

Council Tax premium proposals

213. As outlined within the main report above, following recent changes to government legislation the opportunity has arisen for the Council to consider changes to two areas which fall under the council tax legislation as follows:

- (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 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.

Outcomes

214. The expected outcomes of the recommendations are as follows:

- a) taxpayers will be encouraged, through the changes in discounts and 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 district in line with the Council's Empty Homes Action Plan; and
- c) potential increased Council Tax income from empty homes and second homes.

The current situation

215. Currently, the Council has adopted the following level of discounts and premiums:

	Current policy
Second Homes No one’s sole or main residence and which is substantially furnished 28-day planning restriction ¹ (Class A)	0% discount
Second Homes No one’s sole or main residence and which is substantially furnished No planning restriction ² (Class B)	0% discount

¹ **restricted** by a planning condition preventing occupancy for a continuous period of at least 28 days

² the occupation of which is **not restricted** by a planning condition preventing occupancy for a continuous period of at least 28 days in the relevant year

	Current policy
Class C (Unoccupied dwelling with is substantially unfurnished)	0% discount
Class D structural repairs (Unoccupied and substantially unfurnished) (Maximum 12 months)	0% discount
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

216. Until the legislation changed in 2013, mandatory exemptions would have been granted in place of Class C and Class D discounts giving a period of no charge for six months and twelve months respectively. Since that time, the Council, along with most other billing authorities, has removed the 'discount' available.
217. The Council charges a 100% Council Tax on empty dwellings as well as second homes.
218. Premiums were also introduced by the 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 was subsequently 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%.
219. The Council has adopted the maximum level of premium and it should be noted that premiums are charged in addition to the 100% Council Tax payable on empty premises.
220. Unfortunately, Government, together with local authorities, have still seen a rise 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%.

221. Sections within the Levelling Up and Regeneration Act 2023 have been introduced to try to address the inconsistencies and to bring more dwellings into use.

Changes to empty dwelling premiums (From 1 April 2024)

222. Section 79 of the Act permits billing authorities in England to impose an empty dwellings premium after one year instead of two.
223. 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 dwelling premium and it is expected that the current guidance drafted by Government in 2013 will be updated. Government is also expected to introduce regulations that will allow for some exemptions. This change will come into effect from the 2024/25 financial year.
224. 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 (From 1 April 2025)

225. 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.
226. Section 80 Levelling Up and Regeneration Act 2023 inserts 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%.
227. There would be no requirement for a property to have been used as a second home for a fixed period before the premium can apply.
228. Section 11C (3) of the act 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.
229. 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)

230. 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.
231. The consultation proposes that there will be circumstances where premiums will either not apply or be deferred for a defined period. 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 twelve months. The exception would start once probate or letters of administration is granted. This does not affect the Class F exemption (**unoccupied property where the person who would normally pay the Council Tax has died**) 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 six 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 six months - the Government proposes that empty properties undergoing major repair works or structural alternations should be an exception to the premium for up to six months once the exception has been applied or when the work has been completed, whichever is sooner. The exception could be applied at any time after the property has been empty for at least twelve 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 the kind of employment where 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.
- **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.

232. It is understood that regulations or guidance (which must be followed in accordance with the Levelling Up and Regeneration Act) will be in line with the Government's proposals. In view of this, a draft Empty Homes and Second Homes Premium Policy has been produced and is detailed within Appendix f(b).

Safety net

233. There may be circumstances, where the implementation of the proposed 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.

234. 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.

235. The award of any S13A(1)(C) (reduction in liability) is a general fund expense and would normally be met in full by the Council. However, since the additional funds from the changes in discounts and premiums proposed in this report are shared with major preceptors, it is proposed that the cost of any award is met from the Collection Fund.

236. It is recommended therefore that the Deputy Chief Executive is authorised to agree with the major preceptors the funding of any award under S13A(1)(C) (reduction in liability) from the Collection Fund.

Consultation

237. There is no statutory requirement to consult on any matters contained within this report. However, the expected outcomes of the recommendations are in line with the Councils Empty Homes Action Plan that was consulted upon in 2020.

Financial Implications

238. Based on the Council Tax Base (October 2023 CTB1) the authority has the following number of dwellings subject to an empty dwelling premium bringing in additional Council Tax income in the region of £360k.

The premium authority charges for dwellings that have been empty for between two and five years as of 2 October 2023.

Percentage Premium	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
100	17	7	28	4	6	2	4	0	68

The premium authority charges for dwellings that have been empty for between five and ten years as of 2 October 2023.

Percentage Premium	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
200	9	3	6	0	1	1	1	0	21

The premium authority charges for dwellings that have been empty for over ten years as of 2 October 2023.

Percentage Premium	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
300	9	4	1	3	0	0	0	0	17

239. Based on current data the estimate of the number of dwellings that could become subject to an empty dwelling premium after being unoccupied and substantially unfurnished for one year is as follows.

Percentage Premium	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
100	65	45	52	41	21	8	7	1	240

240. The proposed changes to the long-term empty premium are anticipated to initially generate approximately £0.53m in additional Council Tax income. However, this is expected to reduce as more properties are brought back into use.

- East Sussex County Council (75.5%) £0.40m
- Rother District Council (8.9%) £0.05m
- Police (10.7%) £0.06m
- Fire (4.6%) £0.02m

Total £0.53m

241. Based on the Council Tax Base (October 2023 CTB1) the authority has the following second homes which could be subject to a second homes premium, subject to any exemption.

Percentage Discount	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
0	170	188	213	257	151	83	80	12	1,154

242. We do not currently know how any exceptions will impact these figures or indeed the impact that any changes made by property owners will have (disposal of second homes etc) but assuming 500 properties were covered by the proposed premium this would generate approximately £1.1m per annum based on current values, split as follows.

- East Sussex County Council (75.5%) £0.83m
- Rother District Council (8.9%) £0.10m
- Police (10.7%) £0.12m
- Fire (4.6%) £0.05m

Total £1.10m

Legal Implications

243. 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.

244. A resolution must be passed by full Council on or before the 31 March 2024 in order for the changes to be implemented with effect from 1 April 2024. In the case of second homes premium, a resolution made on or before 31 March 2024 will allow the premium to come into force from 1 April 2025 (its earliest commencement date).

245. Where the recommendations are accepted, and a resolution made by Full Council, the decision needs to be published in at least one local newspaper.

246. 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.

Equalities Implications

247. There are no anticipated impacts on protected groups with this report. The proposals do, however, include the potential generating of positive outcomes for local people who are struggling to secure sustainable accommodation in the district, as more accommodation should become available. An equality impact assessment (EqIA) has been completed and can be found within Appendix F.