

Teignbridge District Council
Executive
3rd January 2023
Part i

Council Tax Premiums

Purpose of Report

To seek approval for the proposed changes to Council Tax premiums set out in the Levelling Up and Regeneration Bill and to recommend the implementation of these premiums with effect from 1st April 2024 (subject to the Bill receiving Royal Assent).

Recommendation(s)

The Executive RECOMMENDS to Council that it approve:

- (a) The application of the current premium of 100% for all dwellings which are unoccupied and substantially unfurnished (empty dwellings) after 1 year instead of 2, with effect from 1st April 2024;
- (b) The application of a premium of 100% for all dwellings which are unoccupied but substantially furnished with effect from 1st April 2024; and
- (c) That the S151 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.

Financial Implications

The financial implications are set out in paragraphs 2.1 to 2.8 of the report

Martin Flitcroft – Chief Finance Officer and Head of Corporate Services
Email: martin.flitcroft@teignbridge.gov.uk

Legal Implications

The Legal implications are set out in paragraphs 2.9 to 2.12

Paul Woodhead – Head of Legal Services and Monitoring Officer
Email: paul.woodhead@teignbridge.gov.uk

Risk Assessment

The risks are set out in paragraphs 2.13 to 2.15 of the report

Tracey Hooper – Service lead for Revenue, Benefits and Customer Support
Email: tracey.hooper@teignbridge.gov.uk

Environmental/ Climate Change Implications

There are no environmental or climate change implications associated with the recommendations of this report.

William Elliott
Climate Change Officer
william.elliott@teignbridge.gov.uk

Report Author

Tracey Hooper Service Lead for Revenue, Benefits and Customer Support
Email: tracey.hooper@teignbridge.gov.uk

Executive Member

Cllr Richard Keeling – Executive Member for Resources

Appendices/Background Papers

Levelling Up and Regeneration Bill (Bill 169 2022-23)
Appendix 1 – Equality Impact Assessment

1. Introduction and Background

- 1.1 For the most part, 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.
- 1.2 However, there are an increasing number of areas where each Council may determine the type and levels of charge to be made.
- 1.3 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.
- 1.4 When determining its policy, each billing authority must decide the level of charge (or discount) by the 31 March prior to the financial year in which it wants to introduce the changes.
- 1.5 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 and 11B of the Local Government Finance Act 1992.

- 1.6 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

- 1.7 Currently the Council has adopted the following level of discounts and premiums:

	Current policy
No one's sole or main residence and which is substantially furnished (second homes) 28-day planning restriction ¹ (Class A) No planning restriction ² (Class B)	0% discount
Unoccupied dwelling which is substantially unfurnished (Class C)	100% discount for 1 month only
Property undergoing or requiring structural repairs which is unoccupied and substantially unfurnished (Class D)	50% for twelve months or up to six months after the completion of works, to the maximum twelve-month period
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

- 1.8 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 6 months and 12 months, respectively. Since that time, Teignbridge, along with many other billing authorities, has reduced the 'discount' available.
- 1.9 Once any discount has ended, the Council charges a 100% Council Tax on empty dwellings. Second homes are immediately charged at 100%.
- 1.10 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, since 2019, legislation changed to allow a progressive charge to be made as follows:

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

- 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%.

1.11 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.

1.12 Government, together with local authorities, has unfortunately seen a rise in the number of empty dwellings together with a growth in second homes. Inconsistencies in the legislation have also been identified where a premium can be avoided by the taxpayer merely furnishing an empty premises, whereupon it would become a 'second home' which currently has a maximum charge of 100%.

1.13 Clauses within the Levelling Up and Regeneration Bill (Bill 169 2022-23) have been introduced in order to address these inconsistencies and to encourage more dwellings into use.

Changes to empty dwelling premiums

1.14 Clause 72 (1) (b) of the Bill will permit 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](#)

1.15 Clause 72 (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. 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 when published.

1.16 In addition, Clause 72 (2) of the Bill 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

1.17 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 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 use by their owners.

- 1.18 Clause 73 of the Bill 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%.
- 1.19 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.
- 1.20 As with other changes introduced by the Bill, 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 2024/25 financial year at the earliest. However, it is essential that a decision is made by Council before 31st March 2023 to give the required one-year notice.
- 1.21 The Bill 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.

Premiums – generally

- 1.22 In line with all similar legislation, any decision must be publicised in at least one local newspaper, within 21 days of its being taken by full Council.
- 1.23 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.
- 1.24 The Secretary of State has the power to prescribe certain classes of property that will not be subject to an empty dwelling premium. Currently these are homes that are empty due to the occupant living in armed forces accommodation for job-related purposes, or to annexes being used as part of a main property. It is expected that when regulations are laid, similar exceptions will apply to second homes premiums.
- 1.25 Incentivising empty homes back into use are key strands of both our homelessness and housing strategies. At the time of writing this report, we have approximately 1,250 people with a registered housing need on our social housing register (Devon Home Choice). In addition, approximately 60 households per month approach our Housing Solutions Service in order to make a statutory homeless application. There is a shortage of affordable private rented accommodation locally, with median market rents outstripping local housing allowance rates by £200 per month on average. As a result, we are seeing increasing numbers of households in temporary accommodation for long periods because finding suitably affordable ‘move-on’ accommodation is so challenging. Increasing the supply of suitable affordable private rented accommodation is of

paramount importance if we are to reduce levels of homelessness and address the housing need of local residents.

