

Council

30 January 2024



Reading

Borough Council

Working better with you

Title	Council Tax Empty & Second Homes Premiums
Purpose of the report	To make a key decision
Report status	Public report
Report author	Samantha Wills, Revenues and Benefits Manager
Lead Councillor	Councillor Brock, Leader of the Council and Councillor Terry, Deputy Leader of the Council and Lead Councillor for Corporate Services & Resources
Corporate priority	Not applicable, but still requires a decision
Recommendations	<p>That Council approve:</p> <ol style="list-style-type: none">1. From 1 April 2024, levying the maximum level of Empty Homes premium i.e.:<ol style="list-style-type: none">1.1.1. 100% for dwellings which are unoccupied and substantially unfurnished for more than 12 months and up to 5 years;1.1.2. 200% for dwellings which have been unoccupied and substantially unfurnished for between 5 and 10 years; and1.1.3. 300% for dwellings which have been unoccupied and substantially unfurnished for 10 years or more.2. From 1 April 2025:<ol style="list-style-type: none">2.1.1. The continued application of Empty Homes premiums as set out above; and2.1.2. The application of a Second Homes Premium of 100% for all dwellings the are no one's sole or main residence and which is substantially furnished.3. Exception to premiums<ol style="list-style-type: none">3.1.1. The Council is mindful of the current consultation by Government which recommends exceptions in certain circumstances (outlined in 1.28 – 1.30). Subject to the outcome of that consultation, it is recommended that the Section 151 Officer is given delegated authority to implement the Council's policy on premiums in line with statute, the Council's requirements and any guidance given by the Secretary of State.

1. Introduction

- 1.1. This report identifies decisions required by full Council and makes recommendations to change the Council's approach in respect of certain discretionary areas within Council Tax legislation. In the main, the changes will take effect from 1 April 2024. The Levelling Up and Regeneration Act allows the Council to make further amendments to the levying of Council Tax premiums within the Borough with effect from both 1 April 2024 and 1 April 2025.
- 1.2. 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 very little discretion allowed. However, there are a number of areas where each Council may determine the type and levels of charge to be made.
- 1.3. The main discretionary areas in place currently 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) Currently, premiums where premises have been unoccupied and substantially unfurnished for a period exceeding 2 years.
- 1.4. When determining its policy, each billing authority has to decide the level of discount (if any) to be granted and the amounts (percentage) of any premium by the 31 March prior to the financial year in which it wants to introduce the changes.
- 1.5. Where a change is proposed, there is a requirement to determine the level of any discount or premium and a decision is now required to be made by full Council under Section 11A, 11B and the new 11C of the Local Government Finance Act 1992.
- 1.6. Once determined, any resolution of the Council will be published in a local newspaper(s) within 21 days of the decision.

The Current Situation

- 1.7. Currently there are 1,502 empty and substantially unfurnished properties, of which 690 are considered long term empty as exceed 6 months. There are 1,084 second homes (Class B), of which 694 exceed 6 months. The Council has adopted the following level of discounts and premiums.

	Current policy
Second Homes No one's sole or main residence and which is substantially furnished. 28-day planning restriction ¹ (Class A)	0% discount
Second Homes No one's sole or main residence and which is substantially furnished. No planning restriction ² (Class B)	0% discount
Class C (Unoccupied dwelling with is substantially unfurnished)	0% discount
Class D Structural repairs (Unoccupied and substantially unfurnished) (Maximum 12 months)	0% discount

Premium - Dwellings which are unoccupied and substantially unfurnished (Empty Homes premium) After 2 years and up to 5 years of becoming empty.	100% premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty Homes Premium) Dwellings empty between 5 years and up to 10 years	200% premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty Homes Premium) Dwellings empty for 10 years or more	300% premium

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

- 1.8. Government, together with local authorities have unfortunately seen a rise in the number of empty homes together with a growth in second homes. Inconsistencies in the legislation have also been identified whereby a premium can be avoided by the taxpayer merely furnishing an empty property, when it would become a 'second home' which currently has a maximum charge of 100%. The Council has previously identified this and, for a number of years, has proposed changes in the legislation to avoid this 'loophole'.
- 1.9. By amending the Local Government Finance Act 1992, the recently enacted Levelling-up and Regeneration Act 2023 ('the 2023 Act') addresses these inconsistencies and also brings more dwellings into use. This report makes recommendations to change the discounts currently being granted by the Council and also to introduce changes to the regimes for charging premiums as allowed within the legislation.

