

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

10 January 2023

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Council

1 COUNCIL TAX PREMIUM CHANGES FOR EMPTY HOMES AND SECOND HOMES

This report seeks Cabinet's recommendations on proposed changes to Council Tax premium charges.

1.1 Background

- 1.1.1 On 19 February 2019, Council resolved to adopt a 100% Council Tax premium from the 2019/20 financial year onwards for properties that have been empty for 2 years or longer.
- 1.1.2 On 18 February 2020, Council resolved to adopt, from the 2020/21 financial year onwards, a 200% Council Tax premium for properties that have been empty for at least 5 years; and from the 2021/22 financial year onwards, a 300% Council Tax premium for properties that have been empty for at least 10 years.
- 1.1.3 Latest figures show that there are currently 66 properties attracting a 100% premium, 72 properties attracting a 200% premium and 16 properties attracting a 300% premium.
- 1.1.4 In the Levelling-up and Regeneration Bill dated May 2022 Government announced an amendment to the Long Term empty dwellings (England) legislation providing Councils discretion to apply a premium of up to 100% of the Council Tax charge on those properties that have been empty for more than two years to be amended to apply to properties that have been empty for one year plus rather than two. This provision was introduced by Central Government as a tool to assist local authorities in the drive to bring empty properties back into use.
- 1.1.5 **This bill is still awaiting Royal Assent.** All recommendations are subject to the bill being enacted and guidance being published by Central Government.
- 1.1.6 The Levelling-up and Regeneration Bill also introduced new legislation relating to 'dwellings occupied periodically (England)'. This relates to properties that are classed as 'second homes'. This provides councils with the discretion to apply a premium of no more than 100% to qualifying properties.

The conditions of this criteria are:

- a) There is no resident of the dwelling, and
- b) The dwelling is substantially furnished.

1.1.7 Latest figures show that there are currently 215 properties classified as second homes.

1.2 Empty Homes Amendment

1.2.1 Amendments will allow councils to introduce the premium for empty homes a year earlier than existing agreements.

Introduction date	Existing premiums	Premiums that can be applied
1 April 2023	100% premium for properties empty 2 years +	100% premium for properties empty 1 years +

1.2.2 Regulations allow a billing authority to vary or revoke a determination in respect of an empty home premium for a financial year, but only before the beginning of the year.

1.2.3 The amendment can therefore have an impact for the financial year beginning on or after 1 April 2023 and it does not matter if the start date of the property being empty is before this comes into force.

1.2.4 It is expected that by reducing the time a property is empty, the premium will allow local authorities to strengthen the incentive for owners of empty homes to bring them back into use.

1.2.5 No public consultation is required to introduce this change.

1.2.6 Liable parties will be able to appeal via standard Council Tax appeal routes if they disagree with the applying of a premium on an account based upon facts of an individual case, for example, they state that the property is not empty. The principle of a premium will not be open to appeal.

1.2.7 Taxpayers affected by the reduced empty period will be notified prior to the new charge coming into force so they can decide to sell or let the property before they are impacted by the change.

1.3 Second Homes Amendment

1.3.1 Under existing legislation, properties classed as second homes have a full charge (100%) and there are no discounts or premiums in place.

- 1.3.2 By introducing a premium on these properties, it is expected that properties that are not in constant use may be encouraged to be brought back into use for local residents. It would also remove potential loopholes regarding empty homes where an owner could furnish a property to remove it from the list as being classed as an empty home to avoid the premiums that this can attract.
- 1.3.3 There is no minimum timeframe on this premium, and if the premium is agreed, any property classed as a second home would attract the premium with effect from 1 April 2024.
- 1.3.4 Taxpayers affected by the additional premium will be notified prior to the 1 April 2024 so they can decide what to do with their property before they are impacted by the change.
- 1.3.5 It is recognised that some taxpayers may request their properties to be treated as Non-Domestic due to letting legislation to avoid a premium (e.g. holiday lets). This will be monitored by the Council and cases investigated as appropriate.
- 1.3.6 All recommendations are subject to the bill being enacted and guidance being published by Central Government.

