

Report To: Overview and Scrutiny Committee

Date of Meeting: 5 February 2024

Report Title: Council Tax Empty Homes and Second Homes Premiums

Report By: Buki Adekoya Revenues and Benefits Service Manager

Key Decision: Yes

Classification:

1.0 PURPOSE OF REPORT

- 1.1 The policy is primarily designed to encourage taxpayers to use premises as their main residence or allow others to use the premises as a main residence. It is also envisaged that the policy will allow more empty dwellings or unoccupied dwellings to be brought back into use.
- 1.2 In addition to the above, the policy will provide additional funding to the collection fund which will be shared between the Council, the major precepting authorities and the local precepting authorities in line with their share of the Council Tax.

2.0 SUMMARY

- 2.1 The report identifies decisions required by full Council and makes recommendations to change the Council's approach in respect of certain discretionary areas within Council Tax legislation. In the main, the changes will take effect from 1 April 2024, however the introduction of the Levelling Up and Regeneration Act 2023 will allow the Council to make further amendments to the levying of Council Tax premiums within the Borough with effect from both 1 April 2024 and 1 April 2025.

3.0 BACKGROUND

- 3.1 The report identifies decisions required by full Council and makes recommendations to change the Council's approach in respect of certain discretionary areas within Council Tax legislation. In the main, the changes will take effect from 1 April 2024, however the introduction of the Levelling Up and Regeneration Act 2023 will allow the Council to make further amendments to the levying of Council Tax premiums within the Borough with effect from both 1 April 2024 and 1 April 2025.
- 3.2 The changes are provided by the Levelling Up and Regeneration Act 2023 which has recently received Royal Assent. The changes within the Act essentially fall into two distinct parts namely:
- (a) To bring forward the period from two years to one year when an unoccupied and substantially unfurnished dwelling (empty dwelling) can be charged a premium of 100% All other empty dwelling premiums remains unchanged, namely:
- A premium of 200% where dwelling has remained empty for a period of 5 years or more;
 - A premium of 300% where dwelling has remained empty for a period of 10 years or more; and
- (b) To enable the charging of a 100% premium for any dwellings which are:

- No one's sole or main residence; and
- Substantially furnished.

- 3.2 When determining its policy, each billing authority has to decide the level of discount (if any) to be granted and the amounts (percentage) of any premium by the 31 March prior to the financial year in which it wants to introduce the changes.
- 3.3 Where a change is proposed, there is a requirement to determine the level of any premium and a decision is now required to be made by full Council under Section 11A, 11B and the new 11C of the Local Government Finance Act 1992.
- 3.4 The proposals outlined within this report are forecast to generate an additional £52,000 in Council Tax income for 2024/25 based on current Council Tax (CTB1) data and £178,000 for the financial year 2025/26.
- 3.5 Full details of the proposals are provided and, in line with the legislation, if the recommendations are accepted by Council, details of the resolution will be published in at least one local newspaper within 21 days of the decision.

Analysis / Details of the proposals

- 3.6 A large part of the Council Tax legislation is mandatory on all billing authorities within England. Discounts such as single person discounts, disregards and exemptions are set by statute with no discretion allowed.
- 3.7 However, there are an increasing number of areas where each Council may determine the type and levels of charge to be made.
- 3.8 The current main discretionary areas are as follows:
- (a) Second homes (premises which are no-one's sole or main residence but are furnished);
 - (b) Unoccupied and substantially unfurnished premises;
 - (c) Unoccupied and substantially unfurnished premises which require or are undergoing structural repairs; and
 - (d) Premiums where premises have been unoccupied and substantially unfurnished for a period of 2 years or more.
- 3.9 When determining its policy, each billing authority has to decide the level of charge (or discount) by the 31 March prior to the financial year in which it wants to introduce the changes.
- 3.10 The Council is therefore required to determine the level of any discounts or premiums which will apply in its area and a decision is required to be made by full Council under Section 11A, 11B and the new S11C of the Local Government Finance Act 1992.
- 3.11 Once determined, the resolution of the Council will need to be published in at least one local newspaper(s) within 21 days of the decision.

The current situation

3.12 Currently the Council has adopted the following level of premiums:

	Current policy
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty dwellings premium) After 2 years up to 5 years of becoming empty.	100% premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty dwellings Premium) Dwellings empty between 5 years and up to 10 years	200% premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty dwellings Premium) Dwellings empty for 10 years or more	300% premium
Premiums - Dwellings which are furnished but no one's residence (Second Homes)	Not yet available

3.13 The Council charges a 100% Council Tax on empty dwellings as well as second homes.

3.14 Premiums were also introduced by Government in 2013 with a view to encouraging homeowners to occupy homes and not leave them vacant in the long term. Initially premiums could only be charged at 50% but legislation has now changed to allow a progressive charge to be made as follows:

- Dwellings left unoccupied and substantially unfurnished for 2 years or more, up to 100%;
- Dwellings left unoccupied and substantially unfurnished for 5 years or more, up to 200%; and
- Dwellings left unoccupied and substantially unfurnished for 10 years or more, up to 300%.

3.15 The Council has adopted the *maximum* level of premium. However, it should be noted that premiums are charged *in addition to* the 100% Council Tax payable on empty premises.

3.16 Government, together with local authorities, has unfortunately seen a rise of in the number empty dwellings together with a growth in second homes. 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%.

3.17 Sections within the Levelling Up and Regeneration Act 2023 have been introduced in order to address the inconsistencies and also to bring more dwellings into use.