Changes to Empty Homes Premiums (From 1 April 2024)

- 1.10. Section 80(1)(b) of the 2023 Act will permit billing authorities in England to impose an empty homes premium after one year instead of two. This gives effect to a commitment made by Government in the Levelling Up White Paper .
- 1.11. Section 80(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 homes premium and it is expected that the current guidance drafted in 2013 will be updated. Any change to guidance is likely to come into effect from the 2024/25 financial year.
- 1.12. Sections 81(2) and 81(4) provide that from 1 April 2024, a property can be charged an empty homes premium at 100% after one year, even if it became empty before 1 April 2024.

Introduction of Premiums for Second Homes (From 1 April 2025)

- 1.13. At present, English billing authorities may only impose an empty homes premium on properties that are 'unoccupied and substantially unfurnished'. This term is defined via case law, not in legislation. However, it does not cover dwellings that are no one's sole or main residence but are furnished. An empty homes premium could, therefore, not be imposed on properties that are maintained as second homes for regular use by their owners.
- 1.14. Clause 73 of the Bill inserts a new section 11C into the Local Government Finance Act 1992. This permits billing authorities to apply a premium to properties that have no resident and are "substantially furnished". The maximum Council Tax charge in these cases will 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%.

- 1.15. There will be no requirement for a property to have been used as a second home for a fixed period of time before the premium can apply.
- 1.16. 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 for second homes will not take effect until the 2025/26 financial year at the earliest. However, it is essential that a decision is made by Council before 31 March 2024 to give the required one year notice.
- 1.17. The Bill provides that a dwelling cannot be subject to both a second homes premium and an empty homes premium imposed under section 11B of the 1992 Act, and that an existing empty homes premium would cease to apply to a property which became subject to a second homes premium.

Premiums – Generally

- 1.18. In line with all similar legislation, any decision made by the Council must be publicised in at least one local newspaper, within 21 days of its being taken.
- 1.19. 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.
- 1.20. The Secretary of State has the power to prescribe certain classes of property that will not be subject to an empty homes premium. Currently these are homes that are empty due to the occupant living in armed forces accommodation for job- related purposes, or annexes being used as part of a main property.
- 1.21. In line with that, a consultation has also been issued by government on proposals to delay the application of premiums and it is expected that the areas included in the consultation will form either guidance or regulations which authorities will be required to adhere to.

Changes Proposed from 1 April 2024

- 1.22. The continued pressure on local authority finances (both the Council and other Major Preceptors) together with the need to encourage all owners of domestic premises to bring them back into use due to the severe shortage of homes, makes it essential that the Council changes its approach to empty properties.
- 1.23. From 1 April 2024, the Council has the opportunity to make changes to both its discretionary discounts and also to the current premium regime in order to incentivise change. In view of this, it is recommended that the Council adopt the following changes with effect from 1 April 2024 as follows:

	Current policy	Proposed policy
Second Homes No one's sole or main residence and which is substantially furnished. 28-day planning restriction ³ (Class A)	0% discount	0% discount (no change)
Second Homes No one's sole or main residence and which is substantially furnished. No planning restriction ⁴ (Class B)	0% discount	0% discount (no change)

Class C (Unoccupied dwelling with is substantially unfurnished)	0% discount	0% discount (no change)
Class D Structural repairs (Unoccupied and substantially unfurnished) (Maximum 12 months)	0% discount	0% discount (no change)
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty homes premium) After 1 year up to 5 years of becoming empty.	100% premium	100% premium after 1 year (current policy after 2 years)
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty homes Premium) Dwellings empty between 5 years and up to 10 years	200% premium	200% premium (no change)
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty homes Premium) Dwellings empty for 10 years or more	300% premium	300% premium (no change)

³ **restricted** by a planning condition preventing occupancy for a continuous period of at least 28 days

⁴ 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.

