

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	7 February 2024
Subject:	Council Tax Premiums
Report of:	Head of Service: Revenues and Benefits
Head of Service/Director:	Director: Corporate Services
Lead Member:	Lead Member for Finance and Asset Management
Number of Appendices:	None

Executive Summary:

In recent years Government has provided increasing flexibility to local authorities to determine the amount of discount awarded, if any, for empty properties and second homes. In addition, local authorities have been provided with the ability to charge premiums for long-term empty properties. Recognising the national housing shortages, the intention of these changes is to bring properties back into full-time use.

Prior to 23 November 2022, the government had been indicating for some time its intention to extend the powers to charge premiums through the introduction of the Levelling Up and Regeneration Bill. Specifically, it was indicated that it was intended to implement discretionary powers for local authorities to reduce the qualifying period for the long-term empty premium from two years to one and to introduce a premium for 'second homes' (dwellings which are furnished, but unoccupied). This additional income would benefit the Council Tax Collection Fund and consequently would be split proportionately between the major preceptors.

The intention of the policy is to encourage the owners of second properties to bring them back into full time use and occupation through the imposition of premiums. This supports the Council's priorities around the provision of housing. The implementation of the additional premiums will provide additional Council Tax income for the Council; however the main aim is to bring properties back into use to assist with the housing shortages.

Recommendation:

To RECOMMEND TO COUNCIL that:

- i. Council Tax be increased for all properties deemed second homes, which are occupied periodically by 100% from 1 April 2025, subject to any exemptions set out in subsequent Regulations and for implementation to be in accordance with those Regulations and guidance;**
- ii. the Council Tax Empty Homes Premium be increased to 100% for properties empty for between one and five years (currently between two and five years), from 1 April 2025, subject to any exemptions set out in subsequent Regulations and guidance.
and**
- iii. authority be delegated to the Executive Director: Resources, in consultation with the Lead Member for Finance and Asset Management, to amend the Council's policy relating to premiums in line with legislative or government requirements and changes.**

Financial Implications:

There are currently approximately 125 empty homes in Tewkesbury, which have been empty for more than one year and are unoccupied and substantially unfurnished. If these homeowners took no action to bring their properties back into use, it is estimated that introducing the additional 100% Empty Homes Premium could potentially generate additional Council Tax income of approximately £251,498, of which Tewkesbury Borough Council would retain around £17,604.

There are also 247 second homes which are registered in the borough. Introducing the additional 100% Second Homes premium could potentially generate additional Council Tax income of approximately £543,226 of which Tewkesbury Borough Council would retain around £38,025. However, the additional income is likely to be less than this in practice as the new premium will potentially encourage those homeowners to bring their properties back into use instead.

Legal Implications:

Section 11B Local Government Finance Act 1992 (as amended). Section 67(2) of the Act provides that the power to decide to introduce a premium can only be exercised by Council.

The Rating (Property in Common occupation) and Council Tax (Empty Dwellings) Act 2018 provides for the premium to be increased.

There is a legal requirement for the Council to publish any decision using these powers in a local newspaper with 21 days of the decision.

The recommendations set out within this report are subject to the Levelling Up and Regeneration Bill receiving Royal Assent. If the Council wishes to adopt any changes arising from the Bill it is required to make a resolution confirming its requirements by no later than 31 March 2024 as 12 months' notice is required for the implementation of changes

Environmental and Sustainability Implications:

None

Resource Implications (including impact on equalities):

None directly associated with this report other than officer time

Safeguarding Implications:

None

Impact on the Customer:

Owners of second homes and long term empty properties of more than one year will be impacted by an increase in council tax charges.

1.0 INTRODUCTION

- 1.1 The government encourages all billing authorities to adopt Council Tax premiums on empty properties with a view to incentivising property owners to bring those properties back into use. Premiums can currently be charged where properties are left unoccupied and unfurnished for periods exceeding two years.

- 1.2** In May 2022 the government published the Levelling Up and Regeneration Bill (the Bill). The Bill included proposals aimed at further addressing empty properties through the application of Council Tax premiums, in addition to measures which recognise the impact that high levels of second home ownership can have in some areas.
- 1.3** The Levelling Up and Regeneration Bill received Royal Assent on the 26 October 2023 and has now passed into law. The core elements of the Council Tax charges remain the same; however, the government has indicated its intention to provide for specific 'exemptions' from the additional premiums and have made provision for this within the Act. Consultation was undertaken over the summer regarding the potential content of these exemptions, but, at the time of writing, we have yet to receive details of the actual exemptions. (NB. The consultation can be viewed at [Consultation on proposals to exempt categories of dwellings from the council tax premiums in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/consultation-on-proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums-in-england))
- 1.4** Given that these changes have only just come into law and the intention to provide for statutory exemptions from the premiums, it makes sense for Council to formally approve the implementation of 100% additional charge on second homes and the amendment to the period for long term empty properties from two years to one year. Doing so will help to significantly minimise the risk of any legal challenge to these new premiums.
- 1.5** The reduction in the qualifying period for the long-term empty premium can be implemented from 1 April 2025. The decision to implement a second homes premium cannot by law be implemented until 1 April 2025.
- 1.6** Concern was raised in relation to the application of a second homes premium may encourage Council Tax "avoidance", for instance by the owners of such properties transferring the property to Business Rates. Given that the Council Tax rates for second homes mirror those of main residences there may also be issues with the current classification of properties within the Council Tax system, the application of a second homes premium may prompt owners to reclassify properties for genuine reasons; reducing the potential revenue that might be derived from the premium.
- 1.7** Currently, properties that are available to let for more than 20 weeks (140 days) in a calendar year can be rated as Business Rates by the Valuation Office Agency (VOA). The owner of the property would need to support such a claim with evidence advertising the property to let. These criteria will still apply and, from April 2023, owners must also demonstrate that the property was available to let for more than 20 weeks in the previous year. Sufficient proof must be supplied to evidence that the property was actually let for short periods totalling at least 70 days. The burden of providing evidence to support future changes will be the homeowners and will be verified by the Council and reported to the VOA. This change should ensure that any properties transferring from Council Tax to Business Rates relate to genuine circumstances where the property is being utilised for business purposes.
- 1.8** Another concern is that couples who own second homes may claim that they are living separately and are single occupants of each respective property. Reviews are carried out annually to check the circumstances giving rise to any discount or exemption, including single person discounts. The circumstances can be verified against the information that has been supplied to the council to claim the reduction. Financial penalties can be imposed where false information is provided and will assist in ensuring that data held is accurate.

