

# DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
REVENUES AND BENEFITS SERVICE	FINANCE AND DEMOCRACY COMMITTEE	21 MARCH 2023	4
<b>COUNCIL TAX PREMIUMS 2024/25</b>			

## PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

In 2013 the Government introduced legislation allowing local authorities the discretion to charge an additional 50% premium to the owners of properties left empty for over two years. The Council introduced this additional charge with effect from 1<sup>st</sup> April 2014.

In November 2018, the government introduced further legislation allowing local authorities the discretion to increase the premium to 100% for properties left empty for over two years with effect from 1<sup>st</sup> April 2019.

That legislation also provided for further discretionary premium levels of:

- 200% in respect of properties left empty for over five years, effective from April 2020; and
- 300% in respect of properties left empty for over ten years, effective from April 2021.

At the meeting of 11<sup>th</sup> February 2019 the Council approved the introduction of a new Council Tax Premium level of 100% payable in respect of properties left empty for over two years, to be effective from 1st April 2019.

At the meeting on 7<sup>th</sup> January 2020 the Council approved the introduction of a Council Tax Premium of 200% in respect of properties left empty for over five years and of 300% in respect of properties left empty for over ten years.

This report gives details of further discretionary premium levels available from 1<sup>st</sup> April 2024.

### RECOMMENDATIONS

The Committee is requested to consider the options as set out in this report and make a recommendation to Council in respect of:

- a. The application of the Council Tax premium of 100% in respect of empty properties from the date at which the property has been empty for one year, rather than after two years as at present; and
- b. The introduction of a new 100% Council Tax premium for all properties that are classed as second homes;

both changes being dependent upon the Levelling Up and Regeneration Bill receiving Royal Assent within the required timescale. As at 9<sup>th</sup> March 2023 it was at committee stage at the House of Lords with the following stages still to be completed:

- Report Stage – House of Lords
- 3<sup>rd</sup> reading – House of Lords
- Consideration of Amendments – Final Stages
- Royal Assent – Final Stages

## SUMMARY OF PREVIOUS DECISIONS

On 27<sup>th</sup> January 2014 the Council approved the introduction of a new Council Tax Premium level of 50% payable in respect of properties that have remained empty for more than two years, effective from 1<sup>st</sup> April 2014.

At the meeting of 11<sup>th</sup> February 2019 the Council approved the introduction of an increased Council Tax Premium level of 100% payable in respect of such properties, to be effective from 1st April 2019.

At the meeting on 7<sup>th</sup> January 2020 the Council approved the introduction of a Council Tax Premium of 200% in respect of properties left empty for over five years and of 300% in respect of properties left empty for over ten years.

## CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	v
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	
Working with all partners ( <b>Vibrant Economy</b> )	v
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	

## REPORT

### 1.0 Background

- 1.1 Section 12 of the Local Government Finance Act (LGFA) 2012 (which amended s.11A of the LGFA 1992) allows billing authorities to have discretionary powers for a premium to be charged in cases where an owner has left a property unoccupied and unfurnished for over two years.
- 1.2 The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 provided for further discretionary premium amounts in respect of properties left empty for over five and ten years, effective from April 2020 and 2021 respectively.
- 1.3 The Government's Levelling Up and Regeneration Bill, which is currently progressing through Parliament, allows for the introduction of further discretionary premiums from 1<sup>st</sup> April 2024. If any such changes are to be introduced from 1<sup>st</sup> April 2024 authorities are required to confirm this by a resolution of Council at least one year prior to the changes being introduced i.e. by 1<sup>st</sup> April 2023. Additionally, the Levelling Up and Regeneration Bill will need to have received Royal Assent prior to 1<sup>st</sup> April 2023 in order for the changes to premiums to take effect from 1<sup>st</sup> April 2024. If the additional premium levels are introduced a notice must be published in at least one newspaper circulating in the authority area providing details of the changes to premiums to be applied.
- 1.4 The changes proposed are listed in section 2 and 3 below.

