

Empty Homes and Second Homes Premium Policy 2024-25

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1. Introduction and background

- 1.1 The following policy outlines the Council's approach to the levying of empty homes premium and second homes premiums.
- 1.2 Premiums were also introduced by government from 1 April 2013 with a view to encouraging homeowners to occupy homes and not leave them vacant in the long term.
- 1.3 The legislation which introduced premiums is S11B of the Local Government Finance Act 1992 (inserted by the Local Government Finance Act 2012). Premiums could only be charged on long-term empty dwellings. An empty dwelling is one which is 'unoccupied' and 'substantially unfurnished'. The definition of long-term is where the dwelling has been empty for a continuous period of at least 2 years.
- 1.4 Initially the maximum level of premium was set by government at 50% of the amount of Council Tax chargeable. Each Council could determine the level of premium up to the maximum and this is charged in addition to the amount determined by the Council as payable for an empty dwelling¹
- 1.5 Certain classes of dwellings cannot be charged a premium namely:
 - a dwelling which would be the sole or main residence of a person but which is empty while that person resides in accommodation provided by the Ministry of Defence by reason of their employment i.e., service personnel posted away from home²; or
 - dwellings which form annexes in a property which are being used as part of the main residence or dwelling in that property³.
- 1.6 In 2018 the Rating of Property in Common Occupation and Council Tax (Empty Dwellings) Act allowed authorities to increase the level of premiums on empty dwellings with effect from 1 April 2019 as follows;
 - Dwellings left unoccupied and substantially unfurnished for 2 years or more, - from 1 April 2019 a premium can be levied up to 100%;
 - Dwellings left unoccupied and substantially unfurnished for 5 years or more, - from 1 April 2020 a premium can be levied up to 200%; and
 - Dwellings left unoccupied and substantially unfurnished for 10 years or more, - from 1 April 2021 a premium can be levied up to 300%.
- 1.7 It should be noted that premiums are charged in addition to the 100% Council Tax payable on empty premises.

¹ Under the Council Tax (Prescribed Classes of Dwelling)(England) Regulations 2003 and amended by the Council Tax (Prescribed Classes of Dwelling)(England) (Amendment) Regulations 2012 - Classes C & D.

² Council Tax (Prescribed Classes of Dwelling)(England) (Amendment) Regulations 2012 - Classes E

³ Council Tax (Prescribed Classes of Dwelling)(England) (Amendment) Regulations 2012 - Classes F

- 1.8 Government, together with local authorities (including the Council) has unfortunately seen a rise in the number of empty homes together with a growth in second homes.
- 1.9 Inconsistencies in the legislation have also been identified whereby a premium can be avoided by the taxpayer merely furnishing an empty premises, when it would become a 'second home' which currently has a maximum charge of 100% with no premium.
- 1.10 In order to address these inconsistencies, and also to bring more dwellings into use, government has introduced sections within the Levelling Up and Regeneration Act 2023 (the Act).
- 1.11 This policy details the Council's approach in the charging of premiums as allowed within the new legislation.
- 1.12 The continued pressure on local authority finances (both the Council and the Major Preceptors) together with the need to encourage all owners of domestic premises to bring them back into use, makes it essential that the Council changes its approach to empty homes. The new legislation for second home premiums will encourage the use of dwellings as primary residences.

2. Empty homes premiums (From 1 April 2024)

- 2.1 Section 79 (1) (b) of the Levelling Up and Regeneration Act 2023 permits the Council to impose an empty homes premium after one year instead of two years. Section 80 of the Act provides that from 1 April 2024, a property can be charged an empty homes premium at 100% after one year, even if it became empty before 1 April 2024.
- 2.2 The Council has resolved to implement the changes permitted by Section 79 (1)(b) and Section 80 of the Levelling up and Regeneration Act from 1 April 2024.
- 2.3 The legislation requires the Council to be mindful of any guidance or further regulation in relation to the implementation of the premiums and this is detailed in Section 4 of this policy.

3. Introduction of premiums for second homes (From 1 April 2025)

- 3.1 The definition of a second home for Council Tax purposes is a dwelling which has "no one resident" but is "substantially furnished".
- 3.2 Section 80 (2) of the Act inserts a new section 11C into the Local Government Finance Act 1992. This permits the Council to apply a premium on second homes.

The maximum Council Tax charge in these cases would be a standard 100% charge plus a premium of 100% making a total Council Tax charge of 200%.

- 3.3 Unlike empty dwellings, there is no requirement for a property to have been used as a second home for a fixed period of time before the premium can apply.
- 3.4 As with other changes introduced by the Act, section 11C (3) requires that the first decision to impose this class of premium must be taken at least 12 months before the financial year to which it would apply. In effect this means that premiums for second homes will not take effect until the 2025-26 financial year at the earliest.
- 3.5 The Council has resolved to charge second home premiums and has given the required notice.
- 3.6 The Act provides that a dwelling cannot be subject to both a second homes premium and an empty homes premium imposed under section 11B of the 1992 Act, and that an existing empty homes premium would cease to apply to a property which became subject to a second homes premium.

