

TRAFFORD COUNCIL

Report to: Executive
Date: 18 March 2024
Report for: Decision
Report of: Executive Member for Finance, Change and Governance and the Director of Finance and Systems

Report Title

Discretionary Council Tax Premium Exemptions Policy

Summary

In January 2024 the Executive agreed to:-

- Increase 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; and
- Implement the discretionary 100% second homes council tax premium (200% in total) from 1 April 2025.

The Executive also agreed to consult on a proposed Exemption Policy in line with the national consultation.

The consultation responses have been analysed and a final Discretionary Council Tax Premium Exemptions Policy is recommended for approval.

Recommendation(s)

That the Executive gives approval to:

- Implement the Discretionary Council Tax Premium Exemptions Policy from 1 April 2024 for empty homes and 1 April 2025 for second homes.

Contact person for access to background papers and further information:

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Background Papers: [Decision - COUNCIL TAX EMPTY HOMES AND SECOND HOMES PREMIUM - INTRODUCTION AND PROPOSAL TO CONSULT ON EXEMPT CATEGORIES \(trafford.gov.uk\)](#)

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 net income from Council Tax estimated at c£300k in 2024-25
Legal Implications:	<p>The setting of Council Tax and any discounts or premiums are a matter for Council in accordance with the Local Government Finance Act 1992.</p> <p>New laws came into force on 26 October 2023: Levelling-up and Regeneration Act 2023 (legislation.gov.uk)</p>
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 On the 29 January 2024, Executive approved the implementation of additional Council Tax premiums as detailed in Paragraphs 1.2 and 1.3 in line with the powers included within the Levelling Up and Regeneration Act 2023.
- 1.2 Long-term empty homes are dwellings that have been unoccupied and substantially unfurnished for a defined period. The current approved Trafford premium rates, which is additional to the 100% Council Tax charge, are as follows:
- Properties empty for more than 1 year (from 1 April 2024) 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. From the 1 April 2025, a premium of 100% will be charged, which is additional to the 100% Council Tax charge.

- 1.4 Although the Council can charge an empty home and second home premium, there are circumstances where owners can apply for a reduction of this charge because of their circumstances. This mainly is for circumstances where an owner can request an exemption from the premium where they can demonstrate, and evidence, that it is beyond their control to bring the property back in to use.
- 1.5 In recognition of this, an exemptions policy has been developed and which has now been consulted on. This is the Discretionary Council Tax Premium Exemptions policy which will be effective from 1 April 2024.
- 1.6 The Council's system will automatically apply the relevant premium and issue an updated bill to the owner which will clearly detail the council tax premium being applied. Information on the exemptions will be detailed on the Council's relevant webpage with a link to apply for an application form to apply for an exemption.
- 1.7 The exemption is not an automatic award as the Council will have no details on the reasons why a property is empty. The Council will need accompanying evidence to be provided in support of the application for an exemption to be considered.

2.0 Public Consultation

- 2.1 The Council consulted on the proposed policy – see Appendix A - between 8 February and 3 March 2024 on the following exemptions:
- 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.
- 2.2 There were 15 responses to the public consultation which overall were supportive of the proposed policy including both the types of exemptions and accompanying evidence required to support an application for an exemption.
- 2.3 The main areas where there was not overall support were as follows:
- **Empty properties being actively marketed for sale** - in relation to the 6 month time limit on properties – the comments made were that the property market at the time should be a consideration and therefore a 12 month limit might be more appropriate.
 - **New owners of properties undergoing repair** – in relation to the 6 month time limit - it was again felt that a longer period of time of 12 months might be required for works to be undertaken and also if the exemption should also apply more widely to second homes or existing owners.

- 2.4 The Council has carefully considered the comments made in response to the public consultation but feel that the totality of time across the exemptions is sufficient for a property to be brought back in to use in most circumstances. Exemptions to the rule can still be considered under the general discretionary powers the Council has if there are reasons beyond an owner's control for bringing a property back in to use once the timescales, which are over and above the legislative requirements, are exceeded.
- 2.5 It is recommended, therefore, that the Council's proposed Exemptions Policy as per the consultation – Appendix A - is introduced from the 1 April 2024.

3.0 Recommendation

That the Executive gives approval to:

- Implementing the Discretionary Council Tax Premium Exemptions Policy from 1 April 2024 for empty homes and 1 April 2025 for second homes.

