

Report of the Strategic Director of Corporate Resources to the meeting of the Executive to be held on 5 March 2024

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Subject:

COUNCIL TAX PREMIUMS ON LONG TERM EMPTY PROPERTIES AND SECOND HOMES

Summary statement:

This report makes recommendations for changes to Council Tax premiums for long term empty homes and second homes to incentivise occupation of property in the district and increase the housing stock.

The Executive is asked to apply the discretion given to Local Authorities by the Levelling Up and Regeneration Act 2023 to:

- Reduce the minimum period for the implementation of a 100% Council Tax premium for empty and unfurnished properties from 2 years to 1 year from April 2024 and
- Introduce a Council Tax premium of 100% in respect of second homes (properties that are empty and furnished) from April 2025.

Exceptions to the premiums are set by the Government and will be applied once confirmed.

Equality and Diversity

The report sets out proposals to increase Council Tax charges for properties that have been empty for a year and for second homes. A full Equality Impact Assessment has been produced for this report and details of the proposed changes were included in the 11 January Budget Proposals Report and Council Tax base report to the Executive. The proposed changes support the Council's Housing strategy of bringing empty homes back into use.

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**Overview & Scrutiny Area:
Corporate**

1. SUMMARY

This report makes recommendations for changes to Council Tax premiums for long-term empty properties and second homes to support delivery of the Council's Housing Strategy 2020-30¹ following the introduction of the Levelling Up and Regeneration Act 2023.

2. BACKGROUND

- 2.1 The Council recognises the impact that long term empty properties have on neighbourhoods and communities and the importance of bringing these properties back into use as good quality housing in the Bradford District. Empty Homes can contribute to housing supply pressures whilst also reducing the desirability of local areas. The Council has an agreed Empty Homes programme of work aimed at bringing these properties back into use.
- 2.2 Billing Authorities have the power to increase Council Tax on properties that have been empty and unoccupied for a long period of time. This is known as the Empty Homes Premium and the power to apply a premium for properties that have been empty and substantially unfurnished for 2 years has been in place since 2013. The empty period is calculated by determining the length of time the property has been empty not the length of time empty under a particular owner. If for example, a property that has been empty for 2 years is purchased, then the premium becomes payable by the new owner.
- 2.3 When the premium was first established in 2013/14, the maximum premium local authorities could apply was 50%. This increased to 100% from 2019/20 for properties empty for 2 years, with a 200% premium for properties empty for 5 years (commencing in 2020/21) and 300% for those properties empty for 10 years plus (commencing in 2021/22).
- 2.4 Billing Authorities are encouraged to adopt Council Tax premiums on empty properties to incentivise property owners to bring properties back into use. The Council has previously resolved to apply the power granted by the legislation and charge an empty homes premium of the relevant maximum in addition to the full Council Tax charge.
- Current Premium charges are:
- 100% for dwellings that have remained unoccupied and substantially unfurnished for a period of between 2 and 5 years. Total charge is 200%.
 - 200% for dwellings that have remained unoccupied and substantially unfurnished for a period of between 5 and 10 years. Total charge is 300%.
 - 300% for dwellings that have remained unoccupied and substantially unfurnished for a period of at least 10 years. Total charge is 400%.
- 2.5 In October 2023, the Government introduced the Levelling Up and Regeneration Act, which contained a provision to amend the definition of long-term empty properties so that from 2024/25 onwards, unoccupied, and substantially

¹ <https://www.bradford.gov.uk/media/5754/bradford-housing-strategy-2020-to-2030.pdf>

unfurnished properties that have been empty for a year or more can attract a premium.

