

Cheltenham Borough Council

Council – 23 February 2024

Council Tax Premiums on Empty Homes and Second Homes

Accountable member:

Councillor Peter Jeffries, Cabinet Member Finance, Assets and Regeneration

Accountable officer:

Jayne Gilpin, Head of Revenues and Benefits

Ward(s) affected:

All

Key Decision: Yes

Executive summary:

The Council has discretionary powers to impose a council tax premium on empty homes. The Levelling up and Regeneration Act 2023 makes changes to the premium and introduces a new premium for second homes. This report makes recommendations to implement the changes.

Recommendations:

- 1. That Council approves the change to the Empty Homes Premium so that properties which have been unoccupied and unfurnished for one year, instead of two, will become subject to the 100% premium from April 2025.**
- 2. That Council approves the implementation of the 100% Second Homes Premium from April 2025.**
- 3. That Council gives delegated authority to the Executive Director for Finance Assets and Regeneration in consultation with the Cabinet Member Finance and Assets to amend the policy so that it meets the requirements of any guidance/ regulations due to be issued by Government and to ensure the premiums are administered efficiently.**

1. Implications

1.1 Financial, Property and Asset implications

The proposed changes will generate additional council tax income from 2025/26 proportionate to the share of council tax. However, the estimate is based on current caseloads which will change and they are also likely to be reduced once the Government confirms the expected exceptions. The income will also reduce as properties subject to a premium are brought in to use as homes.

It should be noted that these changes will also impact on the Housing Revenue Account if there are Council owned properties that meet the qualifying criteria

Signed off by: Gemma Bell, Director of Finance and Assets gemma.bell@cheltenham.gov.uk

1.2 Legal implications

The Levelling Up and Regeneration Act 2023 amends the Local Government Finance Act 1992 as follows

Long-term empty dwellings

Section 79 of the 2023 act amends Section 11b of The Local Government Finance Act 1992 so that for financial years beginning on or after 1 April 2024 dwellings unoccupied and substantially unfurnished for a continuous period of at least one year, instead of two years, are subject to the council tax premium

Dwellings occupied periodically

Section 80 of the 2023 inserts a new Section 11(C) of The Local Government Finance Act 1992 giving the Council power, by determination, to charge a premium of 100% where there is no resident of a dwelling, and the dwelling is substantially furnished.

The first determination must be made at least one year before the beginning of the financial year to which it relates meaning this cannot come into effect before 1 April 2025. In respect of both in exercising its functions under both section 11B and 11C the Council must have regard to any guidance issued by the Secretary of State.

There is a requirement to publish any determination made under section 11B or 11C in a local newspaper.

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

Signed off by: One Legal, legalservices@onelegal.org.uk

1.3 Environmental and climate change implications

None arising directly as a result of this report

Signed off by: Maizy McCann, Climate Emergency Officer, Maizy.McCann@cheltenham.gov.uk

1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Increasing the number of affordable homes
- Ensuring residents, communities and businesses benefit from Cheltenham’s future growth and prosperity
- Being a more modern, efficient and financially sustainable council

1.5 Equality, Diversity and Inclusion Implications

An equality impact assessment has been completed and is in Appendix 2 richard.gibson@cheltenham.gov.uk

1.6 Performance management – monitoring and review

The impact of council tax premiums will be monitored closely and further changes will be considered as required

2 Background

2.1 Once a property becomes unoccupied and unfurnished a 25% council tax discount is awarded for up to 6 months. The full council tax is then payable until the property has been unoccupied and unfurnished for a period of two years, at which point a premium can be levied.

2.2 This Council has used its discretionary powers to levy a council tax premium on long term empty properties since April 2018. The decisions made support the Council’s strategy to bring empty homes back in to use more quickly and generate additional council tax income.

2.3 Appendix 3 details the level of discount or premium implemented so far and the proposed changes from April 2025.

2.4 The current level of premium and the number of properties being charged are as follows:

Period property empty/level of premium	Number of properties subject to a premium at January 2024
100% premium on properties which have been empty for more than two years but less than five years	143
200% premium on properties which have been empty for five years or more but less than ten years	42
300% premium on properties which have been empty for ten years or more	4
Total	189

- 2.5 For council tax purposes all properties that are furnished but where no-one lives as their main home are classed as second homes.
- 2.6 The Council has used its discretionary powers to charge the maximum 100% council tax on second homes but currently is not able to levy a premium.
- 2.7 This means there is a loophole where properties that would be subject to the empty homes premium can be furnished so that they are classed as second homes instead and avoid paying the premium. The number of properties classed as second homes at January 2024 is 963.
- 2.8 The Levelling Up and Regeneration Act 2023 introduced changes to the Local Government Finance Act 1992 which will allow the Council to charge the empty homes premium once properties have been empty for one year, instead of two. The act also introduced a new power to charge a premium on second homes.
- 2.9 Any determination to vary the empty homes premium must be made by council before the financial year in which it relates but the first decision to implement the second homes premium must be made by Council at least one year before the premium can be levied. The premium cannot therefore be charged before April 2025.
- 2.10 The Levelling Up and Regeneration Act 2023 also includes a requirement for the Council to have regard to any guidance issued by the Secretary of State in respect of the premium for both long term empty and second homes. It is expected that guidance will be issued in due course setting exceptions from both the empty homes and second home premium.

