

TRAFFORD COUNCIL

Report to: Executive
Date: 29 January 2024
Report for: Decision
Report of: Executive Member for Finance, Change and Governance

Report Title

Council Tax Empty Homes and Second Homes Premium – Introduction and Proposal to Consult on Exempt Categories

Summary

The Council has the discretion to amend the council tax premium to 100% (200% in total) for properties empty between one and five years (currently between two and five years) from 1 April 2024.

The Council has the discretion to charge an additional 100% (200% in total) on all second homes from 1 April 2025.

Executive approval was sought in October 2022 to align future long term empty home premiums with the Levelling Up and Regeneration Bill changes once the Bill received Royal Assent, which it did on 26 October 2023.

This report seeks final approval to implement these premiums as well as to consult on a proposed Exemption Policy in line with the national consultation.

Recommendation(s)

That the Executive gives approval to:

- Consult on the proposed Council Tax Discretionary Council Tax Premium Exemption Policy;
- Note that the Council Tax Discretionary Council Tax Premiums Exemption Policy will be presented to the Executive for consideration and approval following conclusion of the consultation exercise;
- Increase the council tax empty homes premium to 100% (200% in total) for properties empty between one and five years (currently between two and five years) from 1 April 2024; and
- Implement the discretionary 100% second homes council tax premium (200% in total) from 1 April 2025

Contact person for access to background papers and further information:

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Background Papers: [Executive Report \(June 2022\) – Council Tax Discretionary Schemes – Proposal to Consult on Changes](#)
[Executive Report \(24 October 2022\) – Council Tax Discretionary Schemes – Proposal to Remove Some Discretionary Empty Property Discounts from 1 April 2023](#)
[Government consultation on proposals to exempt categories of dwellings from the council tax premiums in England](#)

Relationship to Policy Framework/Corporate Priorities	The Council's Empty Homes Strategy priority is to improve our neighbourhoods by addressing long term empty homes and working with owners to bring them back in to use.
Relationship to GM Policy or Strategy Framework	The GM Housing Strategy includes bringing empty properties back in to use.
Financial	Although the primary purpose of this policy is to bring empty properties back in to use, it will also generate income from Council Tax estimated at c£300k in 2024-25
Legal Implications:	The setting of Council Tax and any discounts or premiums are a matter for Council in accordance with the Local Government Finance Act 1992. New laws came into force on 26 October 2023: Levelling-up and Regeneration Act 2023 (legislation.gov.uk)
Equality/Diversity Implications	The Corporate Equality Strategy 2021-2025 includes a housing strategy.
Sustainability Implications	Not Applicable
Carbon Reduction	Not Applicable
Resource Implications e.g. Staffing / ICT / Assets	Staffing increases will be required to deliver the exemptions policy due to the anticipated number of requests. These are accounted for in the financial costs.
Risk Management Implications	Not Applicable
Health & Wellbeing Implications	Not Applicable
Health and Safety Implications	Not Applicable

1.0 Background

- 1.1 Long-term empty homes are dwellings that have been unoccupied and substantially unfurnished for a defined period. In 2013, as part of its policy of encouraging owners of empty dwellings to bring them back into use, the government introduced powers for local authorities to charge a discretionary council tax premium of up to an additional 50% on homes empty for at least 2 years. These powers were subsequently strengthened in 2018, whereby the maximum level of the premium increases depending on the length of time the property has been empty, up to 300%.
- 1.2 The current approved Trafford premium rates, which is additional to the 100% Council Tax charge, are as follows:
- Properties empty for 2 years but less than 5 years – 100%
 - Properties empty for between 5 and 10 years – 200%
 - Properties empty for 10 years or more – 300%
- 1.3 Second Homes are currently charged 100% Council Tax, with an option to request a discount of 50% if the second home is needed under a contract of employment

- 1.4 The Executive on 24 October 2022, considered a report which sought approval to remove the discretionary discounts on empty and unfurnished properties from 1 April 2023 and to align future long term empty home premiums with the Levelling Up and Regeneration Bill changes as detailed in the report.