- 2.6 In England, the empty homes premium cannot be applied to empty properties that are furnished (commonly known as a second home). The definition of a second home is that it is substantially furnished and has no resident (it is not someone's sole or main residence). In Wales, the power to apply a second homes premium has been in place since 2017. The Levelling up and Regeneration Act 2023 introduces an equivalent power in England. Under the provision in the Act, a second home does not have to be empty for a fixed period before a premium can be applied. A premium up to 100% can be applied as soon as the property is defined as a second home effectively doubling the Council Tax (total charge 200%). However, English billing authorities intending to adopt any changes on second homes (empty furnished properties) are required to declare their intentions at least 12 months prior to the financial year in which the changes come into effect. This would mean that changes can only be implemented from the financial year commencing 1 April 2025.
- 2.7 The Council Tax (Exempt Dwellings) Order 1992 (as amended)² sets out the classes of empty properties that are not subject to Council Tax. This is set out in Appendix 2. If a property is exempt from Council Tax, it will also be exempt from the premium. In addition, two classes of property are already excepted from the long-term empty homes premium. These are:
- Homes that are empty where the occupant is living in armed forces accommodation for job related purposes or
 - Annexes being used as part of a main property.
- 2.8 The Government has also recognised that there will be additional circumstances where it would not be appropriate for the premiums to apply, and the Act allows for the secretary of state to determine the classes of dwelling where the premiums would not apply. These were consulted on in 2023, the consultation closed on 31 August 2023 and the outcome of the consultation has not yet been published.
- 2.9 The exceptions being considered by the Government are properties empty because the owner has died, where the properties are being actively marketed for sale, or are undergoing major repair. In the case of second homes, consideration is being given to applying exceptions to properties not occupied for job related reasons, occupied annexes, caravans, and properties that are prohibited from yearlong occupation. No firm details are known about how many properties may qualify for these exceptions should they be introduced. Summary information about the exceptions set out in the Government consultation³ is set out in Appendix 3.

² <https://www.legislation.gov.uk/ukxi/1992/558/article/3/made>

³ <https://www.gov.uk/government/consultations/proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums/consultation-on-proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums-in-england#proposed-circumstances-in-which-the-empty-homes-and-second-homes-premiums-should-not-be-applied>

3. OTHER CONSIDERATIONS

- 3.1. Council Tax Premiums are considered as just one of a suite of measures designed to encourage and support owners to bring their properties back into full occupation or to make them marketable. The Housing Strategy for Bradford 2020 - 30 has a clear objective to reduce the number of empty properties in the Bradford District. This is underpinned by The Empty Homes Action Plan 2021-2025⁴ which has four objectives:
- Objective 1 – Preventing properties from becoming empty.
 - Objective 2 – Partnership approach to tackling empty homes.
 - Objective 3 – Practical solutions to bringing empty homes back into use.
 - Objective 4 – Prosperity for the district
- 3.2. The key focus of the Action Plan is to reduce the number of empty homes in the district by directly bringing empty properties back into use or by influencing others to do so. This includes using the Council Tax system to encourage empty homeowners to return their properties to use and maintaining a commitment to reducing homelessness through the increased supply of affordable housing. It also includes supporting the owners of empty homes to find best options, opportunities and the products and services that can help them return properties to use.
- 3.3. The Government's intention is to give greater freedom to shape local Council Tax charging policies for properties that have been classed as empty so that local authorities are better able to influence and encourage owners to bring properties back into use. The changes to the application of premium on second homes and empty properties will allow Councils to raise additional revenue and to acknowledge the impact that second and empty homes can have on some communities.
- 3.4. Concentrations of second homes reduce the size of the permanent population, reducing demand for local services. This in turn could lead to the permanent closure of local services relied upon by the local population.
- 3.5. Initial analysis shows that the application of an earlier introduction of both premiums could ultimately increase the level of collectable Council Tax:
- For the year 2024/25, £840,000 could be raised by the Council (this is the estimated net gain after the Major Preceptors such as West Yorkshire Police Authority and the West Yorkshire Fire Authority take their share) by the introduction of a long-term empty premium after 1 year (from 1 April 2024)
 - For the year 2025/26, an estimated gross £3m (including the major preceptors' share) could be raised by the introduction of a premium for second homes (1 April 2025). The estimate for second homes will require further validation. Owners of second homes will be contacted in the coming months to verify the status of these properties.
- 3.6 The policy intention of the Empty Property Premiums is to bring properties back into

⁴ <https://www.bradford.gov.uk/media/6583/tackling-empty-homes-in-the-bradford-district-action-plan-2021-2025.pdf>

use and there the income from these measures may reduce over time as properties come back into use. Further activity in the Council Tax team will be required to manage queries and appeals against the premium charged, reduce the likelihood of tax avoidance and to verify an application for an exemption. The calculation of the figures in paragraph 3.5 considers a bad debt provision for the scheme.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 The additional income the Council is estimated to receive from the changes is outlined in the report paragraph 3.5, which is consistent with the budget assumptions. These figures are based on the level of empty properties as of 30 November 2023 and Band “D” Council Tax proposed level for 2024/25 in empty properties. In respect of the increase linked to extending the Empty Properties premium, £840k, to between 1 to 2 years, this has been based on a full year charge to just under 60% of existing empty band D properties that would currently fall into this category, reduced appropriately to reflect Bradford’s share. The increase relating to second homes premium, £3m, is based on just over 50% of the total number of properties currently classed as such (65% of Band D only) after allowing for estimated levels of exemptions etc.
- 4.2 It should be noted that although that, although allowed for in the calculations, there is a risk that these figures might be significantly reduced by a greater than anticipated number of properties going back into occupation and/or owners identifying means of avoiding liability for the Premium.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 There is a risk that avoidance of the tax could increase if premiums were applied after 1 year and to second homes. Additional administrative activity will be required to mitigate this including inspections if required.