Changes Proposed from 1 April 2025

- 1.24. From 1 April 2025, the new legislation will allow all English billing authorities to charge a premium of up to 100% on second homes (no one's sole or main residence and which is substantially furnished).
- 1.25. The intention of the legislation change is to close the current loophole in relation of empty homes premium and also encourage the use of second homes as a primary residence.
- 1.26. It is recommended that the Council resolves to apply a premium of 100% on second homes with effect from 1 April 2025. The legislation requires that the authority gives at least one year's notice from the date of a full Council resolution and the change can only be effective from the commencement of a financial year, the earliest being 1 April 2025.
- 1.27. In line with the legislation, the Council must be mindful of guidance issued by the Secretary of State and any application of the premiums must take accounts of any exceptions laid down within regulation.

Exceptions from the Premiums (Empty Homes Premiums and Second Homes Premium)

- 1.28. Government released a consultation paper entitled Consultation on proposals to exempt categories of dwellings from the council tax premiums in England. The consultation (which has now ended), sought views on possible categories of dwellings which should be dealt with as exceptions to the council tax premiums. It covers the empty homes premium, and also the second homes premium, provisions which are included within the Levelling Up and Regeneration Bill.
- 1.29. The consultation proposes that there will be circumstances where either the premiums will either not apply or be deferred for a defined period of time. These are as follows:

- 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 is granted. This does not affect the 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 6 months from the date that active marketing commenced, or until the property has been sold or rented, whichever is the sooner.
- Empty properties undergoing major repairs - time limited to 6 months - the government proposes that empty properties undergoing major repair works or structural alternations should be an exception to the premium for up to 6 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 dwelling 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 maintain 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; and
- 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.

1.30. It is understood that regulations or guidance (which has to be followed in accordance with the Levelling Up and Regeneration Bill) will be in line with government's proposal. In view of this, the Council will need to ensure that any charging policy is in line with legislation and will need to determine what evidence will be required to support any exception. It is therefore recommended that the Council's Section 151 Officer is granted delegated

powers to amend the Council's policy of premiums in line with legislative or government requirements.

'Safety Net'

- 1.31. There may be circumstances where the implementation of these changes (percentage increase in the level of premiums) may cause exceptional hardship to a taxpayer. In such cases, the Council will consider applications for a reduction in liability under its Section 13A (1)(C) of the Local Government Finance Act 1992 - Reduction in Council Tax liability policy.
- 1.32. Where such an application is received, it will be considered on an individual case basis taking into account the circumstances of the taxpayer and the situation regarding the level of Council Tax charged. Should the taxpayer be aggrieved by any decision of the Council a further right of appeal will be with the independent Valuation Tribunal.

Risk

- 1.33. The main risk associated with the implication of the recommendations (both the changes to discounts and premiums) will be the increase in non-compliance, with some taxpayers actively trying to avoid the new charges by providing incorrect information to the Council.
- 1.34. The Council already has processes and procedures in place in order to ensure that all charges are applied correctly. Further compliance procedures will be established to ensure that the new second homes premium is applied in accordance with the legislation and the Council's requirement.

2. Contribution to Strategic Aims

- 2.1. Maximising the Council's budget is essential to ensuring the Council meets its strategic aims and remains financially sustainable going forward.
- 2.2. Incentivising change through the application of a premium will support properties being brought back into use, reducing the housing need in the borough.

3. Environmental and Climate Implications

- 3.1. There are no specific environmental and climate implications to report in relation to the recommendations set out in this report.

4. Community Engagement

- 4.1. There is no statutory requirement to consult on any matters contained within this report. However, a resolution must be passed by full Council on or before the 31 March 2024 in order for the changes to be implemented with effect from 1 April 2024. In the case of second homes premium, a resolution made on or before 31 March 2024 will allow the premium to come into force from 1 April 2025 (its earliest commencement date).