2.0 The Levelling Up and Regeneration Act 2023

- 2.1 On 26 October 2023, The Levelling Up and Regeneration Act 2023 (The Act) received Royal Assent.
- 2.2 The Levelling Up and Regeneration Bill has an avowed aim to reverse geographical disparities between different parts of the UK. The Act is wide-ranging, including provisions for more widespread devolution across England, changes to local planning and enhancing the ability of local authorities to take forward regeneration schemes.
- 2.3 This report sets out the implications for a key element of the Act; the proposed changes to allow councils to place a council tax premium on second homes and permit a 100% premium on empty properties at an earlier one year commencement point as opposed to the current two-year commencement point, with a number of recommendations on next steps. The aim of Act is primarily aimed to allow councils to raise additional revenue and to acknowledge the impact that second (referenced as 'dwellings occupied periodically' in the Act) and empty homes can have on some communities.

Empty Properties

- 2.4 The Council currently applies a 100% premium for properties which have been empty and unfurnished for longer than two years. The Council is, from 1 April 2024, legally permitted to charge (though it is a discretionary rather than a statutory provision) a long term empty property premium of 100% after one year, rather than two years.
- 2.5 The Council currently has 549 empty homes within the borough that would be subject to the one year long term empty premium from 1 April 2024.
- 2.6 The Act does not include a statutory requirement to consult and the Council has concluded that it will not consult of this matter.
- 2.7 It is proposed that the Council now takes steps to implement the maximum charge on long term empty properties, in line with the Executive approval received on 24 October 2022, which will result in an increase of the council tax on empty homes premium to 100% (200% in total) for properties empty between one and five years from 1 April 2024.

Second Homes

- 2.8 Second home owners currently pay the same council tax as others with one home. Second home ownership is recognised to have a negative impact in terms of the supply of homes available to meet local housing need.
- 2.9 In addition the Council can, from 1 April 2025, charge a discretionary council tax premium of up to 100% on second homes.

- 2.10 There are currently 797 properties on the Council Tax records which are classified as a second home and would fall under the Act amendment from 1 April 2025.
- 2.11 The Act does not include a statutory requirement to consult and the Council has concluded that it will not consult of this matter.
- 2.12 It is proposed that the Council now takes steps to implement the maximum charge on second homes, in line with the Executive approval received on 24 October 2022, which will result in an increase of the council tax on second homes of 100% (200% in total) from 1 April 2025

3.0 Discretionary Council Tax Premium Exemption Policy

- 3.1 Although the Council can, and does, charge an empty home premium, there are circumstances where owners apply for a reduction of this charge because of their circumstances.
- 3.2 In recognition of this, the Government in preparation for the introduction of the Act, consulted on proposals to exempt categories of dwellings from the council tax premiums. The consultation ran for 8 weeks ending on 31 August 2023. As of yet there has not been a publication of the final outcome of the consultation.
- 3.3 The majority of the exemptions mirror the exempt category requests currently received by the Council and therefore it is proposed that the Council take steps to explore the introduction and implementation of a Discretionary Council Tax Premium Exemption Policy for April 2024.
- 3.4 The list of proposed exemptions is detailed below, with the eligibility criteria for each exemption detailed in Appendix A:
- Empty properties undergoing probate
 - Empty properties being actively marketed for sale or let
 - New owners of empty properties undergoing major repairs
 - Second homes annexes that form part of, or being treated as part of, the main dwelling
 - Second homes job related dwelling
 - Properties subject to legal, technical or complex planning issues
- 3.4 The only changes made from the Government's proposals are;
- (a) Empty properties undergoing major repairs – where a new owner purchases a property that has already been empty for more than 12 months. A new owner of a property will revert back to being charged 100% Council Tax for 12 months after which time the 200% premium will apply;
- (b) Seasonal homes – because of the low numbers of properties in Trafford it is not intended to put in the discretionary policy
- 3.5 The final change to the policy is to include the addition of the category relating to properties subject to legal, technical or complex planning issues. It is proposed that

an owner should not be financially penalised for a delay in a process outside of their control.

- 3.6 The Council is required to undertake a formal consultation exercise in respect of the proposed Discretionary Council Tax Premium Exemption Policy.
- 3.7 An online public consultation will be administered seeking feedback and comments on the draft exemptions as detailed in the report and seeking opinions on whether the proposed exemptions strike a fair balance to achieve the ultimate outcome of bringing much needed properties back in to use.
- 3.8 Following conclusion of the public consultation exercise, a final proposed policy on exemptions will be developed and will be brought back to the Executive in March 2024 for consideration.