6. LEGAL APPRAISAL

- 6.1 The relevant provisions of the Levelling-up and Regeneration Act 2023 came into force in October 2023.
- 6.2 The Council must have regard to any statutory guidance issued by the Secretary of State in connection with council tax premiums on long term empty homes.

7. OTHER IMPLICATIONS

7.1 SUSTAINABILITY IMPLICATIONS

Not applicable

7.2 TACKLING THE CLIMATE EMERGENCY IMPLICATIONS

Not applicable

7.3 COMMUNITY SAFETY IMPLICATIONS

Not applicable

7.4 HUMAN RIGHTS ACT

Not applicable

7.5 TRADE UNION

Not applicable

7.6 WARD IMPLICATIONS

Information on the current breakdown of empty properties and those subject to a premium is in Appendix 1

**7.7 AREA COMMITTEE ACTION PLAN IMPLICATIONS
(for reports to Area Committees only)**

Not applicable

7.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

Not applicable

7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

Not applicable

8. NOT FOR PUBLICATION DOCUMENTS

8.1 None

9. OPTIONS

9.1 Option 1 – That the Council elects not to introduce the revised Council Tax Premium charges. This option would

- Not incentivise owners of empty and unfurnished properties to bring them back into use quickly.
- Not apply a premium to those owners of second homes in the Bradford District
- Not increase the level of Council Tax applied to empty properties and second homes.
- Not align with the Council's Housing Strategy 2020-2030.

9.2 Option 2 – That the Council introduce increased Council Tax Premium Charges as enabled by the Levelling Up and Regeneration Act. This Option would

- Incentivise owners of empty and unfurnished properties to bring them back into use quickly.
- Increase engagement with other support mechanisms provided by the Empty Homes Team.
- Increase the level of Council Tax applied to empty properties and second homes.
- Some property owners may face financial hardship and require help and support. Those who are likely to face hardship are currently covered by the proposed exemptions by the Government.
- Have the potential to disincentivise prospective purchasers of homes subject to a premium charge or increase avoidance and evasion of the tax. Some property owners may face financial hardship and require help and support if not entitled

to an exemption (as set by the Government).

10. RECOMMENDATIONS

10.1 Option 2 is the preferred option. That the Council introduce increased Council Tax Premium Charges as enabled by the Levelling Up and Regeneration Act 2023. This would:

- Reduce the minimum period for the implementation of a 100% Council Tax premium for empty and unfurnished properties from 2 years to 1 year from April 2024 and
- Introduce a Council Tax premium of 100% in respect of second homes (properties that are empty and furnished) from April 2025.

10.2 Following a consultation on proposed exemptions, the Government is yet to publish the final list of exceptions. The Executive is asked to delegate the responsibility to implement the exceptions once finalised to the Strategic Director, Corporate Resources.

11. APPENDICES

11.1 Appendix 1 Breakdown of empty homes and second homes by ward January 2024

11.2 Appendix 2 Current Council Tax Exemptions for empty properties (Council Tax (Exempt Dwelling) Order 1992 (as amended)).

11.3 Appendix 3 Proposed Government exceptions to the empty homes and second homes premium (not yet finalised post consultation).