### 2.0 Long Term Empty Homes

- 2.1 For Council Tax purposes a property is classed as being 'long-term empty' when it has been vacant for a period of over 6 months. Currently properties which have remained empty and unfurnished for over 2 years are charged a premium of 100% i.e. the property owners are charged 200% (double) the normal Council Tax charge.
- 2.2 Subject to legislation being passed, with effect from April 2024 the premium can be applied to properties which have remained empty and unfurnished for over 1 year.
- 2.3 The latest data shows that 236 empty properties would be affected by the change (i.e. those that are currently shown as having been empty between 12 and 24 months) though this figure is subject to constant change.

### 3.0 Second Homes

- 3.1 For the purposes of Council Tax, a dwelling occupied periodically (second home) is classed as any property which is not the sole or main residence of an individual and is substantially furnished. Currently Council Tax is charged at 100% on all second homes. The Council is reliant on owners to declare if their property is a second home.
- 3.2 Subject to legislation being passed, with effect from April 2024 a 100% premium can be applied to properties that are classed as second homes i.e. the property owners can be charged 200% (double) the normal Council Tax charge.
- 3.3 The latest data shows that 664 properties are currently classed as second homes, though this figure is subject to constant change.
- 3.4 Some of these "second home" properties may be being used as short-term holiday accommodation and advertised on Air B&B or booking.com, etc. There is the possibility that applying this premium may encourage owners to contact the Valuation Office Agency (VOA) to register their properties for Business Rates rather than Council Tax. Currently only properties that are available to let for 20 weeks (140 days) in a calendar year should be classified for Business Rates by the VOA.
- 3.5 From April 2023, this criteria will still apply but must be evidenced by the owner to the VOA that the property was actually let for short periods totalling at least 70 days in the previous year.
- 3.6 This requirement to provide evidence should help to ensure that only genuine properties utilised for business purposes are rated for Business Rates.

### 4.0 Other considerations

- 4.1 The empty property premiums provide an incentive to owners to bring the property back into use and applying a premium after one year instead of two may encourage those owners who have not already done so to take action to ensure their property is brought back into use. The introduction of the premium after one year would support Fylde Council's existing priorities around empty homes i.e.:-
- The Private Sector Enforcement Policy adopted in June 2019, makes a commitment, subject to available resources, to work with owners of empty homes to bring them back into use. Over the past 12 months the Housing Service have not received any complaints in relation to empty homes in the borough.
  - Fylde Council Local Plan to 2032 which comments (paragraph 9.59) that "the Council will identify and bring back into use empty housing and building in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers". After two years of remaining empty, properties may start to deteriorate and impact negatively on neighbourhoods. After five and ten years of non-occupation this is likely to have further worsened.
  - Fylde Council's Empty Homes Strategy
- 4.2 There remains a few national exemptions in respect of unoccupied and unfurnished properties and the premium does not apply in these cases. Full details are set out in section 5.0 of this report.

### 5.0 Continuing Exemptions

- 5.1 For certain types of properties there are exemptions under current legislation which apply nationally and which therefore exclude properties from the impact of locally determined premiums. Examples of such exemptions include properties owned and last used by a charity, properties for which probate is in the process of being granted and properties to be occupied by a minister of religion. **The full list of national exemptions is provided in Appendix 2 of this report.** These national exemptions would exclude them from the changes to the premium charge that is currently under consideration. The exemption in respect of properties in probate runs for a 6 month period following the date of probate whilst all other exemptions run for an indefinite period whilst the exemption applies.

