



Adur Cabinet  
Date: 01 February 2024

# ADUR DISTRICT COUNCIL

Key Decision [Yes]

Ward(s) Affected: All Wards

## **A report to determine the level of Council Tax Premiums and Discounts for Empty Properties and Second Homes**

**Report by the** Director for Housing & Communities

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### **Executive Summary**

#### **1. Purpose**

- 1.1. This report identifies decisions to be made by Full Council and makes recommendations to change the council's approach in respect of certain discretionary areas within council tax legislation. If agreed, changes to Empty Property premiums will take effect from 1 April 2024 and changes to Dwellings Occupied Periodically (Second Homes) shall take place from 1st April 2025. These changes arise from the The Levelling-up and Regeneration Act 2023 which enables councils to make further amendments to the levying of council tax premiums within the District.
- 1.2 To reduce the number of empty homes within the District in line with the Council's Empty Homes Strategy and to encourage the use of premises as main residence by local residents rather than as second homes.

#### **2. Recommendations**

Members of this committee are asked to recommended to Full Council the approval and implementation of the following:-

**2.1** That from 1 April 2024 to continue to levy the maximum level of premium for empty properties as follows noting the change for empty homes after 1 year:-

- Premium of 100% for dwellings which are unoccupied and substantially unfurnished (Empty Homes Premium) after 1 years up to 5 years of becoming empty;
- Premium of 200% for dwellings which are unoccupied and substantially unfurnished (Empty Homes Premium) between 5 years and up to 10 years; and
- Premium of 300% for dwellings which are unoccupied and substantially unfurnished (Empty Homes Premium) for 10 years or more.

**2.2** From 1 April 2025 to approve the application of a premium for second homes (Second Homes Premium) of 100% for all dwellings that are no persons' sole or main residence and which is substantially furnished

**2.3** (Exceptions to premiums) that mindful of the current consultation by government which recommends exceptions in certain circumstances, to the second homes premium to be charged, and subject to the outcome of that consultation, it is recommended that the Section 151 Officer is given delegated authority to implement this Council's policy on premiums in line with statute and any following guidance issued by the Secretary of State.

**2.4** Recommend no changes to existing Council Tax Discounts.

### **3. Introduction**

3.1. The Levelling-up and Regeneration Act enables the council to make further amendments to the levying of council tax premiums within the district with effect from 1 April 2024 and 1 April 2025.

3.2. A large part of the council tax legislation is mandatory for all billing authorities within England. Discounts (such as Single Person Discounts), disregards and exemptions are set by statute with very little discretion

allowed. However, there are a number of areas where each council may determine the type and levels of charge to be made.

3.3. The main discretionary areas in place currently are as follows:

- (a) Second homes (premises which are no-one's sole or main residence but are furnished);
- (b) Unoccupied and substantially unfurnished premises;
- (c) Unoccupied and substantially unfurnished premises which require or are undergoing structural repairs; and
- (d) Currently, premiums where premises have been unoccupied and substantially unfurnished for a period exceeding 2 years.

3.4. When determining its policy, each billing authority has to decide the level of discount (if any) to be granted and the amount (percentage) of any premium by 31 March prior to the financial year in which it wants to introduce the changes.

3.5. The report identifies decisions required by Full Council and makes recommendations to change the council's approach in respect of certain discretionary areas within council tax legislation. Once determined, any resolution of the council will be published in a local newspaper(s) within 21 days of the decision.

#### **4. Context - Current Position and Proposed Changes**

##### **4.1. Empty Properties**

As at the date of writing this report there are 273 Long term empty properties and 174 second homes within the district and the council has adopted the following level of premiums.

	Current Policy
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty Homes premium) After 2 years and up to 5 years of becoming empty.	100% Premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty Homes Premium) Dwellings empty between 5 years and up to 10 years	200% Premium

Premium - Dwellings which are unoccupied and substantially unfurnished (Empty Homes Premium) Dwellings empty for 10 years or more	300% Premium
Unoccupied and substantially unfurnished premises	0% Discount
Unoccupied and substantially unfurnished premises which require or are undergoing structural repairs	0% Discount

4.2. Premiums were introduced by the government in 2013 with a view to encouraging homeowners to occupy homes and not leave them vacant in the long term. Initially premiums could only be charged at 50% but current legislation has now changed to allow a progressive charge to be made as follows:

- Dwellings left unoccupied and substantially unfurnished for 2 years or more, up to 100%;
- Dwellings left unoccupied and substantially unfurnished for 5 years or more, up to 200%; and
- Dwellings left unoccupied and substantially unfurnished for 10 years or more, up to 300%.