4.0 Recommendation

That the Executive gives approval to:

- Consult on the proposed Council Tax Discretionary Council Tax Premiums Exemption Policy;
- Note that the Council Tax Discretionary Council Tax Premiums Exemption Policy will be presented to the Executive for consideration and approval following conclusion of the consultation exercise;
- Increase the council tax empty homes premium to 100% (200% in total) for properties empty between one and five years (currently between two and five years) from 1 April 2024; and
- Implement the discretionary 100% second homes council tax premium (200% in total) from 1 April 2025.

Consultation

The requirements for public consultation are detailed in the report.

Other Options

The Council could decide to not introduce the additional premiums, however, this would go against the Council's Empty Home Strategy by not increasing available local housing stock and also mean the Council won't be able to collect the additional Council Tax to increase income to help to fund vital services.

Reasons for Recommendations

The recommendations are set out at the start of this report.

Key Decision: No

If Key Decision, has 28-day notice been given? N/A

Finance Officer Clearance GB
Legal Officer Clearance DS

DIRECTOR'S SIGNATURE 

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.

Appendix A - Proposed Council Tax Premium Exemptions (Long-Term Empties and/or Second Homes)

1.0 Empty Properties undergoing probate

- 1.1 The Council recognises that the period after someone passes away is very challenging for their relatives and friends, especially for those managing the estate.
- 1.2 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), as long as the property remains unoccupied and has not been sold or transferred to someone else.
- 1.3 If the property remains unoccupied following the end of the Class F exemption period, normal rules on the application of council tax to empty properties apply. This means that where a property has been unoccupied and substantially unfurnished for at least one year, it may become liable for the **long-term empty homes council tax premium** immediately. The liability for the empty homes premium is determined by the length of time that the property has been empty. Depending on the circumstances, this one-year period could start prior to the passing of the previous owner.
- 1.4 Alternatively, if such a property has been unoccupied since the passing of the previous owner and is substantially furnished, it could become liable for the **council tax second homes premium** immediately after the Class F exemption period has ended.
- 1.5 The Council recognises that it may take some time to determine the future use of a property that has been left unoccupied or has no resident following the death of its owner or tenant. The Council does not consider it appropriate that such properties should become subject to either the second homes or long-term empty property premiums immediately following the grant of probate.
- 1.6 The Council will therefore grant an exception to both the second homes and empty homes premiums for 12 months. The exception will start once probate or letters of administration is granted. This does not affect the Class F exemption or the ability for the Council to charge the normal rate of council tax following the expiry of the Class F exemption.
- 1.7 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 (see below). This would provide the owner an additional 6 months exception period. As such, where both exceptions are granted, the maximum exception period would be up to 18 months.

1.8 In order to ensure the Council's Empty Homes Strategy is not detrimentally impacted in terms of the length of time a property remains empty, where there is a delay in grant of probate **being applied for** during the Class F exemption period that results in the total period of non-payment of Council Tax exceeding 12 months then the exception period will be adjusted accordingly to ensure an unjust favourable financial position is not gained through avoidable delays.

1.9 Applications for this exception, therefore, will require evidence to be provided of the date probate has been applied for.

2.0 Empty Properties being actively marketed for sale or let

2.1 The [government published guidance](#) is clear that the decision to provide local authorities with the power to charge a premium was not to penalise owners of property that is genuinely on the housing market for sale or rent.

2.2 The Council will therefore grant an exception to the council tax premiums of 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. This exception will also apply to second homes where the property is being actively marketed for sale or rent of tenancies with a length of 6 months or more.

2.3 In order to qualify for an exception to the premiums, the owner (of either a long-term empty home, or a second home) will 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). Examples of evidence to be provided is:

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

2.4 The maximum period of 6 months exception will be considered once the evidence has been provided. The exception will be available only once to the same owner of a property, the exception may apply again if the property has new owners, and they begin the process of marketing for sale or rent.

3.0 New owners of empty properties undergoing major repairs

3.1 Homes that have remained empty for long periods may require extensive repair work. In situations where a new owner of an empty property is undertaking major repair work or structural alterations to make it habitable, the Council believes that it is

not appropriate for a premium to be charged as soon as the property has been empty for one year as this could be a disincentive for a potential purchaser.