## 6.0 Unintended Consequences

- 6.1 The introduction of the premium for second homes could have unintended consequences. If a 100% premium were to be applied in future in respect of second homes the property owners may seek to avoid this by removing furniture and thus allowing the property to be classed as an empty property, it then not attracting the 100% premium in respect of that class of property for a period of twelve months. It is not possible to estimate the extent to which this might occur.
- 6.2 If the proposals are approved, consideration could be given as to whether the introduction of a discretionary discount may be required to mitigate the unintended impact on certain groups as a consequence of these changes, such as landlord properties between lets. Any such additional discretionary discounts would be included within the updated Discretionary Discount Policy for 2024/25 which would be considered by this Committee prior to 1<sup>st</sup> April 2024.
- 6.3 Appendix 1 of this report sets out a number of Frequently Asked Questions regarding Council Tax Premiums on Empty Properties and Second Homes.

## 7.0 Conclusions

- 7.1 The committee is requested to consider the options as set out in this report and make a recommendation to Council in respect of:
- the application of the long-term empty Council Tax premium once a property has been empty for one year rather than after two years as at present; and
  - the introduction of a 100% premium on second homes,

whilst noting that these changes are subject to the Levelling Up and Regeneration Bill receiving Royal Assent by 1st April 2023.

- 7.2 Should the Council subsequently approve the application of the available changes as described in the report, the Revenues Service will conduct an impact assessment of these changes and consider the introduction of discretionary discounts for certain types of properties which are unintentionally disadvantaged by the proposals. Any such additional discretionary discounts would be included within the updated Discretionary Discount Policy for 2024/25 to be considered by this Committee prior to 1<sup>st</sup> April 2024.

IMPLICATIONS	
Finance	If subsequently approved at full Council the changes to Council Tax premiums could generate an increase in the Council Tax base of up to around 860 Band D equivalent properties from 1 <sup>st</sup> April 2024. The maximum sum that these changes could generate to Fylde Council (at the 2022/23 Council Tax Band D level of £219.19) is around £47k per annum in respect of the change to the empty property premium; and £142k per annum in respect of the introduction of a premium on second homes. However, it is expected that the actual figure may be substantially lower as property owners take action to avoid the premium as described in the report at 6.1. This therefore is the maximum tax base increase prior to any avoidance action taken by property-owners, any allowance for non-collection or the reductions that would result from any relevant discretionary discounts that might be introduced. Any additional income arising from these changes will be reflected as increases in the taxbase in future financial forecast updates.
Legal	Section 12 of the Local Government Finance Act (LGFA) 2012 (which amended s.11A of the LGFA 1992) allows billing authorities to have discretionary powers for a premium to be charged in cases where an owner has left a property unoccupied and unfurnished for over two

	years. The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 brought in further powers with effect from the 2019-20 financial year onwards to levy premiums of 200%, 300% and 400% in respect of properties remaining empty for 2,5 and 10 years respectively, and with effective dates from 2019, 2020 and 2021. The Levelling Up and Regeneration Bill allows the introduction of the premiums referenced in the report but it is still currently at committee stage in the House of Lords.
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
N/A		

Attached Documents

Appendix 1: Frequently Asked Questions regarding Council Tax Premiums on Empty Properties and Second Homes

Appendix 2: National Council Tax Exemption Categories

## Frequently Asked Questions regarding Council Tax Premiums on Empty Properties and Second Homes

### A. General Questions

**1. Can decisions be made on each element or would they both need to be voted through?**

The two items are separate and therefore one could be approved and the other declined.

**2. Can the schemes be introduced and then withdrawn at a later date?**

Subsection (5) of section 11B of the Local Government Finance Act 1992 (Higher amount for long-term empty dwellings: England) provides that:

*“A billing authority may make a determination varying or revoking a determination under this section for a financial year, but only before the beginning of the year.”*

So, for example, if the council made a determination on 27 March 2023 to introduce the scheme in 2024/5, the council could change or revoke that determination any time up to the start of the 2024/5 financial year.

**3. Why would the major preceptors need to be compensated if a local scheme to offer a local discount from the premiums for certain categories (such as landlords experiencing vacancies between lets) was considered?**

The full costs of discretionary discounts made under section 13A(1)(c) of the Local Government Finance Act 1992 are borne by the billing authority in accordance with the Collection Fund (Council Tax Reductions) (England) Directions 2013 ('the 2013 Directions').