4.3. It should be noted that premiums are charged in addition to the 100% council tax payable on empty premises.

4.4. Government, together with local authorities has unfortunately seen a rise in the number of empty homes together with a growth in second homes. This is particularly challenging given the significant demand for housing and the rise in housing need and homelessness. In addition, there are also issues with properties that remain unoccupied around safety and decency. This policy change would therefore aim to:

- a) Reduce the number of empty homes within the district in line with the council's Empty Homes Strategy
- b) Encourage the use of premises as main residences by local residents rather than second homes.
- c) Mitigate the rising costs of homelessness

4.5. Inconsistencies in the legislation have also been identified whereby a premium can be avoided by the taxpayer merely furnishing an empty premises, when it would become a 'second home' which currently has a

maximum charge of 100%. The council has previously identified this and, for a number of years, has proposed changes in the legislation to avoid this 'loophole'.

- 4.6. By amending the Local Government Finance Act 1992, the recently enacted Levelling-up and Regeneration Act 2023 ('the 2023 Act') addresses these inconsistencies and also brings more dwellings into use. This report makes recommendations to change the discounts currently being granted by the council and also to introduce changes to the regimes for charging premiums as allowed within the legislation.

## **5. Changes to empty homes premiums (From 1 April 2024)**

- 5.1. Section 79 (1)(b) of the 2023 Act will permit billing authorities in England to impose an empty homes premium after one year instead of two. This gives effect to a commitment made by the Government in the [Levelling Up White Paper](#) .
- 5.2. Section 79(1)(a) provides that billing authorities must have regard to any guidance issued by the Secretary of State when deciding whether to implement an empty homes premium and it is expected that the current guidance drafted by the government in 2013 will be updated. This change to guidance will come into effect from the 2024/25 financial year.
- 5.3. Sections 79(2) of the Act provides that from 1 April 2024, a property can be charged an empty homes premium at 100% after one year, and it does not matter whether the period mentioned in s11B(8) of the Local Government Finance Act 1992 begins before Section 79 came into force.

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

- 6.1 At present, English billing authorities may only impose an empty homes premium on properties that are 'unoccupied and substantially unfurnished'. This term is defined via case law, not in legislation. However, it does not cover dwellings that are no one's sole or main residence but are furnished. An empty homes premium could, therefore, not be imposed on properties that are maintained as second homes for regular use by their owners.
- 6.2 Section 80 of the Levelling Up and Regeneration Act 2023 (Dwellings Occupied Periodically) provides for a new section 11C in the Local Government Finance Act 1992. This permits billing authorities to apply a premium to properties that have no resident and are "substantially furnished".

The maximum council tax charge in these cases would be a standard 100% charge plus, if the recommendations are accepted by the council, a premium of 100% making a total council tax charge of 200%

- 6.3 There would be no requirement for a property to have been used as a second home for a fixed period of time before the premium can apply.
- 6.4 As with other changes introduced by the Bill, section 11C (3) requires that the first decision to impose this class of premium must be taken at least 12 months before the financial year to which it would apply. In effect this means that premiums for second homes will not take effect until the 2025/26 financial year at the earliest. However, it is essential that a decision is made by the council before 31 March 2024 to give the required one year notice.
- 6.5 The Act provides that a dwelling cannot be subject to both a second homes premium and an empty homes premium imposed under section 11B of the 1992 Act, and that an existing empty homes premium would cease to apply to a property which became subject to a second homes premium.

