

RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER

This form **MUST** be used to record any decision taken by the Elected Mayor or an individual Executive Member (Portfolio Holder).

The form must be completed and passed to the Chief Officer Legal and Democratic Services no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Chief Officer Legal and Democratic Services has confirmed the decision has not been called in.

1. Description of decision

The Elected Mayor, following consideration of the attached report, recommends to Full Council the following:

- (1). That the Council Tax Long-Term Empty property premium be amended so that dwellings which have been unoccupied and substantially unfurnished for one year will be charged the 100% premium from 1 April 2025, subject to any limitations imposed by the Government.**
- (2). That a 100% Council Tax premium on dwellings where there is no resident and which are substantially furnished from 1 April 2025 be approved, subject to any limitations imposed by the Government.**
- (3). That the criteria for the charging of Council Tax Premiums as set out in Appendix A for the financial years from 2025/2026 onwards be approved.**

2. Date of decision

7 March 2024

3. Reasons for decision

To encourage owners of both long-term empty dwellings and dwellings occupied periodically to take action to facilitate the re-occupation of those properties, which will support housing provision across the Borough.

To maximise the financial resources of the Council and other precepting organisations received through Council Tax whilst those properties remain vacant or where they are occupied periodically.

4. Alternatives considered and rejected

To not implement the powers enabled by the Levelling Up and Regeneration Act 2023 would mean the Council would forgo the opportunity to increase the number of homes available for buyers in line with the Government's intentions.

5. How decision is to be funded

The proposals will maximise the financial resources of the Council and other precepting organisations received through Council Tax whilst those properties remain vacant or where they are occupied periodically. Any premiums are charged and collected as part of the Council Tax bill, therefore, although there will be an increase in administrative tasks, no additional administrative resources are required.

6. Conflicts of interest

Name of all Executive members who were consulted AND declared a conflict of interest.	Nature of interest	Did Standards Committee give a dispensation for that conflict of interest? (If yes, give details and date of dispensation)	Did the Chief Executive give a dispensation for that conflict of interest? (If yes, give details and the date of the dispensation).

The Mayor has been consulted on this decision

Not Applicable

X Signed *Tom Wootton*

Date: 7 March 2024

Name of Decision Taker: Tom Wootton

This is a public document. A copy of it must be given to the Chief Officer Legal and Democratic Services as soon as it is completed.

Date decision published:7March2024.....

Date decision can be implemented if not called in:19March2024.....

(Decision to be made exempt from call in.....NO.....)

Bedford Borough Council – Executive

Date of Decision: 7 March 2024

Report by: ASSISTANT CHIEF EXECUTIVE (FINANCE) & CHIEF FINANCE OFFICER

Subject: COUNCIL TAX CHARGES FOR EMPTY PROPERTIES

1. EXECUTIVE SUMMARY

1.1 The Council has discretionary powers to impose a Council Tax premium on long-term empty properties. The Levelling Up and Regeneration Act 2023 makes changes to the long-term empty property premium and also introduces a new premium for dwellings where there is no resident and which are substantially furnished. The Council's report makes recommendations to implement these changes.

2. RECOMMENDATIONS

The Mayor/Portfolio Holder is requested to consider the report and, if satisfied, to recommend to Full Council to:

- (a) Amend the Council Tax Long-Term Empty property premium so that dwellings which have been unoccupied and substantially unfurnished for one year will be charged the 100% premium from 1 April 2025, subject to any limitations imposed by the Government.**
- (b) Approve a 100% Council Tax premium on dwellings where there is no resident and which are substantially furnished from 1 April 2025, subject to any limitations imposed by the Government.**
- (c) Approve the criteria for the charging of Council Tax Premiums as set out in Appendix A for the financial years from 2025/26 onwards.**

3. REASONS FOR RECOMMENDATIONS

- 3.1 To encourage owners of both long-term empty dwellings and dwellings occupied periodically to take action to facilitate the re-occupation of those properties, which will support housing provision across the Borough.
- 3.2 To maximise the financial resources of the Council and other precepting organisations received through Council Tax whilst those properties remain vacant or where they are occupied periodically.

4. THE CURRENT POSITION

Long-Term Empty Property Premium

- 4.1 The Council has had a discretionary power since April 2013 to charge a Council Tax premium of up to 50% in respect of long-term empty properties, which are defined as dwellings that have been unoccupied and substantially unfurnished for a continuous period of at least two years.
- 4.2 The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 conferred additional discretion, from 1 April 2019, with the following percentage premiums applied to long-term empty properties from 1 April 2020 and 1 April 2021.