**13A of the Local Government Finance Act 1992 states that:**

- (1) The amount of council tax which a person is liable to pay in respect of any chargeable dwelling and any day (as determined in accordance with sections 10 to 13)—
  - (a) in the case of a dwelling situated in the area of a billing authority in England, is to be reduced to the extent, if any, required by the authority's council tax reduction scheme (see subsection (2));
  - (b) in the case of a dwelling situated in the area of a billing authority in Wales, is to be reduced to the extent, if any, required by any council tax reduction scheme made under regulations under subsection (4) that applies to that dwelling;
  - (c) in any case, may be reduced to such extent (or, if the amount has been reduced under paragraph (a) or (b), such further extent) as the billing authority for the area in which the dwelling is situated thinks fit.

**The Collection Fund (Council Tax Reductions) (England) Directions 2013** ensures that discretionary discounts under section 13A(1)(C) of the Local Government Finance Act 1992, as amended, **are borne by the billing authority.**

## Appendix 1

Section 98(4) of the Local Government Finance Act 1988 allows the secretary of state to direct a billing authority to transfer from its collection fund such an amount as is specified in the direction. The secretary of state has exercised that power and the current directions are [the Collection Fund \(Council Tax Reductions\) \(England\) Directions 2022](#). These replace the equivalent directions from 2013. The 2022 directions, according to the Government "*specify that where a discount is provided to offset an increase in council tax liability during 2022-23 resulting from a Homes for Ukraine thank you payment or a guest-related non dependant deduction, the billing authority need not make a payment into the collection fund*". Apart from that very specific variation, the 2022 directions have the same effect as the 2013 directions, that effect is as follows and as advised above:

Specifically:

*"[Under the 2013 directions] the full costs of discretionary discounts made under section 13A(1)(c) of the Local Government Finance Act 1992 are borne by the billing authority..."*

*"The Government's policy has not changed in relation to discretionary discounts provided for other purposes [than Homes for Ukraine] under section 13A(1)(c). **The cost of these must continue to be borne by the billing authority.**"*

(Both quotes are from the preamble to the directions)

The directions themselves consist of complex and highly technical calculations which do not lend themselves to being easily summarised. However, they can be inspected at the link above and they have the effect that the Government suggests they do in the preamble, which is that the cost of discounts under section 13A(1)(c) is to be borne by the billing authority.

**Therefore the full cost of any locally determined discounts such as those that may be considered as part of any changes to the Second Home/Empty Home Premium charges would be borne in full by Fylde Council. (i.e. all preceptor shares as well as the Fylde Council share)**

4. **What other examples are there of other discretionary discounts at Fylde that we operate (e.g. sports/charities) and an example of the costs borne by Fylde, to use as a comparator.**

No other Council Tax local discounts are in place.

5. **Which other District Councils have adopted the changes and how have they approached the consequence identified for landlords whose property is empty whilst there's a change of tenant?**

These schemes are not live yet and we do not know who is proposing to adopt them. We can ask colleagues in Lancashire but do not have know who else may choose to adopt them. East Devon appear to reference the proposed changes on their website but we do not know if they are adopting them.

## 6. What relevant amendments have been made/accepted to the bill since the January Committee meeting?

The only proposed change that can be identified is as follows:

Clause 75, page 85, line 9, at end insert— “(1A) Regulations under this Chapter may require relevant planning authorities to process data in accordance with approved data standards relating to the number and nature of— (a) second homes, (b) holiday let properties in the planning authority area.”

**Member's explanatory note:** This amendment would enable planning data regulations to provide for the collection of data to national standards re second homes and holiday lets.

## **B. Second Homes Premium**

### 7. What is the definition of a second home?

The proposed bill introduces higher amounts for dwellings occupied periodically, the conditions being —

- (a) there is no resident of the dwelling, and
- (b) the dwelling is substantially furnished.

