



## **Empty Homes and Second Homes Premium Policy**

Eastbourne Borough Council and Lewes District Council

**2024-25**

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## 1. Introduction and background

- 1.1. The following policy outlines the Councils' approach to the levying of empty homes premium and second homes premiums.
- 1.2. Premiums were introduced by the government from 1 April 2013 with a view to encouraging homeowners to occupy homes and not leave them vacant in the long term.
- 1.3. The legislation which introduced premiums is S11B of the Local Government Finance Act 1992 (inserted by the Local Government Finance Act 2012). Premiums could only be charged on long-term empty properties. An empty dwelling is one which is "unoccupied" and "substantially unfurnished". The definition of long-term is where the dwelling has been empty for a continuous period of at least 2 years.
- 1.4. Initially the maximum level of premium was set by government at 50% of the amount of Council Tax chargeable. Each council could determine the level of premium up to the maximum and this is charged in addition to the amount determined by the Council as payable for an empty dwelling.<sup>1</sup>
- 1.5. Certain classes of properties cannot be charged a premium namely:
  - a dwelling which would be the sole or main residence of a person but which is empty while that person resides in accommodation provided by the Ministry of Defence by reason of their employment i.e., service personnel posted away from home<sup>2</sup>; or
  - properties which form annexes in a property which are being used as part of the main residence or dwelling in that property<sup>3</sup>.
- 1.6. In 2018 the Rating of Property in Common Occupation and Council Tax (Empty Dwellings) Act allowed authorities to increase the level of premiums on empty properties with effect from 1 April 2019 as follows;
  - Properties left unoccupied and substantially unfurnished for 2 years or more, from 1 April 2019 a premium can be levied up to 100%;
  - Properties left unoccupied and substantially unfurnished for 5 years or more, from 1 April 2020 a premium can be levied up to 200%;
  - Properties left unoccupied and substantially unfurnished for 10 years or more, from 1 April 2021 a premium can be levied up to 300%.
- 1.7. It should be noted that premiums are charged in addition to the 100% Council Tax payable on empty properties.
- 1.8. Government, together with local authorities (including the Councils) has unfortunately seen a rise in the number of empty homes together with a growth in second homes.
- 1.9. 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% with no premium.
- 1.10. In order to address these inconsistencies and also to bring more properties into use, government has introduced sections within the Levelling Up and Regeneration Act 2023 (the Act).
- 1.11. This policy details the Councils' approach in charging of premiums as allowed within the new legislation.

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<sup>1</sup> Under the Council Tax (Prescribed Classes of Dwelling)(England) Regulations 2003 and amended by the Council Tax (Prescribed Classes of Dwelling)(England)(Amendment) Regulations 2012 – Classes C & D.

<sup>2</sup> Council Tax (Prescribed Classes of Dwelling)(England)(Amendment) Regulations 2012 – Classes E

<sup>3</sup> Council Tax (Prescribed Classes of Dwelling)(England)(Amendment) Regulations 2012 – Classes F

- 1.12. The continued pressure on local authority finances (both the Councils and the Major Preceptors) together with the need to encourage all owners of domestic properties to bring them back into use, makes it essential that the Councils change their approach to empty homes. The new legislation for second home premiums will encourage the use of properties as primary residences.

## **2. Empty homes premiums (From 1 April 2024)**

- 2.1. Section 79 (1) (b) of the Levelling up and Regeneration Act 2023 permits the Council to impose an empty homes premium after one year instead of two years. Section 80 of the Act provides 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
  - 200% after 5 years, even if it became empty before 1 April 2024
  - 300% after 10 years, even if it became empty before 1 April 2024
- 2.2. The Councils resolved to implement these changes with effect from 1 April 2024.
- 2.3. The legislation requires the Councils to be mindful of any guidance or further regulation in relation to the implementation of the premiums and this is detailed in Section 4 of this policy.

## **3. Introduction of premiums for second homes (From 1 April 2025)**

- 3.1. The definition of a second home for Council Tax purposes is a dwelling which has “no one resident” but is “substantially furnished”.
- 3.2. Section 80 (2) of the Act inserts a new section 11C into the Local Government Finance Act 1992. This permits the Councils to apply a premium on second homes. The maximum Council Tax charge in these cases would be a standard 100% charge plus a premium of 100% making a total Council Tax charge of 200%.
- 3.3. Unlike empty properties, there is no requirement for a property to have been used as a second home for a fixed period of time before the premium can apply.
- 3.4. As with other changes introduced by the Act, 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 do not take effect until the 2025-26 financial year.
- 3.5. The Councils have resolved to charge second home premiums and has given the required notice.
- 3.6. The Act 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.

## **4. Exceptions from the premiums.**

- 4.1. The government published a consultation on 6 July 2023 seeking views on the circumstances where it may not be appropriate for the premiums to apply. The government issued its’ response on 11 March 2024, stating that it intended to legislate to bring the exceptions into effect from 1 April 2025.
- **Properties undergoing probate** – The government has legislated that inherited properties will have up to 12-months exception from the empty and second home premiums from the date probate or letters of administration have been granted. The

property will be liable for the standard rate of council tax once the class F exemption has ended.

**4.2.** The Council has also included the following exceptions to the premiums from 1 April 2025:

- **Properties that are being actively marketed for sale or rent** – the government has legislated that this exception will apply for up to a **maximum of 12 months** from the date that active marketing commenced, or until the property has been sold or rented, or when the dwelling is no longer actively marketed for sale or let, whichever is the sooner.