Property Unoccupied and Substantially Unfurnished for	Financial Year		
	2019/20	2020/21	2021/22
2 years to 5 years	100%	100%	100%
5 years to 10 years		200%	200%
10 years or more		300%	300%

- 4.3 The percentage premium on long-term empty properties has remained the same since 1 April 2021 and a 100% premium is charged where a property has been unoccupied and substantially unfurnished for a continuous period of two years or more. This increases to 200% after five years and 300% after ten years.

Properties Occupied Periodically

- 4.4 The Local Government Finance Act 2012 and subsequent regulations gave the Council discretionary powers from 1 April 2013 to determine the level of discount, if any, to be awarded in respect of properties that would formerly have received an exemption under Council Tax exemption classes A and C. It also allowed the discount in respect of second homes to be less than 10%.
- 4.5 Consequently, a decision was made by the Executive on 9 January 2013 to apply a 0% discount on empty properties and second homes from 1 April 2013.
- 4.6 Although the level of discount has remained at 0% on second homes since 1 April 2013, prior to the Levelling Up and Regeneration Act 2023, regulations did not permit the charging of a premium on properties where there is no resident and which are substantially furnished. This differed to the regulations where a property was unoccupied and substantially unfurnished and enabled the avoidance of paying the long-term empty property premium by moving furniture into a property.

5. DETAILS

- 5.1 In accordance with The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 the Council currently charges a Council Tax premium of 100% on dwellings that have been unoccupied and substantially unfurnished for a continuous period of two years.
- 5.2 The 100% premium will continue to apply until a dwelling has been unoccupied and substantially unfurnished for five years when it increases to 200% and then 300% after ten years.
- 5.3 The Levelling Up and Regeneration Act 2023 received Royal Assent on 26 October 2023. The Act amends the Local Government Finance Act 1992 and introduces new discretionary powers that allow billing authorities to charge the existing 100% premium on long-term empty properties after one year, rather than the current period of two years. It also introduces a Council Tax premium of up to 100% in respect of dwellings occupied periodically, i.e. where there is no resident of the dwelling, and the dwelling is substantially furnished. These are generally called 'second homes.'

Long-Term Empty Property Premium

- 5.4 Section 79 of the Levelling Up and Regeneration Act 2023 amends Section 11B of The Local Government Finance Act 1992 so that for financial years beginning on or after 1 April 2024 dwellings that are unoccupied and substantially unfurnished for a continuous period of at least one year, instead of two years, are subject to the long-term empty property premium. It also inserts subsection 1D which requires the Council to have regard to any guidance issued by the Secretary of State.

- 5.5 Although regulations allow for the change to the long-term empty property premium to be effective from 1 April 2024, the recommendation is to implement the change from 1 April 2025, which will be the same date as proposed for the premium on properties where there is no resident and which are substantially furnished. This will also allow sufficient time to publicise the changes and to make owners, landlords and council taxpayers aware of the changes to enable them to take action to bring their properties back in to use as a home.
- 5.6 There are currently 298 properties that are classed as being unoccupied and substantially unfurnished for a period of between one and two years. If 50% of the properties were subject to the premium, based on the average Band D Council Tax charge for 2024/25 of £2,237.26 the additional Council Tax charged would be £333,352.
- 5.7 A full review of all properties classed as being unoccupied and substantially unfurnished would be undertaken over the coming months and owners will be notified of the premium in advance of its introduction.
- 5.8 The Government has given a strong indication that subsequent guidance will be issued requiring the Council to apply certain exceptions to the long-term empty property premium. These exceptions could include circumstances such as where a property is undergoing probate or major repairs and where a property is actively being marketed for sale or rent.
- 5.9 The Council has previously agreed exceptions where a premium will not be applied as set out in **Appendix A**. It is proposed that these exceptions continue to apply, with exception 1(b) removed as it previously stated the six-month exception for new owners would end on the day a property is substantially furnished. This has now been removed as there may be scenarios where the sale of a property included the furniture and it, therefore, satisfied the Council Tax definition of being substantially furnished.

Premium on Properties Occupied Periodically

- 5.10 Section 80 of the Levelling Up and Regeneration Act 2023 inserts a new Section 11C of The Local Government Finance Act 1992 giving the Council power, by determination, to charge a Council Tax premium of up to 100% where there is no resident of a dwelling, and the dwelling is substantially furnished. It also provides that the Council must have regard to any guidance issued by the Secretary of State and that in order for a premium to apply, a billing authority must make its first determination at least one year before the beginning of the financial year to which the premium relates. This means that the earliest date at which a premium could take effect would be 1 April 2025.
- 5.11 The Council has used its discretionary powers to reduce the discount on second homes to 0%, resulting in 100% Council Tax payable on properties where there is no resident, and which are substantially furnished. However, the Council has been unable to levy a premium. This has resulted in unoccupied and substantially unfurnished properties that would be subject to the long-term empty property premium being furnished in order to avoid paying the premium.