2. Implications, Risk Management and Climate Change Impact

Financial

- 2.1 Subject to the Bill receiving Royal Assent the earliest the new premiums can take effect is 1st April 2024, meaning that the earliest any additional income will be generated is the financial year 2024-25.

Second homes premium

- 2.2 Based on high level analysis of current council tax datasets the application of a 100% premium on unoccupied and substantially furnished property (second homes) could generate additional income of around £2.5M subject to the Bill receiving Royal Assent and any specific Government guidance. But please note the caveats set out in 2.3, 2.4 and 2.5 below relating to quality of data, changes in resident behaviour etc. Our records indicate that we have around 1,240 properties that are furnished but not currently used as anyone's sole or main residence.
- 2.3 Income generated from the premium would be shared across all preceptors (including County, Police, Fire, and town/parishes). Teignbridge would retain around 9% (£225K). NB. The actual amount of additional income generated could be significantly lower as a result of the concerns noted in 2.3, 2.4 and 2.5 below.
- 2.4 The application of a second homes premium might 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 our Council Tax system, and 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 and the figures quoted above.
- 2.5 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 only detail needed to support such a claim is evidence of an advertisement for let for the property. From April 2023 this criterion will still apply but additionally it must be demonstrated that the property was available to let for more than 20 weeks in the previous year, and proof must be provided 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

- 2.6 There is also a concern that couples who own second homes may claim that they are living separately and are single occupants of each respective property. The Council will need to verify information supplied to ensure, as far as it can, that it is correct. Financial penalties can be imposed where false information is provided and will assist in ensuring that data held is accurate.
- 2.7 It is possible that owners of 'second homes' may choose to remove furniture to take advantage of the 12 month's lead in time available for empty, unfurnished properties. This may increase the number of empty homes within the district and consequently have a negative impact on New Homes bonus. It is difficult to predict the extent to which this might happen but given the cost and effort involved in removing and storing furniture this is considered low risk.

Empty homes premium after 1 year instead of 2

- 2.8 Based on current data, there are 115 empty and unfurnished properties that have been empty and unfurnished for a period of 12 months or more. If the premium were available and applied to these properties now, this would generate in the region of £190,000 based on current values (£17,100 to Teignbridge @ 9%). These numbers are fluid and may not be representative of the number of empty properties on our records as at 1st April 2024 when the premium would take effect.

Legal

- 2.9 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 Bill (Bill 169 2022-23)); and
 - Levelling Up and Regeneration Bill (Bill 169 2022-23).
- 2.10 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 within 21 days of the decision having been made.
- 2.11 The recommendations set out within this report are subject to the Levelling Up and Regeneration Bill receiving Royal Assent.
- 2.12 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

Risks

- 2.13 The recommendations are considered to be low risk as premiums apply only to dwellings that are empty or where dwellings are used as a second home. Bringing those dwellings back into use will support the Council's Empty Homes Strategy and potentially will increase the level of income available to the Council and preceptors.

- 2.14 There is a potential risk that some of these homeowners may struggle financially to pay additional amounts of council tax. However, this could provide an opportunity to engage with owners who will be affected from April 2024 regarding how the property could be brought back into use. Billing authorities also have discretion to reduce or remit council tax in exceptional circumstances. This provides an appropriate safety net and can be used to provide support on a case-by-case basis for any deserving cases which are not subject to the statutory exemptions.
- 2.15 The amount of income generated from this proposal may be less than anticipated for the reasons outlined in 2.3, 2.4 and 2.5 above,

Environmental/Climate Change Impact

- 2.16 There are no environmental or climate change impacts arising from this report.

Equality Impacts

- 2.17 There are no identified equality impacts arising from this report. An equality Impact Assessment has been completed and is attached as an appendix to this report. Members are reminded to have due regard to this assessment before making any decisions in relation to this report

3. Alternative Options

- 3.1 The alternative option to implementing the recommendations would be to leave the existing premiums in place for long term empty dwellings, namely that they will only be applied after a two-year period, rather than the proposed change of making premiums payable after one year.
- 3.2 The alternative to the new second home premium would be to not introduce the premium whatsoever or to introduce the premium at an amount less than 100%.
- 3.3 It should be noted however, that the introduction of any of the above changes will require agreement by Council before the end of the current financial year if the changes are to be effective from 1st April 2024, as at least one year's notice is required.