Appendix 1 Empty and Unfurnished Properties and second homes by ward. January 2024						
Ward	Empty and unfurnished (no premium)	Empty and Unfurnished 100% premium	Empty and Unfurnished 200% premium	Empty and Unfurnished 300% premium	Total Number of Empty, unfurnished properties)	Second Homes (Empty and Furnished)
Baildon	100	6	3	2	111	54
Bingley	185	25	5	5	220	75
Bingley Rural	134	14	9	4	161	60
Bolton And Undercliffe	143	24	6	8	181	60
Bowling And Barkerend	168	37	18	8	231	133
Bradford Moor	102	40	11	12	165	92
City	333	103	35	8	479	596
Clayton And Fairweather Green	134	16	1	2	153	51
Craven	128	10	8	2	148	97
Eccleshill	246	31	3	0	280	54
Great Horton	178	37	13	6	234	96
Heaton	137	38	8	7	190	73
Idle And Thackley	121	12	3	3	139	50
Ilkley	154	23	5	3	185	137
Keighley Central	216	54	10	9	289	66
Keighley East	136	27	6	4	173	75
Keighley West	135	20	7	2	164	53
Little Horton	127	38	10	5	180	93
Manningham	119	47	21	12	199	84
Queensbury	118	22	3	5	148	50
Royds	134	21	6	4	165	39
Shipley	139	23	8	4	174	87
Thornton and Allerton	133	27	3	4	167	54
Toller	100	39	14	7	160	76
Tong	153	12	12	6	183	56
Wharfedale	73	6	2	3	84	58
Wibsey	132	23	4	4	162	69
Windhill And Wrose	106	7	2	1	116	52
Worth Valley	136	18	6	2	162	114
Wyke	110	13	7	3	133	52
Total	4330	813	249	145	5537	2706

Appendix 2 – Current Council Tax Exemptions for empty properties (Council Tax (Exempt Dwelling) Order 1992 (as amended))

Class	Description
B	Unoccupied dwellings owned by a charity (up to 6 months).
D	Unoccupied dwelling, due to a person being in prison.
E	An unoccupied dwelling which was previously the sole or main residence of a person who has moved into a hospital or care home.
F	Dwellings left empty by deceased persons (6 months from date of probate).
G	An unoccupied dwelling where the occupation is prohibited by law.
H	Unoccupied dwelling which is held for the purpose of being available for a Minister of Religion.
I	An unoccupied dwelling which was previously the sole or main residence of a person who is the owner or tenant and who has moved to receive personal care.
J	An unoccupied dwelling which was previously the sole or main residence of a person who is the owner or tenant and who has moved to provide personal care to another person.
K	An unoccupied dwelling where the owner is a student who last lived in the dwelling as their main home.
L	An unoccupied dwelling which has been taken into possession by a mortgage lender.
M	A hall of residence provided predominately for the accommodation of students.
N	A dwelling occupied only by students, school, or college leavers or by certain spouses and dependants of students (including relevant Ukrainian persons).
O	Armed forces' accommodation.
P	A dwelling where at least one person who would otherwise be liable has a relevant association with a Visiting Force.
Q	Unoccupied dwelling left empty by a bankrupt person.
R	Unoccupied caravan pitch or boat mooring.
S	Dwelling occupied only by persons under 18 and relevant Ukrainian persons.
T	Unoccupied annexe to an occupied dwelling, which may not be let separately.
U	Dwelling occupied only by people who are severely mentally impaired or those with students or relevant Ukrainian persons.
V	Main residence of a person with diplomatic privilege or immunity.
W	An occupied annexe to an occupied dwelling, where the annexe is occupied by a dependent relative.

Appendix 3 Government consultation on proposed exceptions (extract)

Details of the consultation can be found at www.gov.uk⁵ No regulations or guidance have yet been issued confirming the proposals as set out in the consultation.

Proposed exceptions to the premium for empty properties and second homes

1. Properties undergoing probate.

Unoccupied properties which have become vacant due to the death of the owner or tenant and where no one is liable for council tax except an executor or administrator, are exempt from council tax until probate is granted.

Following a grant of probate (or the issue of letters of administration) a further period of exemption of up to 6 months is possible (Class F exemption), so long as the property remains unoccupied and has not been sold or transferred to someone else.

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.

If the property is then put on the market for sale or let, the owner of the property would be able to apply for the 'sales or let' exception. This would provide the owner an additional 6-month exception period. As such, where both exceptions are granted, the maximum exception period would be up to 18 months.

2. Properties being actively marketed for sale or let.

The government proposes that empty properties that are being actively marketed for sale or to let should be an exception to the council tax premiums. 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.

Alternatively, there may be periods where second homes are unoccupied between lets or while they are in the process of being sold. The government wishes to ensure that owners of second homes should be able to benefit from an exception to the second homes premium where the property is being actively marketed for sale or rent.