- 5.12 There are 234 properties in the Borough that are currently classed as having no resident and which are substantially furnished. This includes properties occupied as second homes which are no one's sole or main residence. These properties reduce the housing supply and can, therefore, lead to higher prices, including higher rental prices, for ordinary household occupation. If 50% of the properties were subject to the premium, based on the average Band D Council Tax charge for 2024/25 of £2,237.26 the additional Council Tax charged would be £261,759.
- 5.13 A full review of all properties classed as having no resident and which are substantially furnished would be undertaken over the coming months and owners will be notified of the premium in advance of its introduction.
- 5.14 Some owners of second homes, where they are let for short term periods as holiday homes, may be able to have the properties classed as business properties and transferred from Council Tax to Business Rates. Due to the reliefs that are available the amount of Business Rates due to be paid may be considerably less than the Council Tax. The current rules for a property to be treated as a business require the owner to evidence that it was openly available to let for more than 140 nights in the current and previous tax years and that it was actually let for at least 70 nights in the previous 12-month period. The Valuation Office Agency (VOA) assesses the evidence and will make a determination on whether the property should be treated as Council Tax or Business Rates. The VOA is regularly monitoring any short term let holiday homes in Business Rates and, where the requirements are not met, they are moved back in to the Council Tax Valuation List.
- 5.15 The Government has given a strong indication that subsequent guidance will be issued requiring the Council to apply certain exceptions to the premium on properties classed as having no resident and which are substantially furnished.
- 5.16 The Council has previously agreed exceptions where the long-term empty property premium will not be applied and this has been reviewed to also cover the premium on properties classed as having no resident and which are substantially furnished, as set out in **Appendix A**. It is proposed that these continue to apply, with exception 1(b) removed as it previously stated the six-month exception for new owners would end on the day a property is substantially furnished. This has now been removed as there may be scenarios where the sale of a property included the furniture and it, therefore, satisfied the Council Tax definition of being substantially furnished.

6. ALTERNATIVES CONSIDERED AND REJECTED

- 6.1 To not implement the powers enabled by the Levelling Up and Regeneration Act 2023 would mean the Council would forgo the opportunity to increase the number of homes available for buyers in line with the Government's intentions.
- 6.2 The current practice of avoiding paying the long-term empty property premium by moving furniture into a property would continue.
- 6.3 It would also reduce the funding available to provide vital services.

7. KEY IMPLICATIONS

<p>7.1 Legal Issues</p>	<p>The Council has had a discretionary power in accordance with The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 to charge a premium of 100% on dwellings that have been unoccupied and substantially unfurnished for continuous period of two years or more. This increases to 200% after five years and 300% after ten years.</p> <p>The Levelling Up and Regeneration Act 2023 confers additional discretion, from 1 April 2024, to charge the 100% premium on dwellings that have been unoccupied and substantially unfurnished for a continuous period of one year.</p> <p>The Levelling Up and Regeneration Act 2023 also enables the charging of a premium of up to 100% on dwellings where there is no resident and which are substantially furnished from 1 April 2024. Under section 11C of the Local Government Finance Act 1992, for a premium to apply, a billing authority must make its first determination at least one year before the beginning of the financial year to which the premium relates. This means that the earliest date at which a premium could take effect would be 1 April 2025.</p> <p>It is proposed that the change to the long-term empty property premium and premium on dwellings where there is no resident and which are substantially furnished both be applied from 1 April 2025.</p>
<p>7.2 Policy Issues</p>	<p>The Council must make a formal decision in order to charge Council Tax premiums. It is considered important that the Council’s approach to the charging of premiums on long-term empty properties and properties occupied periodically allows for consideration to be given to circumstances where it may not be appropriate to charge a premium, or to reduce the amount charged.</p> <p>The current exemptions where a premium on long-term empty properties would not be charged have been reviewed and it is proposed that these also apply to properties occupied periodically as set out in Appendix A.</p>
<p>7.3 Resource Issues</p>	<p>Where a premium is charged this increases the amount of Council Tax that is received for that property by the Council and precepting organisations. Given that the increased premiums are intended to incentivise bringing empty properties back into use it is difficult to estimate what additional income would be received. However, if 50% of the 298 properties that have been unoccupied and unfurnished for a period of between one and two years were subject to the premium, based on the average Band D Council Tax charge for 2024/25 of £2,237.26 the additional Council Tax charged would be £333,352.</p>