3.2 The Council will therefore grant an exception for up to 6 months from the date major repair works and/or structural alterations commences until the 6 month exception end date or when the work has been completed, whichever is the sooner. The exception could be applied at any time after the property has been purchased and empty for at least 12 months, as long as the Council 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 Council is satisfied that the conditions for the exception are met. Examples of evidence to be provided is:

- Schedule of works
- Builders estimates and receipts
- Photographs of property before and during work
- Access to visit the property if required

3.3 New owners using this exception could also potentially benefit from the proposed exception for properties being actively marketed for sale or rent, as set out in section 2. As 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 a new owner has carried out major repair works and is then carrying out active marketing of the property for sale or rent.

4.0 Second home annexes that form part of, or being treated as part of, the main dwelling

4.1 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.

4.2 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).

4.3 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.

4.4 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 therefore the Council will treat such annexes as an exception to the council tax premium on second homes.

5.0 Second homes job-related dwellings

5.1 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

5.2 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,

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

5.4 Where a job-related dwelling discount is in place, the Council will also treat as 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.

6.0 Properties subject to legal, technical or complex planning issues

6.1 The Council recognises that there are at times legal, technical and/or planning issues that prevents an owner from being able to bring an empty property back in to use.

- 6.2 The Council does not intend to penalise owners of property that are genuinely trying to put their property on the housing market for sale or rent, but are legally prevented from doing so. Examples could be where a court order application requesting sale of a property is pending e.g. a court of protection matter or planning delays due to complexity issues such as a listed building or restrictions.
- 6.3 The owner will be expected to demonstrate and provide supporting documentation clearly showing the reason why they are prevented from actively marketing the property for sale or let and also the intention is to do so as soon as they are able. Examples of evidence to be provided is:
- Letters or Orders from the court detailing the legal reasons preventing sale or let
 - Planning department correspondence explaining complexities outside of the usual planning process
 - Solicitors and/or other Legal correspondence explaining the legalities preventing sale or let
- 6.4 A maximum period of 12 months exception will be considered once the evidence has been provided. The exception will be available only once to the same owner of a property, the exception may apply again if the property has new owners

7.0 CHANGES OF CIRCUMSTANCES

- 7.1 The Council may need to revise the decision to grant an exception to the premiums if it becomes aware that the applicant's circumstances have materially changed. Individuals must advise the Council of any change in circumstances affecting the decision, within 21 days of the change. Failure to do so may result in the exception being revoked in full.

8.0 NOTIFICATION

- 8.1 The Council will inform the applicant in writing of the outcome of their application within 28 days of receipt, or as soon as practicable thereafter. Where the application is unsuccessful, the Council will set out the reasons why this decision was made and explain the right of review.

9.0 THE RIGHT TO SEEK A REVIEW

- 9.1 As the exceptions to the premiums in this policy are determined locally, any decisions are not subject to a statutory appeals mechanism. The Council will therefore operate its own procedures for dealing with appeals against a refusal to award an exception to the premiums.
- 9.2 Decisions will be determined at management level by a Revenues Officer.
- 9.3 An applicant (or their appointee or agent) who disagrees with a decision not to award an exception may dispute the decision. A request for a review must be made in writing to the Revenues Manager within one calendar month of the written decision being issued.

- 9.4 The Revenues Manager will review all the evidence held and may ask for further clarification to be provided. A decision will be made within 28 days of the request for a review or as soon as practicable thereafter. The decision will be notified to the claimant in writing, setting out the reasons for the decision.
- 9.5 There is no further right of appeal following this review, and a refusal will not be considered as a complaint under the Council's Complaints policy

10.0 FRAUD

- 10.1 The Council is committed to the fight against fraud in all its forms and has a zero tolerance fraud policy. An applicant (or their appointee or agent) who tries to fraudulently claim an exception from the council tax premiums by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed a criminal offence. Where fraud is suspected, the Council will investigate and this may lead to criminal proceedings.

Trafford Council reserve the right to remove the exception and seek recovery of the premium even in cases where the property is no longer owned via all the recovery methods available to them.