1.9 Legislation to apply a 100% premium on second homes was introduced in Wales in 2017/18, the premium was paid on 24,873 properties in 2021/22. This number had increased across Wales by 2,005 from the number recorded at the outset of the scheme in 2017/18. Some areas, which historically had the highest number of second homes (e.g. Gwynedd), have seen downward adjustments to the numbers of recorded second homes and the maximum recorded reduction in any area is 9%. It is uncertain whether these downward trends have been triggered by avoidance or are evidence that the premiums have achieved one of the intended outcomes of bringing second homes back into use as mainstream housing provision. The second homes figures in Wales suggest that regardless of any avoidance issues that might remain within the system, there should still be sufficient incentive for the Council to adopt a Council Tax premium on second homes.

1.10 The recommendations and policy changes are designed to encourage the occupation of empty premises and bring second homes into use, which should benefit local communities.

2.0 DISCRETIONARY AREAS AND EXEMPTIONS

2.1 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 local discretion allowed.

2.2 However, there are an increasing number of areas where each Council may determine locally the type and levels of charge to be made. 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 exceeding two years.

2.3 The clear intention of government in introducing the powers to levy premiums for empty properties is to encourage such properties to be brought back into full time residential use.

2.4 The government has been indicating for some time its intention to extend the powers of local authorities to levy premiums in respect of certain types of unoccupied properties. Specifically, this includes:

- a) long-term empty properties (i.e. unoccupied and unfurnished properties) where they intend to reduce the qualifying period from two years to one year; and
- b) second homes (i.e. dwelling which are furnished, but unoccupied) where they intend to introduce the power to charge a 100% premium.

2.5

The exemptions will apply to properties in specific circumstances and prevent the Council from charging the levy for a specified period of time. The effect of this is to reduce rather than extend the scope of the premiums and it will obviously also reduce the amount of income that can be generated. The Council has not been formally notified yet of the exemptions, but government did undertake consultation over the summer and it is understood it is likely to include the following types of situations:

- 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 are granted. This does not affect the existing 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 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 alterations 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 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 job related dwellings provision 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 maintains 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.

2.6 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 or procedure aligns with legislation. It is therefore recommended that authority be delegated to the Executive Director: Resources, as the Council's Section 151 Officer, in consultation with the Lead Member for Finance and Asset Management, to amend the Council's policy relating to premiums in line with legislative or government requirements and changes.

2.7 Local authorities, as billing authorities, are required to make formal determinations as to the levels of discounts and premiums they choose to award and charge in respect of these categories. These decisions have to be taken by Council and once agreed, published within 21 days.

3.0 EXCEPTIONAL CIRCUMSTANCES

3.1 Clearly there may be instances where it is not appropriate, and the Council would not wish to levy an additional premium. Legislation makes provision for this and specifically through:

- a) a range of pre-existing discounts and exemptions to cater for circumstances where properties are left unoccupied as a result of people moving into residential care, following bereavement, living elsewhere to provide care etc;
- b) the new exemptions from the premiums; and
- c) the provisions of our Section 13A 1(c) policy which provide us with general powers to reduce council tax in situations where there is hardship.

4.0 CONSULTATION

4.1 The Bill does not include a statutory requirement to consult, and the Council has concluded that it will not consult on this matter. In cases like this then it is not uncommon for those impacted by the premium to be against it and those unaffected to support it.

5.0 ASSOCIATED RISKS

5.1 There is a risk that for Council Tax 'avoidance' property owners may switch their property for business rate purposes; however, there is strict criteria laid down by the Valuation Office Agency for such an occurrence.

6.0 MONITORING

6.1 The effectiveness of the premiums will be updated to the relevant Lead Member through their Portfolio briefing. In terms of the empty homes being returned into occupation, the Council's Empty Homes Strategy is monitored on a six monthly basis by the Overview and Scrutiny Committee when the Committee reviews the higher level Housing and Homelessness Strategy.

7.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

7.1 Housing Strategy Action Plan 2023-25 regarding bringing empty properties back into use.

Background Papers: None

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Appendices: None