	<p>In addition, if 50% of the 234 properties that are classed as having no resident and which are substantially furnished are subject to the premium, based on the average Band D Council Tax charge for 2024/25 of £2,237.26 the additional Council Tax charged would be £261,759.</p> <p>Any premiums are charged and collected as part of the Council Tax bill, therefore, although there will be an increase in administrative tasks, no additional administrative resources are required.</p>
7.4 Risks	There is a risk that it may prove more difficult to collect some premiums because of the higher amount that will be charged.
7.5 Environmental Implications	There are no environmental implications arising directly from this report.
7.6 Equalities Impact	<p>In preparing this report, due consideration has been given to the Borough Council's statutory Equality Duty as set out in Section 149(1) of the Equality Act 2010, to have due regard to the need to:</p> <ul style="list-style-type: none"> (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. <p>A relevance test for equality has been completed. The equality test determined that the activity has no relevance to Bedford Borough Council's statutory duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. An equality analysis is not needed.</p>
7.7 Impact on Families	The proposal is likely to have a positive impact on families by increasing the number of properties available for occupation.
7.8 Community Safety and Resilience	The implications of this report have no impact on community safety and resilience.
7.9 Impact on Health and Wellbeing	The implications of this report have no impact on health and wellbeing.

8. SUMMARY OF CONSULTATIONS AND OUTCOME

8.1 The following Council units or Officers and/or other organisations have been consulted in preparing this report:

Finance Portfolio Holder

Corporate Leadership Team

8.2 No adverse comments have been received.

9. WARD COUNCILLOR VIEWS

9.1 Not applicable to this report.

10. CONTACTS AND REFERENCES

Report Contact Officer	<i>Julie McCabe, Assistant Chief Executive (Finance) and Chief Finance Officer</i> e-mail: julie.mccabe@bedford.gov.uk <i>Rhiain Bevan, Chief Officer for Finance</i> e-mail: Rhiain.bevan@bedford.gov.uk <i>Kevin Yerrill, Manager for Collection Hub</i> e-mail: kevin.yerrill@bedford.gov.uk
File Reference	N/A
Previous Relevant Minutes	<i>Minute 13, Executive: 5 March 2019</i> <i>Minute 91, Full Council: 16 January 2013</i> <i>Minute 74, Executive: 9 January 2013</i>
Background Papers	<i>None</i>
Appendices	<i>A: Proposed Criteria for the Charging of Council Tax Premiums on Long-Term Empty Properties and Second Homes</i>

PROPOSED CRITERIA FOR THE CHARGING OF COUNCIL TAX PREMIUMS

(a) Long-Term Empty Properties

Where a property is unoccupied and substantially unfurnished for a continuous period of more than one year, from 1 April 2025 the maximum premium allowable in law shall be normally charged.

At the time of agreeing these criteria the premiums to be charged, as set out in law, shall be as follows:

Property Unoccupied and Substantially Unfurnished for	Financial Year	
	2024/25	2025/26
2 years to 5 years	100%	
1 year to 5 years		100%
5 years to 10 years	200%	200%
10 years or more	300%	300%

(b) Properties Occupied Periodically

Where there is no resident of the dwelling and the dwelling is substantially furnished, from 1 April 2025 the maximum premium allowable in law shall be normally charged.

At the time of agreeing these criteria the premium to be charged, as set out in law, shall be as follows:

Property Unoccupied and Substantially Furnished	Financial Year	
	2024/25	2025/26
1 or more days	0%	100%

Exceptions

1. New Owners

Where a new owner acquires a property and is undertaking work to make the property suitable for someone to live in, a premium will not be charged for a period of up to six months.

The six-month period shall commence on the date of change of ownership regardless of whether this date is prior to the date at which a premium first becomes payable.

The period during which a premium will not be charged will end at the sooner of:

- a. The day the property becomes occupied, or
- b. ~~The day the property is substantially furnished, or~~
- c. Six months from the date of change of ownership

Only one six-month period will be allowed during any continuous period during which the property has been unoccupied.

At the end of the six-month period the premium shall be charged at the appropriate rate determined by the day on which the property first became unoccupied ~~and substantially unfurnished.~~

In exceptional circumstances the period may be extended for up to a further six months where the owner can demonstrate that the work required to make the property habitable is so extensive that it could not reasonably be completed within six months by an owner with the necessary means to appoint a suitably qualified person or company to carry out the work.

2. Property owned by members of the armed forces

No premium shall be charged in respect of a property which is owned or jointly owned by a member of the armed forces who is intending to occupy the property at the end of an assignment or posting.

3. Persons Lacking Mental Capacity and their Representatives

Where the person liable to pay the Council Tax lacks the mental capacity to manage the property no premium shall be charged:

- a. During any period during which the person does not have a formally appointed person to manage their affairs (including the property);
- b. For a period of 6 months following the formal appointment of a person to manage their affairs (including the property).

4. Hardship and other Exceptional Circumstances

The Council has a policy for awarding discretionary Council Tax reductions in exceptional circumstances under section 13a of the Local government Finance Act 1992. Where a discretionary Council Tax reduction is awarded no premium will be imposed in respect of the period for which the discretionary reduction is awarded.