Other Options

The Council could decide to not introduce an exemptions policy and charge the maximum premium allowed in the legislation in all eligible cases, however, the Council do not want to financially penalise property owners who are either actively seeking to bring their property back in to use or where a delay in doing so is outside of their control. It also provides transparency to Trafford residents as to in what circumstances an exemption can be applied, and therefore in which circumstances they will be charged the premium.

Reasons for Recommendations

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

Key Decision: Yes

If Key Decision, has 28-day notice been given? Yes

Finance Officer Clearance

GB

Legal Officer Clearance

EM

DIRECTOR'S SIGNATURE ...



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

Appendix A - Discretionary Council Tax Premium Exemptions Policy (Long-Term Empty Homes and/or Second Homes)

1.0 INTRODUCTION

- 1.1 The Council will automatically apply a long-term empty homes Council Tax premium at the following rates:
- Properties empty for more than 1 year but less than 5 years – 100%
 - Properties empty for between 5 and 10 years – 200%
 - Properties empty for 10 years or more – 300%
- 1.2 The Council will, from 1 April 2025, automatically apply a council tax second homes premium of 100% on unoccupied second homes.
- 1.3 There may be circumstances where an owner of a property is unable to bring their property back in to use for reasons outside of their control. Those owners can apply for an exemption in accordance with this Exemptions Policy.
- 1.4 An application **must** be made in writing either through the approved application form or to the council tax department.
- 1.5 Additional information and evidence requested must be provided within 1 calendar month from the date of the request.

2.0 Empty Properties undergoing probate

- 2.1 The Council recognises that the period after someone passes away is very challenging for their relatives and friends, especially for those managing the estate.
- 2.2 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.
- 2.3 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.
- 2.4 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.

- 2.5 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.
- 2.6 The Council will therefore consider an application requesting the granting of an exemption to both the second homes and empty homes premiums for a maximum of 12 months from the date probate has been 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.
- 2.7 What this means is that the first 6 months of the exemption to the premium would run alongside the Class F exemption, meaning there would be no Council Tax charge or premium during this time if granted. After the Class F has expired the property would be subject to a 100% Council Tax charge plus the premium if the property has been empty for more than 12 months.
- 2.8 In most circumstances, the property is brought back in to use or has a new owner within the Class F exemption period. However, if there are reasons why the owner has been unable to do this, they will be able to apply for an exemption from the premium of up to a maximum of 12 months from the date probate was granted.
- 2.9 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' exemption (see below). This would provide the owner an additional 6 months exemption period. As such, where both exemptions are granted, the maximum exemption period would be up to 18 months.
- 2.10 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 exemption period will be adjusted accordingly to ensure an unjust favourable financial position is not gained though avoidable delays.
- 2.11 Applications for this exemption, therefore, will require evidence to be provided of the date probate has been applied for.

3.0 Empty Properties being actively marketed for sale or let

- 3.1 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.
- 3.2 The Council will therefore grant an exemption 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 exemption 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.

3.3 In order to qualify for an exemption 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.

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

4.0 New owners of empty properties undergoing major repairs

4.1 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.

4.2 The Council will therefore grant an exemption for up to 6 months from the date major repair works and/or structural alterations commences until the 6 month exemption end date or when the work has been completed, whichever is the sooner. The exemption 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 exemption 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

4.3 New owners using this exemption could also potentially benefit from the proposed exemption for properties being actively marketed for sale or rent, as set out in section 2. As long as the criteria for both exemptions are met, then a potential total exemption 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.

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

5.1 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.

5.2 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).

5.3 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.

5.4 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 exemption to the council tax premium on second homes.

6.0 Second homes job-related dwellings

6.1 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

6.2 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 exemptions):

- 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;

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

- 6.4 Where a job-related dwelling discount is in place, the Council will also treat as an exemption to the second homes premium. The exemption 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.

7.0 Properties subject to legal, technical or complex planning issues

- 7.1 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.
- 7.2 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.
- 7.3 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
- 7.4 A maximum period of 12 months exemption will be considered once the evidence has been provided. The exemption will be available only once to the same owner of a property, the exemption may apply again if the property has new owners.

8.0 CHANGES OF CIRCUMSTANCES

- 8.1 The Council may need to revise the decision to grant an exemption 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 exemption being revoked in full.

9.0 NOTIFICATION

- 9.1 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.

10.0 THE RIGHT TO SEEK A REVIEW

- 10.1 As the exemptions 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 exemption to the premiums.

- 10.2 Decisions will be determined at management level by a Revenues Officer.
- 10.3 An applicant (or their appointee or agent) who disagrees with a decision not to award an exemption 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.
- 10.4 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.
- 10.5 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.

11.0 FRAUD

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