### **Premiums – generally**

- 6.6 In line with all similar legislation, any decision made by the council must be published in at least one local newspaper, within 21 days of its being taken.
- 6.7 Should the council at any time wish to vary or revoke a decision to impose any type of premium, this can be done at any time before the beginning of the financial year to which it would apply.
- 6.8 The Secretary of State has the power to prescribe certain classes of property that will not be subject to an empty homes premium. Currently these are homes that are empty due to the occupant living in armed forces accommodation for job related purposes, or annexes being used as part of a main property.
- 6.9 In line with that, a consultation has also been issued by the government on proposals to delay the application of premiums and it is expected that the areas included in the consultation will form either guidance or regulations which authorities will be required to adhere to.

### **Changes proposed from 1st April 2024**

6.10 The continued pressure on local authority finances (both the council and the Major Preceptors) together with the need to encourage all owners of domestic premises to bring them back into use, makes it essential that the council changes its approach to empty homes.

6.11 From 1 April 2024, the council has the opportunity to make changes to both its discretionary discounts and also to the current premium regime in order to maximise its income and that of the major preceptors (in proportion to their share of the council tax). **In view of this, it is recommended that the council adopt the following change with effect from 1 April 2024 as follows:**

	Proposed Policy
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty Homes premium) <u>After 1 year</u> and up to 5 years of becoming empty.	100% Premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty Homes Premium) Dwellings empty between 5 years and up to 10 years	200% Premium
Premium - Dwellings which are unoccupied and substantially unfurnished (Empty Homes Premium) Dwellings empty for 10 years or more	300% Premium
Unoccupied and substantially unfurnished premises	0% Discount (No change)
Unoccupied and substantially unfurnished premises which require or are undergoing structural repairs	0% Discount (No Change)

### **Changes proposed to be effective from 1st April 2025**

6.12 From 1 April 2025, the new legislation will allow all English billing authorities to charge a premium of up to 100% on second homes (no one's sole or main residence and which is substantially furnished).

6.13 The intention of the legislation change is to close the current loophole in relation of empty homes premium and also encourage the use of second homes as primary residences.

6.14 As noted above, the challenges around access to housing for many of our residents mean that this council needs to consider all of its policy levers that will enable more homes to become available homes for those that require them. **It is therefore recommended that the council resolves to apply a premium of 100% on second homes with effect from 1 April 2025.** The legislation requires that the authority gives at least one year's notice from the date of a Full Council resolution and the change can only be effective from the commencement of a financial year, the earliest being 1 April 2025.

6.15 In line with the legislation, the council must be mindful of guidance issued by the Secretary of State and any application of the premiums must take account of any exceptions laid down within regulation. Once determined, any resolution of the council will be published in a local newspaper(s) within 21 days of the decision.

### **Exceptions from the premiums (empty homes premiums and second homes premium)**

6.16 For information, the government has released a consultation paper entitled [Consultation on proposals to exempt categories of dwellings from the council tax premiums in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/consultation-on-proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums-in-england). The consultation (which has now ended), sought views on possible categories of dwellings which should be dealt with as exceptions to the council tax premiums. It covers the empty homes premium, and also the second homes premium, provisions for which are included within the Levelling-up and Regeneration Act.

6.17 The consultation proposes that there will be circumstances where either premiums will either not apply or be deferred for a defined period of time. These are as follows:

- **Properties undergoing probate** - the government proposes that these properties should be exceptions to both the second homes and empty homes premiums for 12 months. The exception would start once probate or letters of administration is granted. This does not affect the Class F exemption or the ability for billing authorities to charge the normal rate of council tax following the expiry of the Class F exemption;
- **Properties that are being actively marketed for sale or rent** - the government proposes that this exception would apply for 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 sooner. It will be essential that the council will need to determine in its policy, what evidence will be required to support any exception;