In order to qualify for an exception to the premiums, the owner (of either a long-term empty home, or a second home) would be expected to demonstrate they are actively marketing the property for sale or let at a reasonable price on the open market (i.e., an offer to purchase at that price would be accepted by the owner or an offer to pay rent at that level would be accepted). Some examples of evidence could include:

- evidence that the property is being actively marketed by an agent.

⁵ <https://www.gov.uk/government/consultations/proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums/consultation-on-proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums-in-england#proposed-circumstances-in-which-the-empty-homes-and-second-homes-premiums-should-not-be-applied>

- evidence that the property is being actively marketed by a sale or letting website.
- evidence that the property has recently been sold subject to contract or rented out subject to tenancy agreement but is still vacant because the sale or rental agreement is taking time to complete because it is part of a chain.

With regard to the long-term empty homes' premium, the exception will be available only once to the same owner of a property, but it is proposed that the exception may apply again if the property has new owners, and they begin the process of marketing for sale or rent.

Exceptions for Empty Properties only

1. Empty properties undergoing major repairs – time limited to 6 months

Homes that have remained empty for long periods may require extensive repair work. In situations where an owner of an empty property is undertaking major repair work or structural alterations to make it habitable, the government believes that it is not appropriate for a premium to be charged as soon as the property has been empty for one year. It proposes therefore that empty properties undergoing major repair works or structural alterations 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 billing authority is satisfied that the necessary repair work is being undertaken. This could mean, for example, that a premium is applied once a property has been empty for more than 12 months but will be removed if and when the billing authority is satisfied that the conditions for the exception are met.

Owners using this exception could also potentially benefit from the proposed exception for properties being actively marketed for sale or rent. So long as the criteria for both exceptions are met, then a potential total exception of up to 12 months may be available in circumstances where an owner has carried out major repair works and is then carrying out active marketing of the property for sale or rent. It is proposed that the major repairs exception can only be applied again where the property has new owners or tenants, and extensive repair work is necessary to bring the property back into useable condition.

Exceptions for Second homes only

1. Annexes forming part of, or being treated as part of, the main dwelling.

For the purposes of council tax, parts of a dwelling constructed or adapted for separate occupation (e.g., an annex) are generally treated as separate dwellings for the purposes of council tax. Each dwelling could, therefore, be potentially liable for the second homes premium. Certain annexes are exempt from council tax altogether and will therefore be exempt from the premium. These are:

- an unoccupied annexe which forms part of a single property which includes another dwelling and may not be let separately from that dwelling without a breach of planning control (Class T); and

- an annexe which is the sole or main residence of a dependent relative (a relative who is aged 65 or older, or is severely mentally impaired, or is substantially and permanently disabled) (Class W)

Separately, a 50% council tax discount may be available if the annexe is being occupied as a sole or main residence by a relative of the council taxpayer of the main home. This discount will continue where the annexe meets the relevant criteria to be eligible for it. As the annexe will be a sole or main residence, it will not be subject to a second homes premium. Where the council has determined that such a discount is appropriate, then a second homes premium would not apply.

A 50% council tax discount is also available for an annexe that is being used as part of the sole or main residence. There will be no change to this discount, and it is proposed that such annexes should be an exception to the council tax premium on second homes.

2. 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.

In order to be considered as residing in a job-related accommodation, a job-related dwelling is prescribed as job-related if it is provided by reason of a person's employment or for the person's spouse or civil partner by reason of their employment including in any of the following cases (subject to some exceptions):

- a) Where it is necessary for the proper performance of the duties of the employment
- b) 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
- c) where it is contractually obligated to be resident at that property and to carry on a trade or profession at that address,

It is for the local authority, in the first instance, to determine application of the job-related discount.

Where a job-related dwelling discount is in place, the government proposes that that 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.

3. Occupied caravan pitches and boat moorings.

There is currently a mandatory 50% council tax discount for dwellings that consist of a pitch occupied by a caravan, or a mooring occupied by a boat where they are not a person's sole or main residence. The government wants to ensure that caravans and boats that are currently eligible for this discount continue to receive the discount. As a

result, the government proposes that these caravans and boats should be an exception to the council tax premium on second homes.

4. 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 recognises that there are properties which may have a restriction on the use or occupation of the property. If the property has planning or other conditions which means that it cannot be occupied for part of the year, it may not be practical for those properties to be used as a “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. These types of properties tend to be classed as ‘seasonal homes’ and cover a broad range of properties but mainly comprise caravans, chalets and purpose-built holiday homes which cannot be lived in all year due to planning, licensing, or other restrictions.