



## **NORTH DEVON COUNCIL**

Report Date: 6 February 2023  
Topic: Council Tax Discounts and Premiums  
Report by: Director of Resources

### **1. INTRODUCTION**

- 1.1 This report identifies decisions required and makes recommendations to change the Council's approach in respect of certain discretionary areas within Council Tax legislation. This report will confirm the discounts already in place and make recommendations for changes from 1 April 2024 to the levying of Council Tax premiums within the District.
- 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 namely:
- (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, namely:
- A premium of 200% where a dwelling has remained empty for a period of 5 years or more;
  - A premium of 300% where a dwelling has remained empty for a period of 10 years or more; and
- (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 1<sup>st</sup> April 2024.
- 1.4 Due to these timescale constraints, it is imperative that decisions are taken by Full Council before 31 March 2023. Any resolution will be subject to the Levelling Up and Regeneration Bill (Bill 169 2022-23) receiving Royal Assent.
- 1.5 The proposals outlined within this report are forecast to generate an additional £4.2million per annum in overall Council Tax income for 2024/25 based on current Council Tax data.
- 1.6 Full details of the proposals are provided and, in line with the legislation, if the recommendations are accepted by Council, details of the resolution will be published in at least one local newspaper within 21 days of the decision.

## 2. RECOMMENDATIONS

- 2.1 It is recommended that Strategy and Resources recommend that Full Council approve the implementation of the following:
- (a) That for the 2023/24 financial year, the existing discretionary discounts and premiums will remain as at present;
  - (b) That for 2024/25 financial year, the discount level for Class C and D remain as at present;
  - (c) That, subject to the Levelling Up and Regeneration Bill becoming law, from 1 April 2024 the current premium of 100% for all dwellings which are unoccupied and substantially unfurnished (empty dwellings) will be applied after a period of one year (all other premiums will remain as at present);
  - (d) That, subject to the Levelling Up and Regeneration Bill becoming law, from 1 April 2024 a premium of 100% will apply for all dwellings which are unoccupied but substantially furnished.

## 3. REASONS FOR RECOMMENDATIONS

- 3.1 The policy and approach taken by the Council 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 and the local precepting authorities in line with their share of the Council Tax.

## 4. REPORT

- 4.1 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.
- 4.2 However, there are an increasing number of areas where each Council may determine the type and levels of charge to be made.
- 4.3 The current main discretionary areas are as follows:
- (a) Premises which are no-one's sole or main residence but are furnished (includes second homes);
  - (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.

- 4.4 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.
- 4.5 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.
- 4.6 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

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

	Current policy
Class A (includes second homes) Dwellings which are no one's sole or main residence which are substantially furnished 28-day planning restriction <sup>1</sup>	0% discount / 0% premium
Class B (includes second homes) Dwellings which are no one's sole or main residence which are substantially furnished No planning restriction <sup>2</sup>	0% discount / 0% premium
Class C Dwellings which are unoccupied and substantially unfurnished	100% discount for a period of three months.  For the purpose of Class C, in considering whether a dwelling has been unoccupied for any period, any one period, not exceeding six weeks, during which it was occupied shall be disregarded
Class D structural repairs Dwellings which are unoccupied and substantially unfurnished (Maximum 12 months)	0% discount
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

<sup>1</sup> **restricted** by a planning condition preventing occupancy for a continuous period of at least 28 days

<sup>2</sup> 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

- 4.8 Until the legislation changed in 2013, mandatory exemptions would have been granted in place of Class C and Class D discounts giving a period of no charge for 6 months and 12 months respectively. It can be seen that, since that time, the Council, along with the majority of other billing authorities, has reduced the 'discount' available.
- 4.9 Once any discount has ended, the Council charges a 100% Council Tax on empty dwellings. Substantially furnished and unoccupied are immediately charged at 100%.
- 4.10 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%.
- 4.11 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.
- 4.12 Government, together with local authorities, has unfortunately seen a rise of 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%.
- 4.13 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

- 4.14 Clause 72 (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](#)
- 4.15 Clause 72 (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.