5. Equality Implications

- 5.1. There are no anticipated impacts on protected characteristics associated with this report. The proposals do, however, include the potential generating of positive outcomes for local people who are struggling to secure sustainable accommodation in the borough, and may subsequently ease current inequalities around access to local homes.

6. Other Relevant Considerations

- 6.1. There are none.

7. Legal Implications

7.1. The legislation relevant to this report is as follows:

- section 11A (discounts: special provision for England) and section 11B (higher amount for long-term empty dwellings: England) of the Local Government Finance Act 1992 ('the 1992 Act');
- section 11C (higher amount for dwellings occupied periodically) of the 1992 Act (an amendment made by the Levelling-up and Regeneration Act 2023); and
- section 13A(1)(c) (reductions by billing authority) of the 1992 Act.

7.2. Where a resolution is to be made by full Council, the decision needs to be published in at least one local newspaper.

7.3. Due to the changes in the legislation, the Council will be required by statute to be mindful of any regulations under section 11D of the 1992 Act and guidance issued by the Secretary of State.

8. Financial Implications

8.1. These proposals are designed to incentivise properties being brought back into use. The current modelling is based on the existing number of empty properties and assumed that they will remain empty for a full financial year. The indicative values in the following tables are the maximum that may be charged. We anticipate the actual increase to the collection fund to be significantly less, providing these proposals work as intended. As a result, these estimates have not been included in the current tax base calculations.

8.2. Should the recommendations be accepted; any additional income would be shared between the Council and the other major preceptors in proportion to their share of the Collection Fund. Based on current modelling, the maximum increase in Council Tax is estimated to be as follows:

2024/25

	Current policy	Recommendation	Estimated income per annum (£)
Second Homes No one's sole or main residence and which is substantially furnished. 28- day planning restriction (Class A)	0% discount	0% discount (no change)	N/A
Second Homes No one's sole or main residence and which is substantially furnished. No planning restriction (Class B)	0% discount	0% discount (no change)	N/A
Class C (Unoccupied dwelling which is substantially unfurnished)	0% discount	0% discount (no change)	N/A
Class D Structural repairs (Unoccupied and substantially unfurnished) (Maximum 12 months)	0% discount	0% discount (no change)	N/A

Premium - Dwellings which are unoccupied and substantially unfurnished (Empty homes premium) After 1 years up to 5 years of becoming empty.	100% premium	100% premium from 1 year	344,955
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty homes premium) Dwellings empty between 5 years and up to 10 years	200% premium	200% premium (no change)	N/A
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty homes premium) Dwellings empty for 10 years or more	300% premium	300% premium (no change)	N/A

2025/26

	Current policy	Recommendation	Estimated income per annum (£)
Second Homes Premium No one's sole or main residence and which is substantially furnished. Premium of 100% is charged in addition to the second home Council Tax charge of 100%	N/A	100% premium	1,391,470

- 8.3. It should be noted that, should the recommendations be accepted, any additional income detailed above, the Council and preceptor shares would be:

	2024/25 (£)	2025/26 (£)	Share (%)
Total Additional Council Tax Raised	344,955	1,391,470	
Reading Borough Council	293,702	1,184,728	85.14
Police	39,182	158,052	11.36
Fire	12,071	48,690	3.50

- 8.4. The award of any S13A(1)(C) (reduction in liability) is a General Fund expense and would normally be met in full by the Council. In view of the fact that the additional funds from the changes in discounts and premiums proposed in this report are shared with major preceptors, it is proposed that the cost of any award are met from the Collection Fund.
- 8.5. It is recommended that the Council's Section 151 Officer is authorised to agree with the major preceptors the funding of any award under S13A(1)(C) (reduction in liability) from the Collection Fund as outlined within 1.35.

9. Timetable for Implementation

- 9.1. This is set out in the main body of the report.

10. Background Papers

- 10.1. There are none.