

BROMSGROVE DISTRICT COUNCIL

Cabinet
2024

17th January

COUNCIL TAX EMPTY HOMES DISCOUNTS AND PREMIUMS

Relevant Portfolio Holder	Councillor Charles Hotham
Portfolio Holder Consulted	Yes
Relevant Head of Service	Bernard Ofori-Atta Head of Finance and Customer Services
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Wards Affected	All
Ward Councillor(s) consulted	No
Relevant Strategic Purpose(s)	Finding Somewhere to Live
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

1. RECOMMENDATIONS

The Executive Committee RECOMMEND that: -

- 1) From 1st April 2024, under section 11B(1) of the local government finance act 1992, for long-term empty dwellings the discount under section 11(2)(a) will not apply and the additional council tax premium applied will be:
 - i) For a dwelling that has been unoccupied and substantially unfurnished for less than 5 years – 100% premium.**
 - ii) For a dwelling that has been unoccupied and substantially unfurnished for 5 years or more, but less than 10 years – 200% premium.**
 - iii) For a dwelling that has been unoccupied and substantially unfurnished for 10 years or more – 300% premium.****

- 2) The Head of Financial and Customer Services on a case-by-case basis may consider a reduction to the long-term empty premium under section 13A(1)(C) of the Local Government Finance Act 1992.**

2. BACKGROUND

- 2.1 Council Tax was introduced on 1st April 1993 and from this date until 1st April 2004 dwellings in England which were unoccupied were eligible for a council tax discount of 50%.**

- 2.2 A series of amendments to council tax legislation, made since 2004, have given billing authorities the power to reduce or remove the discount for unoccupied dwellings and, in the case of long-term empty homes, to impose a council tax premium.
- 2.3 The Levelling Up and Regeneration Act 2023 has introduced further changes to the discount and premiums for unoccupied homes.
- 2.4 Section 11B of the LGFA '92 has been amended to reduce, from 2 years to 1 year, the period for which a dwelling must be vacant before it is classed as a long-term empty dwelling, and to introduce a requirement to consider guidance issued by the secretary of state before deciding to apply premiums.
- 2.5 Section 11C and 11D have been inserted into the LGFA '92 and give the billing authority powers to apply a premium of up to 100% for any dwellings that are furnished and have no residents. These dwellings would usually be second homes where the owner lives elsewhere and uses the property as holiday or occasional accommodation.
- 2.6 The council currently applies the full premium to all long-term empty homes. The decision to apply premiums was made on the basis that a dwelling would be subject to the premium if vacant for 2 years or more. The amendment to section 11B will mean that, from 1st April 2024 and the existing wording of the council's determination means that, the premium will be applied to all dwellings that have been vacant for 12 months or more.
- 2.7 Section 11B allows a determination to be made that:
- a) removes the unoccupied dwelling discount for long-term empty homes; and
 - b) specifies a premium by which the council tax will be increased.
- The premium can be set at up to the maximum level, but could be set at a lower level, or not applied.
- 2.8 The council needs to consider whether to apply the premium after a dwelling is vacant for 1 year, or to amend the determination to maintain the existing position and apply a premium after 2 years.
- 2.9 Long-Term Empty Premiums - Option 1

To ensure that members have considered the effect of the change to the definition of long-term empty homes and that the application of a

premium for dwellings vacant for one year or longer is the intention of the council a new determination is made.

The new determination removes the discount under section 11(2)(a) and applies premiums to all dwellings that have been vacant for one year or more.

2.10 Long-Term Empty Premiums Option 2

The council may, in order to retain the intention of the 2022 determination, decide that for long-term empty homes the discount under section 11(2)(a) will not apply and the following premiums will be applied:

- i) For dwellings vacant for 1 year or more, but for less than 2 years 0% premium.
- ii) For dwellings vacant for 2 years or more, but for less than 5 years 100% premium.
- iii) For dwellings vacant for 5 years or more, but for less than 10 years 200% premium.
- iv) For dwellings vacant for 10 years or more 300% premium.

2.11 The intention of the long-term empty home premium is to incentivise homeowners to bring properties back into use. The reduction in the time before which the premium can apply is intended to strengthen this incentive.

2.12 At the commencement of the 2022/23 tax year - the first year that the council applied the premium - 227 dwellings were subject to premium. The number of dwellings for which the premium is levied has now reduced to 98 dwellings.

2.13 The council is required to have regard to guidance issued by the secretary of state before deciding to apply premiums. The only guidance published to date is the May 2013 guidance on homes for sale or letting.

2.14 The council considered the 2013 guidance in full when the deciding to first apply premiums. There is no change to the view that the local housing market conditions indicate that there is no reason to exclude properties for sale or letting from the premium.

2.15 The Government has consulted on changes to secondary legislation which will exempt certain classes of dwelling from premiums. Properties on the market for sale or letting were included within the

consultation. If it is appropriate for these premises to sit outside of the premium, then Government will legislate to reflect that position.