If a property is held by a landlord for rental purposes and it becomes empty and meets the above criteria then it would be classed as a second home.

### 8. If a local discount was introduced to mitigate unintended consequences e.g. a landlord between furnished lets, what would the indicative cost (i.e. lost income) be to Fylde Council, including the element of other preceptors Council Tax?

As detailed at 3 above, the full cost any locally determined discounts such as those that may be considered as part of any changes to the Second Home/Empty Home Premium charges would be borne in full by Fylde Council.

The covering report states there are 664 properties currently in the second homes category. We need to estimate a percentage of these properties which **could** be affected by the award of a local discount and the following estimates of lost income are based on a Band D Council Tax. The amount of Council Tax payable differs for different bandings of property and the parish/town in which they are situated within the borough. The following example calculations are based upon the total Band D Council Tax for all preceptors for a St Annes property for 2023/24, which is £2,186.55.

#### **Example 1: If 10% of all 664 properties were awarded a local discount - 66 properties**

To offer a 3 month and 6 month local discount to 66 properties would incur the following estimated cost (i.e. lost income) to Fylde Council:

- 3 months – £36,078
- 6 months – £72,156



**Example 2: If 25% of all 664 properties were awarded a local discount - 166 properties**

To offer a 3 month and 6 month local discount to 166 properties would incur the following estimated cost (i.e. lost income) to Fylde Council:

3 months – £90,742

6 months - £181,484

**Example 3: If 50% of all 664 properties were awarded a local discount - 332 properties**

To offer a 3 month and 6 month local discount to 332 properties would incur the following estimated cost (i.e. lost income) to Fylde Council:

3 months - £181,484

6 months - £362,967

It is estimated that the 664 properties currently in the second homes category would generate a maximum sum (at the 2022/23 Council Tax Band D level of £219.19) of £142k per annum in respect of the introduction of a premium on second homes, so each of the 3 potential scenarios above would reduce this maximum sum by the figures shown in each of the examples. However, it is expected that the actual maximum income achievable may be substantially lower than the estimated £142k as property owners take action to avoid the premium as described in the report at 6.1.

## **C. Long Term Empty Premium**

**9. If a property becomes empty because someone dies, when would the long term empty premium start from if this was passed?**

For Council Tax purposes - an “unoccupied dwelling” is a dwelling in which no one lives, whilst a “vacant dwelling” is unoccupied and substantially unfurnished.

Where a person dies and a property remains unoccupied the following timeline applies –

- From death until probate granted No charge
- From date probate granted for up to six months No charge

(The property must remain under probate, and the exemption would terminate earlier should the property be sold or inherited.)

Six months after the end of the probate period the relevant charge is determined by the length of time the dwelling has been unoccupied or vacant.

Examples assuming Long Term Empty and Second Homes Premium implemented from 1<sup>st</sup> April 2024.

**Example 1:**

01/03/23	Property becomes unoccupied as the occupier has passed away.
01/04/23	Furniture is removed from the property so it becomes classed as a vacant dwelling.
01/09/23	Probate is granted.
01/04/24	Council Tax becomes payable. Property pays 200% Long Term Empty Premium (LTE 100% Premium).

## Appendix 1

### Example 2:

01/04/23 Property becomes unoccupied as the occupier has passed away. Property is furnished.  
01/10/23 Probate is granted.  
01/05/24 Council Tax becomes payable and the property pays 200% Council Tax (100% Second Homes Premium).

### Example 3:

01/02/23 Property becomes unoccupied as the occupier has passed away.  
01/08/23 Probate is granted.  
01/09/23 Furniture is removed from the property so it becomes classed as a vacant dwelling.  
01/02/24 Council Tax becomes payable. Property pays 0% Council Tax as it is vacant for under six months.  
01/04/24 Property pays 100% Council Tax as a vacant dwelling for over six months.  
01/09/24 Property pays 200% Long Term Empty Premium (LTE 100% Premium).  
01/12/24 Purchaser buys property but it remains unfurnished Council Tax continues at 200%.

