

REPORT TO EXECUTIVE

Date of Meeting: 7 February 2023

REPORT TO COUNCIL

Date of Meeting: 21 February 2023

Report of: Director Finance

Title: Exeter Council Tax Premiums 2024/25

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

1.1 This report seeks members' agreement on amendments to the levying of Council Tax premiums within the City. These changes will take effect from 1 April 2024

1.2 The changes are provided by the Levelling Up and Regeneration Bill (Bill 169 2022-23) which is currently making its way through the legislation process. The changes within the Bill essentially fall into two distinct parts:

- a) To bring forward the period from two years to one year when an unoccupied and substantially unfurnished dwelling (empty dwelling) can be charged a premium of 100% All other empty dwelling premiums remain unchanged:
 - A premium of 200% where dwelling has remained empty for a period of 5 years or more; and
 - A premium of 300% where dwelling has remained empty for a period of 10 years or more;
- b) To enable the charging of a 100% premium for any dwellings which are:
 - No one's sole or main residence; and
 - Substantially furnished.

1.3 These decisions must be taken by full Council acting in its capacity as a Billing Authority. The Levelling Up and Regeneration Bill (Bill 169 2022-23) requires that one year's notice will need to be given and, if adopted, the changes to premiums would be effective from 1st April 2024.

1.4 Clearly due to timescale constraints, it is imperative that decisions are made by Council as soon as possible and any resolution will be subject to the Levelling Up and Regeneration Bill (Bill 169 2022-23) receiving Royal Assent.

2. Recommendations:

That Executive agrees and RECOMMENDS to Council the implementation of the following:

- (1) The application of the current premium of 100% for all dwellings which are unoccupied and substantially unfurnished (empty dwellings) from a period of one year with effect from 1st April 2024;
- (2) The application of a premium of 100% for all dwellings which are unoccupied but substantially furnished with effect from 1st April 2024; and
- (3) That the Section 151 Officer is given delegated powers to implement the policy in line with the Council's requirements and any guidance given by the Secretary of State.

3. Reasons for the recommendation:

3.1 The policy is primarily designed to encourage taxpayers to use premises as their main residence or allow others to use the premises as a main residence. It is also envisaged that the policy will allow more empty dwellings or unoccupied dwellings to be brought back into use.

3.2 In addition to 3.1 above, the policy will provide additional funding to the collection fund which will be shared between the Council, the major precepting authorities in line with their share of the Council Tax.

4. What are the resource implications including non financial resources

4.1 The implementation of this policy will assist the authority in bringing more dwellings back into use as main dwellings and in addition generate additional funds for the collection fund. However, its implementation will require additional resource in terms of staff time and resources in dealing with taxpayer enquiries as well as potential implications for collection.

4.2 The proposals outlined within this report are estimated to generate an additional £1.5m* in Council Tax income for 2024/25 based on current Council Tax (CTB1) data.

4.3 Based on the Council Tax Base (October 2022 CTB1) the authority has the following number of dwellings which are subject to an empty dwelling premium:

Empty Property Council Tax Premium

The premium authority charges for dwellings that have been empty for between two and five years as at 3 October 2022.

Percentage Premium	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
100	20	14	8	4	3	1	0	0	50

The premium authority charges for dwellings that have been empty for Between five and ten years as at 3 October 2022 and not included in table above.

The premium authority charges for dwellings that have been empty for more than ten years as at 3 October 2022 and not included in table above.

Percentage Premium	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
300	1	2	0	0	0	0	0	0	3
Percentage Premium	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
200	1	4	5	1	0	1	0	0	12

- a. Based on the Council Tax Base (October 2022 CTB1) the authority has the following empty and unfurnished homes receiving a 2 month 100% discount which *could* be subject to an empty homes premium after one year classed as empty and unfurnished. This table also contains those dwellings currently receiving a 12 month 50% empty and uninhabitable discount which *could* be subject to an empty homes premium after one year classed as empty and uninhabitable, subject to the Bill receiving Royal Assent and Government guidance:

Empty Property Council Tax Relief:

Percentage Discount	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total Column 10
100	103	106	66	24	12	5	1	0	317
50	5	14	14	12	2	2	2	0	51
Total	108	120	80	36	14	7	3	0	368*

*Of this total some dwellings will not be charged the 100% premium until after 01/04/2024 to exhaust the full 12 month period allowed.