4. Exceptions from the premiums (empty homes premiums and second homes premium)

- 4.1 At the time of writing this policy, government has issued a consultation (which has now ended), seeking views on possible categories of dwellings which should be dealt with as exceptions to the Council Tax premiums. Regulations are expected to cover the exceptions for both empty homes premium, and also the second homes premiums.
- 4.2 **The Council has included the proposed exceptions below however; it should be noted that these MAY CHANGE when the new regulations are commenced.**
- 4.3 The consultation proposes that there will be circumstances where premiums will either not apply or be deferred for a defined period of time. These are as follows:
 - **Properties undergoing probate** - the government proposes that these properties should be exceptions to both the second homes and empty homes premiums for a **maximum of 12 months**. The exception would start once probate or letters of administration is granted. This will not affect the Class F Council Tax exemption or the ability for the Council to charge its determined rate of Council Tax following the expiry of the Class F exemption;
 - **Properties that are being actively marketed for sale or rent** - the government proposes that this exception will 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. The Council, in determining whether this exemption applies will require the following evidence:

- (a) evidence that the dwelling is being **actively** marketed for sale or rent through a recognised agent (evidence can include contracts with agents, advertisements in recognised newspapers or marketing websites);
- (b) where the premises are being self-marketed by the owner or landlord, evidence that the premises is being **actively** marketed (evidence can include advertisements in recognised newspapers or letting websites);
- (c) where for sale, evidence that the premises are being sold at a true market level for the size and type of dwelling within the area in which it is situated. Where the dwelling is for let, that the rent requested is at a true market level for the size and type of dwelling within the area in which it is situated.

The above list is not exhaustive and the Council reserves the right to request further evidence to support any claim for exemption. The exemption will only apply once to any taxpayer or taxpayers if they are jointly and severally liable;

- **Empty properties undergoing major repairs** - this is time limited to 6 months. The 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 will 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. As with all other exemptions to the premiums, the Council will require the taxpayer to provide such evidence as is required to support their application;
- **Annexes forming part of, or being treated as, part of the main dwelling** - the government proposes that such annexes should be an exception to the Council Tax premium on second homes;
- **Job related dwellings** - currently, there is a 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 kinds of employment in the case of which it is customary for employers to provide dwellings for employees. The 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;**
- **Occupied caravan pitches and houseboat moorings** - the government proposes that these caravans and boats should be an exception to the Council Tax premium on second homes; and
- **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** - the 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.

- 4.4 It is understood that regulations will be issued late 2023 or early 2024 and the Council will need to ensure that any charging policy is in line with legislation. Therefore, the Council's Section 151 Officer is granted delegated powers to amend this policy in line with legislative or government requirements.

5. Outcome expected and 'safety net'.

- 5.1 The expected outcomes of this policy are as follows:
- (a) Taxpayers will be encouraged, through the implementation of the premiums, to bring empty properties into use and to revert the use of second homes to primary residences;
 - (b) The reduction of empty homes and second homes within the Council's area in line with the Council's Empty Property Strategy; and
 - (c) Increased Council Tax income from empty homes and second homes.
- 5.2 There may be circumstances where the implementation of these changes may cause exceptional hardship to a taxpayer. In such cases, the Council will consider applications for a reduction in liability under its Section 13A (1)(C) of the Local Government Finance Act 1992 - Reduction in Council Tax liability policy.
- 5.3 Where such an application is received, it will be considered on an individual case basis taking into account the circumstances of the taxpayer and the situation regarding the level of Council Tax charged. Should the taxpayer be aggrieved by any decision of the Council a further right of appeal will be with the independent Valuation Tribunal.

6. Legislation

- 6.1 The legislation that covers this policy and the recommendations made is as follows:
- S11A & S11B of the Local Government Finance Act 1992;
 - S11C of the Local Government Finance Act 1992 (as introduced by the Levelling Up and Regeneration Act 2023);
 - The Levelling Up and Regeneration Act 2023; and
 - S13A(1)(C) Local Government Finance Act 1992 (reduction in liability).
- 6.2 Due to changes in the legislation, the Council will be required to amend this policy, at any time, in line with statute.

7. Finance

- 7.1 Any amount of premium received will be part of the Council's Collection Fund and will be shared between the Council and Major Precepting authorities in line with their share of the Council Tax.
- 7.2 Any reduction granted under S13A(1)(c) will be financed through the Council's general fund and do not form part of the Collection Fund.

8. Notification

- 8.1 Where a taxpayer is granted an exemption, a revised demand notice will be issued. Where an exemption is applied for but not granted, the Council will provide a notification of its decision.

9. Appeals

- 9.1 Appeals against the Council's decision may be made in accordance with Section 16 of the Local Government Finance Act 1992.
- 9.2 **The taxpayer must in the first instance write to the Council outlining the reason for their appeal. Once received the council will then consider whether any additional information has been received which would justify a change to the original decision and notify the tax payer accordingly.**
- 9.3 Where the taxpayer remains aggrieved, a further appeal can then be made to the Valuation Tribunal. This further appeal should be made within 2 months of the decision of the Council not to grant any reductions. Full details can be obtained from the Council's website or from the Valuation Tribunal Service website.

10. Delegated Powers

- 10.1 This policy for the Council Tax premiums has been approved by the Council. However, the Assistant Director Revenues & Benefits is authorised to make technical amendments to ensure it meets the criteria set by government and the Council.

11 Fraud

- 11.1 The Council is committed to protecting public funds and ensuring that premiums are correctly charged.
- 11.2 A taxpayer who tries to reduce their Council Tax liability by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.

11.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

12. Complaints

12.1 The Council's complaints procedure (available on the Council's website) will be applied in the event of any complaint received about this policy.