- 2.16 The council will retain the discretionary power under section 13A1(C) to reduce the council tax on a case-by-case basis. This power would include the ability to reduce any premium.
- 2.17 Having regard to the local housing market, the Government's ability to take a national decision to exempt homes for sale or letting from the premium, and the council's ability to use discretionary powers to reduce the premium in exceptional cases it is not necessary to place all homes that are being marketed for sale or let outside of the scope of the premium.
- 2.18 The recommendation is that, in line with the changes to the act and the intention to provide a stronger incentive to bring empty homes into use, the council applies premiums to all dwellings that have been empty for 12 months or more.
- 2.19 The changes at 11C and 11D of the LGFA '92 introduce a 100% premium for furnished homes where there is no resident. The homes are usually described as second homes; however, they include any home which, on a particular day, is left furnished and has no residents for example furnished rented accommodation where the tenant has moved out and the property has not been re-let.
- 2.20 The intention of the second home premium is to provide local authorities with a tool that can be used where disproportionate numbers of second homes impact on the vitality and viability of local communities. An example of the impact of second homes is where a large concentration of second homes results in a reduction in demand for local services such as schools, or GP surgeries resulting in the loss of these services for the remaining permanent residents.
- 2.21 Council Tax data shows that 103 homes within the council's area are classified as second homes this is less than 0.25% of the overall dwellings.
- 2.22 Any determination to apply a second-home premium must be made at least 12 months before the financial year in which the premium will take effect. The earliest that a premium can be applied is 1st April 2025. The council needs to consider whether to apply the premium from 1st April 2025.
- 2.23 Second-Home Premiums – Option 1

Take no action and retain the existing position for second homes and apply zero discount. The application of premiums will be reviewed, and the council will retain the option to make a determination for years commencing on or after 1st April 2026.

2.24 Second-Home Premiums – Option 2

The council determines that, under section 11C(1) the discount under section 11(2)(a) shall not apply and applies a premium of up to 100% to any furnished dwellings that have no residents.

2.25 There is no evidence that the existence of second homes is having a detrimental impact on the provision of facilities and services within the area.

2.26 The second home premium would be levied, during periods between occupation by tenants, that landlords are providing on a furnished basis. The application of second home premiums may disincentivise landlords from making such homes available.

2.27 In the absence of any evidence of a detrimental impact on the provision of services and having due to the potential impact on the availability of furnished rental homes, it is recommended that the second-home premium is not applied.

3. FINANCIAL IMPLICATIONS

4.1 Applying long-term empty home premiums increases the amount of council tax collected, though taxpayers will take steps to minimise their liability. The reduction in time that a property must be vacant before the premium applies will increase the council tax income to the authority.

4.2 Council Tax data shows that there are 98 second homes within the area. The imposition of a second-home premium on these homes would raise an additional council tax of approximately £171,000 of which £22,000 would be retained by the council, however, this figure is likely to reduce when Government confirms the premises that will be exempt from premiums. Taking the decision not to apply second home premiums reduces potential council tax income.

4. LEGAL IMPLICATIONS

- 4.1 The legislative framework for the application of council tax premiums is set out within the earlier sections of the report and the background papers listed.
- 4.2 The council is required by sections 11B(1D) and 11C(4) of the LGFA '92 to have regard to any guidance issued by the secretary of state before making a determination to apply a premium.
- 4.3 A determination to apply a premium can be challenged by judicial review under section 66 of the LGFA '92. In appeals to the Valuation Tribunal relating to the application of long-term empty premiums the president of the valuation tribunal. Professor Graham Zellick KC stated:

“Whether the determinations are unlawful either because of a failure to give consideration to the Government’s Guidance or other relevant considerations or because an unqualified determination is one no reasonable billing authority could make are quintessentially judicial review questions (even apart from section 66)”

- 4.4 The importance of considering Government guidance on the application of premiums should be noted and this report at 2.13 to 2.17 sets out why it is considered reasonable to apply premiums to all long-term empty homes.

5. STRATEGIC PURPOSES – IMPLICATIONS

Relevant Strategic Purpose

- 5.1 The application of premiums will support the council’s strategic purpose “finding somewhere to live” by incentivising homeowners to bring empty homes back into use.

Climate Change Implications

None

6. OTHER - IMPLICATIONS

- 6.1 None

Equalities and Diversity Implications

- 6.2 None

Operational Implications

6.3 None

7. RISK MANAGEMENT

7.1 Please explain any risks and any mitigating action that will be taken to address those risks.

Risk	Mitigations
Application of premiums to taxpayers who do not have sufficient income to meet their liability.	<p>The council's strategic housing team offers advice and support to residents on bringing empty homes back into use – returning a home to use places the dwelling outside of the premium.</p> <p>The council will consider the application of 13A (1) (C) reductions for taxpayers in-line with the relevant council policy.</p>
Taxpayers subject to premiums may be dissatisfied with the decision of the authority.	<p>Clear communications to be issued with Council Tax demand notices setting out the reasons for the changes.</p> <p>Establish links with internal Housing Strategy team to help to publicise methods by which empty homes can be brought back into use.</p>
Customer facing staff are not prepared for changes to empty-home premiums	<p>Full briefing to be provided to all Revenues and Customer Services Officers setting out details of changes and framework for levying premiums.</p> <p>Briefing note to internal departments detailing changes and impacts of premiums.</p>

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Risk	Mitigations
Manipulation of council tax system to avoid empty home premium	To avoid the premiums homeowners may provide false information. Procedure notes and guidance for decision makers will be updated to include information on the steps that should be taken to verify changes to liability for long-term empty homes. Inspections and compliance reviews for empty homes to ensure that premiums are levied correctly.
Increase in appeals and liability disputes.	Guidance to be provided to decision makers and customer service advisors on the process for appeals and setting out appropriate responses to liability, discount and premium disputes.

8. APPENDICES and BACKGROUND PAPERS

Report to Executive Committee 11th January 2022 – Council Tax Empty Homes, Discounts and Premiums.

Additional Background Papers as listed within the 11th of January 2022 Report.

Council Tax Guidance for Properties for Sale or Letting
<https://www.gov.uk/government/publications/council-tax-empty-homes-premium>

Council Tax consultation – exemptions to empty home premiums
[Consultation on proposals to exempt categories of dwellings from the council tax premiums in England - GOV.UK \(www.gov.uk\)](#)