

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

05 December 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 provides an update to a previous Cabinet recommendation (Cabinet meeting on 10 January 2023) to change Council Tax premium charges, subject to the enactment of the Levelling up and Regeneration Bill.

This Bill has now received Royal Assent and Cabinet is now requested to recommend to Full Council in February 2024 that a Council Tax premium for second homes from the 2025/26 financial year onwards is introduced; and that the amendments to Council Tax empty home premiums from the 2024/25 financial year onwards are adopted.

#### 1.1 Introduction

1.1.1 Proposed changes to council tax premium charges were initially considered by Cabinet on 10 January 2023.

1.1.2 At that time, the Levelling-up and Regeneration Bill was still awaiting Royal Assent; therefore, Members agreed to recommend to Full Council for the new premium charges to be introduced from the 2024/25 financial year onwards subject to the bill being enacted and guidance being published by Central Government.

1.1.3 Shortly before the Full Council meeting, it became clear that the Bill would not receive Royal Assent. As a result, advice was given to defer the decision until the Bill was enacted to avoid any potential challenges.

1.1.4 I can advise Members that the Bill has now become law, with the Levelling-up and Regeneration Act 2023 coming into effect from 26 October 2023.

1.1.5 The criteria for both the Empty Homes and Second Homes premium charges remain unchanged; however, due to the delay in the Bill being enacted, the effective date for implementation of the Second Homes premium charge has changed.

## 1.2 Background

- 1.2.1 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.
- 1.2.2 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.
- 1.2.3 Latest figures show that there are currently 96 properties attracting a 100% premium, 74 properties attracting a 200% premium and 14 properties attracting a 300% premium. There are currently 260 properties that have been empty for at least one year that do not currently pay a premium charge.
- 1.2.4 The amendment to the Long Term empty dwellings (England) legislation gives 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 one year. **This provision was introduced by Central Government as a tool to assist local authorities in the drive to bring empty properties back into use.**
- 1.2.5 New legislation relating to ‘dwellings occupied periodically (England)’ i.e. properties that are classed as ‘second homes’ 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.
- 1.2.6 Latest figures show that there are currently 230 properties classified as second homes.

## 1.3 Empty Homes Amendment

- 1.3.1 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 2024	100% premium for properties empty 2 years +	100% premium for properties empty 1 year +

- 1.3.2 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.
- 1.3.3 The amendment can, therefore, have an impact for the financial year beginning on or after 1 April 2024 and it does not matter if the start date of the property being empty is before this comes into force.
- 1.3.4 **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.**
- 1.3.5 No public consultation is required to introduce this change.
- 1.3.6 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.
- 1.3.7 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.

#### **1.4 Second Homes Amendment**

- 1.4.1 Under existing legislation, properties classed as second homes have a full charge (100%) and there are no discounts or premiums in place.
- 1.4.2 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.
- 1.4.3 There is no minimum timeframe on this premium, but legislation states a billing authority's first determination under this section must be made at least one year before the beginning of the financial year to which it relates. Therefore, if the premium is agreed by 31 March 2024, any property classed as a second home would attract the premium with effect from 1 April 2025.
- 1.4.4 Taxpayers affected by the additional premium will be notified prior to the 1 April 2025 so they can decide what to do with their property before they are impacted by the change.
- 1.4.5 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.

## **1.5 Summary**

- 1.5.1 One of the Council's four priorities set out in the Corporate Strategy (2023-2027) is to 'Improve housing options for local people whilst protecting our outdoor areas of importance'.
- 1.5.2 The Council's Housing Strategy (2022-2027) set out priorities which include bringing empty homes back into use.
- 1.5.3 Adopting these changes would enable further premiums of council tax to be levied which might encourage the sale or even private rental of properties.
- 1.5.4 Members should note, however, that the full extent of the additional income might not be realised should the empty properties be successfully brought back into use.
- 1.5.5 If Cabinet are supportive of these recommendations, then policies will be drawn up and presented to Full Council in February 2024 alongside these recommendations.

## **1.6 Legal Implications**

- 1.6.1 A Full Council resolution is required to introduce the amendments detailing exemptions and agreements of introduction dates and premium amounts.
- 1.6.2 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.
- 1.6.3 As mentioned in the report, the amended premium charge can therefore be implemented from 1 April 2024.
- 1.6.4 In respect of the Second Homes amendment, the premium charge for second homes can only be implemented with at least one year's notice as set out in S11C(3) of the Local Government Finance Act 1992. This means a final decision must be passed by 31 March 2024 to be able to introduce any changes from 1 April 2025.

## **1.7 Financial and Value for Money Considerations**

- 1.7.1 The table below illustrates the estimated financial impact the additional properties that would be impacted if both amendments were introduced; it is too early to provide details on second homes for April 2025 at this current time and these figures are for illustration purposes. Please note these figures are based on the TMBC element of the 2023/24 Council Tax rate.

### Projection of premium changes based on latest figures

	Properties	CTax Base value	100% premium charge value	Additional charge value
Empty Homes (for 2024/25)	260	£60,000	£60,000	£60,000
Second Homes (for 2025/26)	230	£53,000	£53,000	£53,000

1.7.2 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 October 2023 is currently 65.2%, equal to the amount collected in 2022/23. The end of year target for overall collection of Council Tax in 2023/24 is 98.5%.

## 1.8 Risk Assessment

1.8.1 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 2025 to give owners more notice of the amendment

## **1.9 Equality Impact Assessment**

1.9.1 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.

## **1.10 Policy Considerations**

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

1.10.2 Community

## **1.11 Recommendations**

1.11.1 Cabinet is **REQUESTED** to :

- 1) recommend to Full Council to adopt the amendments to Council Tax empty home premiums from the 2024/25 financial year onwards as demonstrated in paragraph 1.3.1; and
- 2) recommend to Full Council to introduce a Council Tax premium to second homes from the 2025/26 financial year onwards as demonstrated in paragraph 1.4.3.

Background papers:

[Levelling-up and Regeneration Act 2023](#) (Points 79-80)  
[\(legislation.gov.uk\)](#)

contact: Glen Pritchard  
Sharon Shelton

Sharon Shelton  
Director of Finance and Transformation