- 4.5 Based on the Council Tax Base (October 2022 CTB1) the authority has the following second homes which *could* be subject to a second homes premium, subject to the Bill receiving Royal Assent and Government guidance:

Second Homes

The discount authority awards for dwellings registered as second homes.

Percentage Discount	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total Column 10
0	107	130	108	72	43	22	20	1	503
50	2	0	0	0	0	0	0	0	2
Total	109	130	108	72	43	22	20	1	505

- 4.6 The proposed changes are anticipated to generate approximately £1.5m* per annum based on current values. This increased income would only be available for the 2024/25 financial year and subsequent years.

5. Section 151 Officer comments:

5.1 The proposals, if approved, will allow the Council to implement the proposed legislation in April 2024. This is in line with other Councils in Devon. The additional funding Exeter will receive will be around £123,000.

6. What are the legal aspects?

6.1 The legislation that covers this report and the recommendations made is as follows:

- S11A & S11B of the Local Government Finance Act 1992;
- S11C of the Local Government Finance Act 1992 (as introduced by the Levelling Up and Regeneration Bill (Bill 169 2022-23)); and
- Levelling Up and Regeneration Bill (Bill 169 2022-23).

6.2 Where the recommendations are accepted, a resolution is to be made by full Council. The decision needs to be published in at least one local newspaper.

6.3 Due to the changes in the legislation, the Council will be required by statute to be mindful of any guidance issued by the Secretary of State.

7. Monitoring Officer's comments:

The recommendations set out in this report are in line with emerging legislation aimed at tackling the number of empty homes. As such the Monitoring Officer has no further comment to make.

8. Report details:

Background

8.1 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 no discretion allowed. However, there are an increasing number of areas where each Council may determine the type and levels of charge to be made.

8.2 The current main discretionary areas 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) Premiums where premises have been unoccupied and substantially unfurnished for a period of 2 years or more.

8.3 When determining its policy, each billing authority has to decide the level of charge (or discount) by the 31 March prior to the financial year in which it wants to introduce the changes.

8.4 The Council, is therefore required to determine the level of any discounts or premiums which will apply in its area and a decision is required to be made by full Council under Section 11A and 11B of the Local Government Finance Act 1992.

8.5 Once determined, the resolution of the Council will need to be published in at least one local newspaper(s) within 21 days of the decision.

The current situation

8.6 Currently the Council has adopted the following level of discounts and premiums:

	Current policy
Second Homes (Class A) No one's sole or main residence and which is substantially furnished restricted by a planning condition preventing occupancy for a continuous period of at least 28 days	0% discount
Second Homes (Class B) No one's sole or main residence and which is substantially furnished 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	0% discount
Class C (Unoccupied dwelling with is substantially unfurnished)	100% discount for 2 months only
Class D structural repairs (Unoccupied and substantially unfurnished) (Maximum 12 months)	50% discount for 12 months
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty dwellings premium) After 2 years up to 5 years of becoming empty.	100% premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty dwellings Premium) Dwellings empty between 5 years and up to 10 years	200% premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty dwellings Premium) Dwellings empty for 10 years or more	300% premium

8.7 Until the legislation changed in 2013, mandatory exemptions would have been granted, since that time, the Council, along with the majority of other billing authorities, has reduced the 'discount' available.

8.8 Once any discount has ended, the Council charges a 100% Council Tax on empty dwellings. Second homes are immediately charged at 100%.

8.9 Premiums were also introduced by Government in 2013 with a view to encouraging homeowners to occupy homes and not leave them vacant in the long term. Initially premiums could only be charged at 50% but legislation has now changed to allow a progressive charge to be made as follows:

- Dwellings left unoccupied and substantially unfurnished for 2 years or more, up to 100%;
- Dwellings left unoccupied and substantially unfurnished for 5 years or more, up to 200%; and
- Dwellings left unoccupied and substantially unfurnished for 10 years or more, up to 300%.