The following conditions will apply to this exception:

- the same owner may only make use of the exception for a particular dwelling marketed for sale once
- the exception may be used again for the same dwelling if it has been sold and has a new owner
- the same owner may make use of the exception for dwellings marketed for let multiple times, however, only after the dwellings has been let for a continuous period of at least 6 months since the exception last applied

The Councils, in determining whether this exception applies will require the following evidence, this list is not exhaustive, and the Councils reserve the right to request additional information to support any claim for an exception:

- 4.2..1. evidence that the dwelling is being **actively** marketed for sale or rent through a recognised agent (evidence can include contracts with agents, advertisements in recognised newspapers or marketing websites);
- 4.2..2. where the properties are being self-marketed by the owner or landlord, evidence that the properties are being **actively** marketed (evidence can include advertisements in recognised newspapers or letting websites);
- 4.2..3. where for sale, evidence that the properties are being sold at a true market level of the size and type of dwelling within the areas in which it is situated. Where the dwelling is for let, that the rent requested is at a true market level for the size and type of dwelling within the area in which it is situated.
- **Empty properties undergoing major repairs** – this is time limited to 12 months. The government has legislated that where a dwelling requires or is undergoing major repairs or is undergoing structural alteration it may be excepted from the empty home premium for up to 12 months. Where major repairs are completed in less than 12 months, the exception will still apply to the dwelling for up to 6 months or until the end of the 12 months whichever is sooner.
  - This exception only applies on empty homes. This exception cannot apply again unless the dwelling has been sold. If the dwelling is substantially furnished and becomes a second home without a resident, then this exception will end and the Second Home Premium will apply.

The exception will be applied at any time after the property has been empty for at least 12 months, so long as the relevant Council is satisfied that the property is eligible. As with all other exceptions to the premiums, the Councils will require the taxpayer to provide such evidence as is required to support their application.

- **Job related properties** – 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 is customary for employers to provide properties for employees. These dwellings are also 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** – these caravans and boats are an exception to the Council Tax premium on second homes; and
- **Seasonal homes where year-round or permanent occupation is prohibited or had been specified for use as holiday accommodation or prevents occupancy as a person's sole or main residence** – 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, are an exception to the second home premium.

- 4.3. The Councils' Section 151 Officer is granted delegated powers to amend this policy in line with legislative or government requirements.
- 4.4. Where a property is exempt from council tax, it will also be exempt from council tax premiums. The Council Tax (Exempt Dwellings) Order 1992 (as amended) sets out the classes of dwellings that are exempt from council tax.
- 4.5. Under the existing legislation, two classes of property are exceptions to the long-term empty homes premium and will also be excepted in the case of the second homes premium:
  - 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.

## 5. Outcome expected and "safety net".

- 5.1. The expected outcomes of this policy are as follows:
  - Taxpayers will be encouraged, through the implementation of the premiums, to bring empty properties into use and to revert the use of second homes to primary residences;
  - The reduction of empty homes and second homes with the Councils' areas in line with the Councils' Empty Property Strategies; and
  - Increased Council Tax income from empty homes and second homes.
- 5.2. There may be circumstances where the implementation of these changes may cause exceptional hardship to a taxpayer. In such cases, the Councils will consider applications for a reduction in liability under their Section 13A (1) (C) of the Local Government Finance Act 1992 – Reduction in Council Tax liability policy.
- 5.3. 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 relevant Council a further right of appeal will be with the independent Valuation Tribunal Service.

## **6. Legislation**

- 6.1. The legislation relevant to this policy is as follows:
  - S11A & S11B of the Local Government Finance Act 1992;
  - S11C & S11D of the Local Finance Act 1992 (as introduced by the Levelling Up and Regeneration Act (2023));
  - The Levelling Up and Regeneration Act 2023; and
  - Section 13A (1) ( C) Local Government Finance Act 1992 (reduction in Liability).
- 6.2. Due to changes in the legislation, the Councils will be required to amend this policy, at any time, in line with statute.

## **7. Finance**

- 7.1. Any amount of premium received will be part of the Councils' Collection Funds and will be shared between the Councils and Major Precepting authorities in line with their share of the Council Tax.
- 7.2. Any reduction granted under S13A (1) (C) will be financed through the Councils' general funds and do not form part of the Collection Funds.

## **8. Notification**

- 8.1. Where a taxpayer is granted an exemption, a revised demand notice will be issued. Where an exemption is granted, the Council will provide a notification of its decision.

## **9. Appeals**

- 9.1. Appeals against the Councils' decisions may be made in accordance with Section 16 of the Local Government Finance Act 1992.
- 9.2. The taxpayer must in the first instance write to the relevant Council outlining the reason for their appeal. Once received the council will then consider whether any additional information has been received which would justify a change to the original decision and notify the taxpayer accordingly.
- 9.3. Where the taxpayer remains aggrieved, a further appeal can then be made to the Valuation Tribunal Service. This further appeal should be made within 2 months of the decision of the Council. Full details can be obtained from the Councils' website or from the Valuation Tribunal Service website.

## **10. Fraud**

- 10.1. The Councils are committed to protecting public funds and ensuring that premiums are correctly charged.
- 10.2. A taxpayer who tries to reduce their Council Tax liability by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.
- 10.3. Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

## **11. Complaints**

- 11.1. The Councils' complaints procedure (available on the councils' website) will be applied in the event of any complaint received about this policy.