1.4 Summary

- 1.4.1 The Council has long held the objective of doing all it can to bring homes into use for the benefit of local residents. If the legislation is passed in due course, it would enable further premiums of council tax to be levied which might encourage the sale or even private rental of properties.
- 1.4.2 Unfortunately, if the Council wishes to introduce these premiums (should the legislation be passed), a decision would need to be made before the end of March 2023. As it is a Council decision, this effectively means by the Council meeting in February 2023.
- 1.4.3 Having discussed the matter with the Cabinet Member for Finance, Innovation and Property, it was agreed that the matter should be presented to Cabinet for discussion in January. Nationally, some councils have made the decision to implement the new premiums subject to the legislation being passed.
- 1.4.4 Whilst not a matter for this report, I should also flag up that we have an outstanding commitment to review our local Council Tax reduction Scheme in the early part of 2023/24 (with any changes coming into force in April 2024, if applicable). Dependent upon how this review goes and what decisions Members ultimately make, if there are costs associated with any changes it is possible that they could be negated by the implementation of the premiums.

1.5 Legal Implications

- 1.5.1 A full Council resolution is required to introduce the amendments detailing exemptions and agreements of introduction dates and premium amounts.
- 1.5.2 In respect of the Empty Home amendment, this just needs a decision before the financial year to which the decision relates as set out in S11B(5) of the Local Government Finance Act 1992.
- 1.5.3 As mentioned in the report, the amended premium charge can therefore be implemented from 1 April 2023.
- 1.5.4 In respect of the Second Homes amendment, the premium charge for second homes can only be implemented with at least one year's notice. This means a final decision must be passed by 31 March 2023 to be able to introduce any changes from 1 April 2024.
- 1.5.5 As mentioned in the report, the Levelling Up and Regeneration Bill (which is still awaiting Royal Assent) will allow councils to introduce a new discretionary council tax premium on second homes of up to 100% and amend existing long term empty council tax premiums. The Council will only be able to implement the changes once the Bill has been enacted and been published by Central Government.

1.6 Financial and Value for Money Considerations

- 1.6.1 The table below illustrates the estimated financial impact the additional properties that would be impacted if both amendments were introduced in April 2023; it is too early to provide details on second homes for April 2024 at this current time and these figures are for illustration purposes. Please note these figures are based on the TMBC element of the 2022/23 Council Tax rate.
- 1.6.2 It should also be noted that the additional premiums might have the effect of encouraging owners to bring them back into use. As Members are aware one of the Council's priorities is to "*promote a continuing supply of homes in the borough, including affordable homes across all tenures, and work to prevent homelessness*". Bringing empty homes back into use is an important element of this and therefore Members should note that if this is successful, the full extent of the additional income might not be realised.

Projection of premium changes based on latest figures

	Properties	CTax Base value	100% premium charge value	Additional charge value
Empty Homes	227	£50,000	£50,000	£50,000
Second Homes	215	£51,000	£51,000	£51,000

1.6.3 Indicative rates above are based on 100% collection. The Council is aware that not all cases will yield 100% collection in year. In year collection at the end of November 2022 is currently 74.7%, approximately 0.5% higher than in 2021/22. The end of year target for overall collection of Council Tax in 2022/23 is 98%.

1.7 Risk Assessment

1.7.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
1) Additional income to TMBC is not fully realised due to the impact of the current economic climate on collection rates.	High	Medium	Collection to be closely monitored.
2) Adverse reaction from owners of empty properties having their council tax doubled during a cost of living crisis	Medium	High	Consider implementing the change from April 2024 to give owners more notice of the amendment

1.8 Equality Impact Assessment

1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.9 Policy Considerations

1.9.1 Communications. Publication of the decision must be made with 21 days of the decision as stated in the report.

1.9.2 Community

1.10 Recommendations

1.10.1 Cabinet is asked to **CONSIDER** whether they would wish to:

- 1) recommend to Full Council to adopt the amendments to Council Tax empty home premiums from the 2023/24 financial year onwards as demonstrated in para 1.2.1 (or from the 2024/25 financial year onwards as demonstrated in para 1.7.1) subject to the bill being enacted and guidance being published by Central Government;
- 2) recommend to Full Council to introduce a Council Tax premium to second homes from the 2024/25 financial year onwards subject to the bill being enacted and guidance being published by Central Government.

Background papers:

Levelling-up and Regeneration bill (Points 72-73)

<https://bills.parliament.uk/bills/3155>

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