8.10 The Council has adopted the maximum level of premium and it should be noted that premiums are charged *in addition to* the 100% Council Tax payable on empty premises.

8.11 Government, together with local authorities, has unfortunately seen a rise in the number empty dwellings 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 premises, when it would become a 'second home' which currently has a maximum charge of 100%.

8.12 Clauses within the Levelling Up and Regeneration Bill (Bill 169 2022-23) have been introduced in order to address the inconsistencies and also to bring more dwellings into use.

Changes to empty dwelling premiums

8.13 Clause 75(1)(b) of the Bill will permit billing authorities in England to impose an empty dwellings premium after one year instead of two. This gives effect to a commitment made by Government in the [Levelling Up White Paper](#)

8.14 Clause 75(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 dwellings premium and it is expected that the current guidance drafted by Government in 2013 will be updated. This change will come into effect from the 2024/25 financial year. The Council is requested to approve delegated powers to the Section 151 officer to implement the policy in line with guidance when published.

8.15 In addition, Clause 75(2) of the Bill provides that from 1 April 2024, a property can be charged an empty dwellings premium at 100% after one year, even if it became empty before 1 April 2024.

Introduction of premiums for second homes

8.16 At present, English billing authorities may only impose an empty dwellings 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 dwellings premium could therefore not be imposed on properties that are maintained as second homes for regular use by their owners.

8.17 Clause 76 of the Bill will insert a new section 11C into the Local Government Finance Act 1992. This will permit billing authorities to apply a premium to properties that have no resident and are "substantially furnished". The maximum Council Tax charge in these cases would 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%. There would 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.

8.18 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 of this kind will not take effect until the 2024/25 financial year at the earliest. However, it is essential that

a decision is made by Council before 31st March 2023 to give the required one year notice.

8.19 The Bill provides that a dwelling cannot be subject to both a second homes premium and an empty dwellings premium imposed under section 11B of the 1992 Act, and that an existing empty dwellings premium would cease to apply to a property which became subject to a second homes premium.

Premiums – generally

8.20 In line with all similar legislation, any decision must be publicised in at least one local newspaper, within 21 days of its being taken.

8.21 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.

8.22 The Secretary of State has the power to prescribe certain classes of property that will not be subject to an empty dwelling premium. Currently these are homes that are empty due to the occupant living in armed forces accommodation for job-related purposes, or to annexes being used as part of a main property. It is expected that when regulations are laid, similar exceptions will apply to second homes premiums.

9. How does the decision contribute to the Council's Corporate Plan?

9.1 Through contributing to building great neighbourhoods. This policy contributes to achieving the Empty Homes Strategy of bringing back into use long-term empty dwellings. In addition, the premium on second homes will hopefully encourage use of premises as main residences.

9.2 The intention of raising premiums that can be applied to empty homes, is to bring more empty homes back into use, which will have a positive impact on homes available for residents as well as on community safety and the environment.

10. What risks are there and how can they be reduced?

The proposals are considered to be low as premiums only apply to dwellings that are empty or where dwellings are used as a second home. Bringing those dwellings back into use will reduce the impact on the Council's Empty Homes Strategy and potentially will increase the level of income available to the Council and preceptors.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal, no potential impact has been identified on people with protected characteristics as determined by the Act.

12. Carbon Footprint (Environmental) Implications:

12.1 There are no specific environmental impacts identified by this recommendation. The application of additional Council Tax premiums is transactional online and by electronic or telephone communications to establish eligibility. Notification of premiums charged will be on annual and adjustment bills (including e-bills) as currently used. On rare occasion an officer visit to the premises may be required to establish circumstances arising mainly from a dispute on charging the premium.

13. Are there any other options?

The implementation of premiums is discretionary on the authority. As such, the Council could decide not to implement the policy.

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

[Levelling Up and Regeneration Bill](#)

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