Changes to empty dwelling premiums

3.18 Section 79 of the Act permits billing authorities in England to impose an empty dwellings premium after one year instead of two. This gives effect to a commitment made by Government in the [Levelling Up White Paper](#)

3.19 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. Government is also expected to introduce regulations in the new year will allow for some

exemptions. This change will come into effect from the 2024/25 financial year. The Council is requested to approve delegated powers to the Section 151 officer to implement the policy in line with guidance and regulation when published.

- 3.20 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.

Introduction of premiums for second homes

- 3.21 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 no one's 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.
- 3.22 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%.
- 3.23 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.
- 3.24 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 of this kind will not take effect until the 2025/26 financial year at the earliest. However, it is essential that a decision is made by Council before 31st March 2024 to give the required one year notice.
- 3.25 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.

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

- 3.26 For information, government issued a consultation paper entitled; Consultation on proposals to exempt categories of dwellings from the council tax premiums in England. The consultation (which has now ended), 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 also the second homes premium, provisions for which are included within the Levelling Up and Regeneration Act 2023
- 3.27 The consultation proposes that there will be circumstances where either 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 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;

- **Properties that are being actively marketed for sale or rent** - the 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, what evidence will be required to support any exception;
- **Empty properties undergoing major repairs** - 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 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;
- **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.

3.28 It is understood that regulations or guidance (which has to be followed in accordance with the Levelling Up and Regeneration Act) will be in line with government's proposal. In view of this, the Council will need to ensure that any charging policy is in line with legislation. It is therefore recommended that the Council's Section 151 Officer is granted delegated powers to amend the Council's policy of premiums in line with legislative or government requirements.

Premiums – generally

3.29 In line with all similar legislation, any decision must be publicised in at least one local newspaper, within 21 days of its being taken.

3.30 Should the Council at any time wish to vary or revoke a decision to impose any type of premium this can be done at any time before the beginning of the financial year to which it would apply.

The proposed changes

3.31 Should the recommendations of this report be accepted the level of premiums would be as follows:

From 1 April 2024	Proposed policy
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty dwellings premium) After 1 years up to 5 years of becoming empty.	100% premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty dwellings Premium) Dwellings empty between 5 years and up to 10 years	200% premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty dwellings Premium) Dwellings empty for 10 years or more	300% premium
From 1 April 2025	Proposed policy
Premiums - Dwellings which are furnished but no one's residence (Second Homes)	100% premium

4.0 CONTRIBUTION TO COUNCIL PRIORITIES

4.1 The proposed changes to the Council Tax regime is in line with the Council's Empty Homes Strategy. It is designed to bring empty homes into use and to ensure dwellings are used as primary residences.

5.0 ALTERNATIVE OPTIONS CONSIDERED

5.1 The implementation of premiums is discretionary on the authority. As such, the Council could decide not to implement the policy.

6.0 FINANCIAL IMPLICATIONS

6.1 The proposed changes are anticipated to generate approximately £52,000 per annum based on current values from 1 April 2024 and £178,000 per annum from 1 April 2025 based on current values.

7.0 LEGAL IMPLICATIONS

7.1 The legislation that covers this report 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); and
- Sections 80 & 81 of the Levelling Up and Regeneration Act 2023.

7.2 Where the recommendations are accepted, a resolution is to be made by full Council. The decision needs to be published in at least one local newspaper.

7.3 Due to the changes in the legislation, the Council will be required by statute to be mindful of any guidance issued by the Secretary of State or regulations laid.

8.0 EQUALITIES IMPLICATIONS

8.1 The change in policy will have no adverse effects on equality or diversity on the basis that it affects all taxpayers who have empty homes or second homes. The changes proposed are designed to bring empty homes back into use and to use dwellings as primary residences.

9.0 CLIMATE CHANGE IMPLICATIONS

9.1 None

10.0 RISK MANAGEMENT IMPLICATIONS

10.1 The risk is the Council is that some taxpayers may wish to avoid the premiums. A full compliance regime will be established to mitigate this.

11.0 REASONS FOR RECOMMENDATIONS

11.1 The policy is primarily designed to encourage taxpayers to use premises as their main residence or allow others to use the premises as a main residence. It is also envisaged that the policy will allow more empty dwellings or unoccupied dwellings to be brought back into use.

11.2 In addition to the above, the policy will provide additional funding to the collection fund which will be shared between the Council, the major precepting authorities and the local precepting authorities in line with their share of the Council Tax.

12.0 RECOMMENDATION(S)

It is recommended that Council approve the implementation of the following:

- (a) The application of the current premium of 100% for all dwellings which are unoccupied and substantially unfurnished (empty dwellings) from a period of one year with effect from 1st April 2024;
- (b) The application of a premium of 100% for all dwellings which are unoccupied but substantially furnished (second homes) with effect from 1st April 2025; and
- (c) That the Section 151 Officer is given delegated powers to implement the policy in line with the Council's requirements and any guidance given by the Secretary of State or regulation

BACKGROUND DOCUMENTS:

<https://www.legislation.gov.uk/ukpga/2023/55/enacted>

<https://www.gov.uk/government/consultations/proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums/consultation-on-proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums-in-england>

Timetable of Next Steps

1. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Budget Overview & Scrutiny		5 February 2024	Chief Finance Officer
Budget Cabinet		12 February 2024	Chief Finance Officer
Budget Council		21 February 2024	Chief Finance Officer

Wards Affected

Ashdown, Baird, Braybrook, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Policy Implications

Reading Ease Score:

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	N
Crime and Fear of Crime (Section 17)	N
Risk Management	N
Environmental Issues & Climate Change	N
Economic/Financial Implications	Y
Human Rights Act	N
Organisational Consequences	Y
Local People's Views	Y
Anti-Poverty	Y
Legal	Y

Additional Information

Insert a list of appendices and/or additional documents. Report writers are encouraged to use links to existing information, rather than appending large documents.

Officer to Contact

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