3 Changes to the Empty Homes Premium

- 3.1 Currently the 100% premium on long term empty homes can be levied once the property has been unoccupied and unfurnished for a continual period of 2 years. The continual empty period starts from the date a property becomes unoccupied and unfurnished. It does not start again as a result of a change in owner or tenant.
- 3.2 The amendments made to the Local Government Finance Act 1992 change the definition of long term empty homes so that the 100% premium can be levied once a property has been unoccupied and unfurnished for a continual period of one year, rather than two.
- 3.3 The 100% premium will continue to apply until a property has been empty for five years when it increases to 200% and then 300% after ten years.
- 3.4 The Government has given strong indication that subsequent guidance will be issued requiring the council to apply certain exceptions to the empty homes premium. The exceptions could include circumstances such as where a property is undergoing probate or major repairs and where a property is actively being marketed for sale or rent.
- 3.5 There are currently 73 properties that have been empty between one and two years. The caseload is continually changing and due to any exceptions that may be applied the number of properties is expected to change. If the premium was levied on these cases, based on expected 2024/25 council tax levels this would generate additional income of approximately £13,500 for this Council.
- 3.6 The change to the empty homes premium can be effective from April 2024 but the recommendation is to implement the change from April 2025 which will be the same date as the second home

recommendation in this report. This will also allow time to publicise the changes and make owners, landlords and council taxpayers generally, aware of the change and consider taking action to bring their properties back in to use as a home.

4 Introduction of the premium on second homes

- 4.1 Currently a council tax premium can only be levied on long term empty properties and the maximum charge on properties classed as second homes is 100%.
- 4.2 The amendments made to the Local Government Finance Act 1992 gives billing authorities the power to levy a premium of up to 100% on properties where there is no resident and the property is substantially furnished (second homes).
- 4.3 As the decision to impose the second homes premium must be made by Council a full financial year before it takes affect the earliest it can be levied on relevant properties is April 2025.
- 4.4 As with the empty homes premium the Government has given strong indication that subsequent regulations or guidance will be issued requiring the council to apply certain exceptions to the second homes premium. The exceptions are likely to be the same as for the Empty Homes Premium.
- 4.5 The current number of properties classed as second homes is 963. As an indication the 100% premium applied on all of these properties would generate additional income of approximately £190,000 for this Council. However, the caseload will change and due to any exceptions that may be applied the number of properties is expected to reduce by April 2025, meaning this figure is expected to be lower.
- 4.6 A full review of all properties classed as second homes will be undertaken over the coming months and owners of all second homes will be contacted to notify the notified of the premium.
- 4.7 Some owners of second homes, where they are let for short term periods as holiday homes, may be able to have the properties classed as business properties and transferred from council tax to business rates. Due to the reliefs that are available the amount of business rates due to be paid may be considerably less than the council tax. The current rules for a property to be treated as a business require the owner to evidence that it was openly available to let for more than 140 nights in the current and previous tax years and that it was actually let for at least 70 nights in the previous 12 month period. The Valuation Office Agency (VOA) assesses the evidence and make the decision as to whether the property should be treated as council tax or business rates. The VOA is regularly monitoring any short term let holiday homes in business rates and where the requirements are not met they are moved back in to the council tax system.

5 Reasons for Recommendation

- 5.1 Reducing the number of long term empty properties is identified as a priority in the Council's Housing, Homelessness and Rough Sleeping Strategy.
- 5.2 Empty homes and second homes can have a negative impact on local communities and contribute to the housing supply pressures. Long term empty properties in particular, are more likely to fall into disrepair and be subject to anti-social behaviour such as squatting or vandalism.
- 5.3 With increasing pressure to find homes for people in need levying the premium on empty homes and second homes is one of the powers available to the Council to incentivise owners to bring properties

in to use, for the benefit of all residents.

5.4 There are a number of enforcement options available to the Council and consideration will be given to acquiring long term empty homes, if necessary by way of Compulsory Purchase Order, and converting them into affordable homes. Using these enforcement powers will be considered in individual cases, based on the circumstances.

5.5 Guidance and/or regulations regarding exceptions that must be applied to both premiums are not yet available. Authority is being sought from Council for the Executive Director for Finance, Assets and Regeneration in consultation with the Cabinet Member Finance and Assets to make the necessary amendments to include exceptions and any other changes necessary to administer the empty homes and second homes premium.

6 Next Steps

6.1 If Council approves the recommendations in this report details will be made available on the Council's website and communication will be made with council taxpayers to make them aware of the changes from April 2025.

6.2 Once details of any exceptions are known these will be incorporated into communication with council taxpayers and publicised on the website.

6.3 There is a legal requirement to publish any decision made regarding the premiums in a local newspaper within 21 days of the decision.

7 Alternative options considered

7.1 The Council could opt not to levy the empty homes premium when a property has been empty for between one and two years or to levy the second homes premium. This would not incentivise owners to bring properties in and support the Council's strategy to increase housing supply

8 Consultation and feedback

8.1 The Government undertook an extensive consultation on these proposals during July and August 2023.

9 Key risks

9.1 The risks are in appendix 1

Report author:

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Appendices:

- i. Risk Assessment
- ii. Equalities Impact Assessment

- iii. Council Tax discounts on empty properties

Background information:

1. The Local Government Finance Act 1992, as amended
<http://www.legislation.gov.uk/ukpga/1992/14/contents>
2. The Levelling Up and Regeneration Act 2023