### Example 4:

01/11/22 Property becomes unoccupied as the occupier has passed away  
01/05/23 Probate is granted  
01/11/23 Council Tax becomes payable and property pays full (100%) Council Tax  
01/04/24 Property pays (200%) Council Tax "second home" premium.  
01/05/24 Furniture is removed from the property so it becomes classed as a vacant dwelling. 0% charge as property has been a vacant dwelling for under six months.  
01/11/24 100% Council Tax as a vacant dwelling for over six months.  
01/05/25 Property pays 200% Long Term Empty Premium (LTE 100% Premium).

### Example 5:

01/03/23 Property becomes unoccupied as the occupier has passed away.  
01/09/23 Probate is granted.  
01/11/23 Furniture is removed from the property so it becomes classed as a vacant dwelling.  
01/03/24 Council Tax becomes payable. Property pays 0% Council Tax as it is vacant for under six months.  
01/05/24 Council Tax charged at 100% as vacant dwelling between six and twelve months.  
01/11/24 Property pays 200% Long Term Empty Premium (LTE 100% Premium).  
01/12/24 Purchaser buys property but it remains unfurnished Council Tax continues at 200% Long Term Empty Premium.

**10. If someone moves into a care home are they still liable for Council Tax and could this change affect how much they need to pay?**

A "Class E" exemption applies to a property left empty where the "relevant absentee" is living in a hospital or care home. This would remain the case if the property was furnished or unfurnished.

**11. Additional information from the housing team's investigation of empty homes to assist with this policy development**

The scheme is in its infancy with this work being taken forward by the Affordable Housing Officer, a role which is part time and focussed on enabling affordable homes in the borough. A starting point for this work will be contacting all owners with longer term empty properties to provide advice on bring them back into use and advising one option could be to consider selling the unit to a Registered Provider. This work will provide an understanding of the reasons why properties are empty and whether or not the owners have expressed an interest in bringing them back into use. This work is not intended to be a borough wide investigation into the reasons for empty homes in Fylde.

### Council Tax Exemption Categories

The following types of properties are exempt from council tax under national legislation:

(Note: Locally determined **discounts** do not apply for these classes of properties because the national exemptions take precedence):

- An unoccupied property owned and previously used by a charity. The maximum exemption period is 6 months
- An unoccupied property which was the previous residence of someone now detained in custody
- An unoccupied property which was the previous residence of someone who has moved permanently into a residential home or hospital to receive care
- An unoccupied property which is waiting for probate or letters of administration to be granted. The maximum exemption is for 6 months after probate or letters of administration have been granted
- A property which is unoccupied because the law forbids occupation
- An unoccupied property reserved for a minister of religion
- An unoccupied property which was the previous residence of someone who has permanently moved into another property (not a residential home or hospital) to receive personal care
- An unoccupied property which was the previous residence of someone who has permanently moved away to provide personal care to another person
- An unoccupied property which was the previous residence of someone who is now a full time qualifying student and who now lives elsewhere
- An unoccupied property where the mortgage lender is in possession
- Student halls of residence
- A property occupied only by full time qualifying students
- An armed forces barracks
- Accommodation for visiting forces and dependents
- An unoccupied property which is controlled by the trustee in bankruptcy following insolvency proceedings
- A vacant caravan pitch or boat mooring
- A property occupied only by people aged under 18 years
- An unoccupied annex which may not be let separately without a breach of planning control
- An occupied property where all of the residents are deemed to be severely mentally impaired, as confirmed by a registered medical practitioner
- A property occupied by a foreign diplomat
- An annex occupied by a dependent elderly or disabled relative

The above classes are only a broad summary of the legislation. Within each class there may be a number of conditions which have to be met before the exemption is satisfied.