- 4.16 In addition, Clause 72 (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

- 4.17 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.
- 4.18 Clause 73 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%.
- 4.19 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.
- 4.20 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 31 March 2023 to give the required one year notice.
- 4.21 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

- 4.22 In line with all similar legislation, any decision must be publicised in at least one local newspaper, within 21 days of its being taken.
- 4.23 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.
- 4.24 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.

## 5. RESOURCE IMPLICATIONS

- 5.1 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 may require additional resource in terms of staff time and resources in dealing with taxpayer enquiries.
- 5.2 During the 2023/24 financial year the level of income derived from Class C, Class D discounts and the imposition of the current premiums will be maintained at the current level (subject to any increase in Council Tax).
- 5.3 For 2024/25, the recommended changes to premiums will increase the level of Council Tax received in the Collection Fund.
- 5.4 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:

Percentage Premium	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
100	33	13	12	8	5	3	2	1	77

Percentage Premium	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
200	10	5	1	3	0	0	0	0	19

Percentage Premium	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
300	5	3	2	3	1	0	1	0	15

- 5.5 Based on the Council Tax Base (October 2022 CTB1) the authority has the following unoccupied but substantially furnished properties which *could* be subject to a 100% premium, subject to the Bill receiving Royal Assent and Government guidance:

Percentage Discount	Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
0	404	330	373	324	186	120	57	5	1,799
50%	1	0	4	3	1	1	0	0	10
Total	405	330	377	327	187	121	57	5	1,809

5.5 The proposed changes are anticipated to generate approximately £3.6million per annum based on current values for the second homes premium and £0.6million per annum in respect of the changes to empty homes premium.

5.6 This increased potential £4.2million additional income would only be available at the earliest from the 2024/25 financial year and subsequent years and would be shared between the Council, the major precepting authorities and the local precepting authorities in line with their share of the Council Tax. The share for North Devon Council is around 10% (circa £420,000).

5.7 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.

## 6. EQUALITIES ASSESSMENT

6.1 Please detail if there are/are not any equalities implications anticipated as a result of this report. If so, please complete the Equality Impact Assessment (EIA) Summary form available on Insite and email to the Corporate and Community Services Team at [equality@northdevon.gov.uk](mailto:equality@northdevon.gov.uk).

6.2 In recommending this proposal, no potential impact has been identified on people with protected characteristics as determined by the Equality Act 2010

## 7. ENVIRONMENTAL ASSESSMENT

7.1 Please undertake an Environmental Assessment and complete the checklist (EAC) form available on Insite. If there are no environmental implications arising from your proposals please state that there are none. If after completion of the assessment there are environmental implications please provide a brief summary. If you require any further information please contact the Sustainability and Climate Change Officer. Email completed EACs to [donna.sibley@torridge.gov.uk](mailto:donna.sibley@torridge.gov.uk)

There are no environmental implications as a result of proposals in this report.

## 8. CORPORATE PRIORITIES



- 8.1. What impact, positive or negative, does the subject of this report have on
- 8.1.1. The commercialisation agenda: the policy will provide additional funding to the collection fund which will be shared between the Council, the major precepting authorities and the local precepting authorities in line with their share of the Council Tax.
  - 8.1.2. Improving customer focus and/or
  - 8.1.3. Regeneration or economic development: It is envisaged that the Policy will allow more empty dwellings or unoccupied dwellings to be brought back into use.

## 9. CONSTITUTIONAL CONTEXT

- 9.1. Article of Part 3 Annexe 1 paragraph: 1(a)
- 9.2. Referred or delegated power? Referred

## 10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 11. BACKGROUND PAPERS

The background papers are available for inspection and kept by the author of the report.

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).

## 12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Julie Dark Revenues and Benefits Manager.