in England, sought views on possible categories of dwellings which should be dealt with as exceptions to the Council Tax premiums. It covers the empty homes premium, and second homes premium, provisions for which are included within the Levelling Up and Regeneration Act 2023.
19. This consultation proposes circumstances where premiums will either not apply or be deferred for a defined period of time. These are noted below:
  - a) **Properties undergoing probate:** Government proposes that these properties should be exceptions to both the second homes and empty homes premiums for 12 months. The exception would start once probate or letters of administration is granted. This does not affect the Class F exemption or the ability for billing authorities to charge the normal rate of council tax following the expiry of the Class F exemption;
  - b) **Properties that are being actively marketed for sale or rent** Government proposes that this exception would apply for up to a maximum of 6 months from the date that active marketing commenced, or until the property has been sold or rented, whichever is the sooner. It will be essential that the Council will need to determine in its policy, the evidence required to support any exception;
  - c) **Empty properties undergoing major repairs** (time limited to 6 months): Government proposes that empty properties undergoing major repair works or structural alternations should be an exception to the premium for up to 6 months once the exception has been applied or when the work has been completed, whichever is the sooner. The exception could be applied at any time after the property has been empty for at least 12 months, so long as the Council is satisfied that the necessary repair work is being undertaken;
  - d) **Annexes forming part of, or being treated as, part of the main dwelling:** Government proposes that such annexes should be an exception to the Council Tax premium on second homes;
  - e) **Job related dwellings:** there is an existing Council Tax discount of up to 50% for properties which are unoccupied because the owner is required to live elsewhere for employment purposes. The discount applies where the dwelling is provided for the better performance of the duties of the employment, and it is one of the types of employment for which it is customary for employers to provide dwellings for employees. Government proposes that the dwelling should also be an exception to the second homes premium. The exception will not apply to cases where someone chooses to have an additional property to be closer to work while having a family home elsewhere or where an individual is posted to a new location but maintain their previous address;
  - f) **Occupied caravan pitches and houseboat moorings:** Government proposes that these caravans and boats should be an exception to the Council Tax premium on second homes; and
  - g) **Seasonal homes where year-round or permanent occupation is prohibited or has been specified for use as holiday accommodation or prevents occupancy as a person's sole or main residence:** Government proposes that properties that have restrictions or conditions preventing occupancy for a continuous period of at least 28 days in any 12-month period, or specifies its use as a holiday let, or prevents occupancy as a person's sole or main residence, should be an exception to the second homes premium.
20. This report recommends that Council approve delegated powers to the Section 151 Officer to implement the policy in line with guidance and regulation once published by Government.

## Proposed changes

21. Subject to full Council approval, the proposed level of premiums are noted in the table below:

<b>From 1 April 2024</b>	<b>Proposed policy</b>
<b>Empty Dwellings Premium:</b> Dwellings which are unoccupied and substantially unfurnished (after 1 year up to 5 years of becoming empty)	100% premium
<b>Empty Dwellings Premium:</b> Dwellings which are unoccupied and substantially unfurnished (dwellings empty between 5 years and up to 10 years)	200% premium
<b>Empty Dwellings Premium:</b> Dwellings which are unoccupied and substantially unfurnished (dwellings empty for 10 years or more)	300% premium
<b>From 1 April 2025</b>	<b>Proposed policy</b>
<b>Second Homes Premium:</b> Dwellings which are furnished but not a sole or main residence	100% premium

## Community impact

22. Council tax is levied to enable the council to resource service delivery in accordance with the corporate plan priorities established by full Council. The proposed increase could result in increasing individuals' financial difficulties; this is mitigated by providing payment options and access to the Discretionary Local Assistance fund if in severe financial hardship.

## Environmental Impact

23. The council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
24. Whilst this is a decision on back office functions and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the council's Environmental Policy, for example by directing claimants to apply online.

## Equality duty

25. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

26. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

### Resource implications

27. The resources required for billing purposes are contained within existing budgets. Customers are encouraged to register online to receive their bill electronically. As in prior years, information relating to council tax, including how the money is spent, will be available online and a weblink will be included on issued bills.
28. The proposals outlined in this report are estimated to generate additional income of approximately £6m per annum from 2025/26 onwards in respect of second homes premium and this income is assumed in the council's Medium Term Financial Strategy (MTFS). A prudent estimate of income has been included; acknowledging potential reductions in revenue if homes are sold or reclassified once charges are introduced. The estimate is informed by the number of dwellings confirmed as second homes or vacant dwellings in the 2021 Office for National Statistics (ONS) census data, adjusted to reflect expectations noted above.

### Legal implications

29. The proposals in this report are covered by the following legislation:
- a) S11A & S11B of the Local Government Finance Act 1992;
  - b) S11C of the Local Government Finance Act 1992 (as introduced by the Levelling Up and Regeneration Act 2023); and
  - c) S80 & S81 of the Levelling Up and Regeneration Act 2023.
30. A resolution by full Council is required to implement the recommendations; the decision of council should be published in at least one local newspaper.
31. The council must consider any relevant future guidance issued by the Secretary of State or regulations laid.

### Risk management

32. Risks will be managed and mitigated as noted below.

<b>Risk / opportunity</b>	<b>Mitigation</b>
Some taxpayers may act to avoid paying the proposed premiums.	A range of compliance measures will be implemented to ensure that council tax premiums are charged on all relevant dwellings. Verification checks to confirm circumstances and ownership status will be undertaken to ensure appropriate application of premiums.

**Consultees**

33. None.

**Appendices**

None.

**Background papers**

None identified.