- **Empty properties undergoing major repairs** - time limited to 6 months - the government proposes that empty properties undergoing major repair works or structural alterations should be an exception to the premium for up to 6 months once the exception has been applied or when the work has been completed, whichever is sooner. The exception could be applied at any time after the property has been empty for at least 12 months, so long as the council is satisfied that the necessary repair work is being undertaken;
- **Annexes forming part of, or being treated as, part of the main dwelling** - the government proposes that such annexes should be an exception to the council tax premium on second homes;
- **Job-related dwellings** - currently, there is a council tax discount of up to 50% for properties which are unoccupied because the owner is required to live elsewhere for employment purposes. The discount applies where the dwelling is provided for the better performance of the duties of the employment, and it is one of the kinds of employment in the case of which it is customary for employers to provide dwellings for employees. The government proposes that the dwelling should also be an exception to the second homes premium. The exception will not apply to cases where someone chooses to have an additional property to be closer to work while having a family home elsewhere or where an individual is posted to a new location but maintain their previous address;
- **Occupied caravan pitches and houseboat moorings** - the government proposes that these caravans and boats should be an exception to the council tax premium on second homes; and
- **Seasonal homes where year-round or permanent occupation is prohibited or has been specified for use as holiday accommodation or prevents occupancy as a person's sole or main residence** - the government proposes that properties that have restrictions or conditions preventing occupancy for a continuous period of at least 28 days in any 12-month period, or specifies its use as a holiday let, or prevents occupancy as a person's sole or main residence, should be an exception to the second homes premium.

6.18 It is understood that regulations or guidance (which has to be followed in accordance with the Levelling-Up and Regeneration Act) will be in line with the government's proposal. In view of this, the council will need to ensure that any charging policy is in line with legislation. **It is therefore recommended that the council's Section 151 Officer is granted delegated powers to amend the council's policy of premiums in line with legislative or government requirements.**

## **Outcome expected and 'safety net'.**

6.19 The expected outcomes of the recommendations are as follows:

- (a) Taxpayers will be encouraged, through the changes in discounts and the implementation of the premiums, to bring empty properties into use and to revert the use of second homes to primary residences;
- (b) The reduction of empty homes and second homes within the district in line with the council's Empty Property Strategy; and
- (c) Increased council tax income from empty homes and second homes.

6.20 There may be circumstances where the implementation of these changes (percentage increases in the level of premiums) may cause exceptional hardship to a taxpayer. In such cases, the council will consider applications for a reduction in liability under its Section 13A (1)(C) of the Local Government Finance Act 1992 - Reduction in Council Tax liability policy.

6.21 Where such an application is received, it will be considered on an individual case basis taking into account the circumstances of the taxpayer and the situation regarding the level of council tax charged. Should the taxpayer be aggrieved by any decision of the council a further right of appeal will be with the independent Valuation Tribunal.

6.22 Should the council decide not to accept the recommendations, the existing premiums will remain in place.

## **7. Engagement and Communication**

7.1 There is no statutory requirement to consult on any matters contained within this report. However, a resolution must be passed by Full Council on or before 31 March 2024 in order for the changes to be implemented with effect from 1 April 2024. In the case of second homes premium, a resolution made on or before 31 March 2024 will allow the premium to come into force from 1 April 2025 (its earliest commencement date).

## **8. Financial Implications**

8.1 Should the recommendations be accepted; any additional income would be shared with both the council and the major preceptors in proportion to their share of the collection fund. Based on current modelling, the increase in council tax is estimated to be as follows:

**2024/25**

<b>Band</b>	<b>Number of Properties</b>	<b>Value</b>
A	96	£141,120.00
B	75	£128,634.00
C	58	£113,687.54
D	30	£66,154.50
E	10	£26,951.80
F	2	£6,370.44
G	1	£3,675.25
H	1	£4,410.30
<b>Total</b>		<b>£491,003.83</b>

**2025/26**

	<b>Current Policy</b>	<b>Recommendation</b>	<b>Estimated Income per annum</b>
<b>Second Homes Premium</b> No one's sole or main residence and which is substantially furnished. Premium of 100% is charged in addition to the second home council tax charge of 100%	N/A	100% Premium	<b>£362,624.53</b>

8.2 The award of any S13A(1)(C) (reduction in liability) is a general fund expense and would normally be met in full by the council. In view of the fact that the additional funds from the changes in discounts and premiums proposed in this report are shared with major preceptors, it is proposed that the cost of any award is met from the collection fund.

## **9. Legal Implications**

- 9.1 Sections 11A (discounts: special provision for England); Section 11B (higher amount for long-term empty dwellings: England) and section 13A(1)(c) (reductions by billing authority) of the Local Government Finance Act 1992 Act are relevant to this Report. In addition, Section 80 of the Regeneration and Levelling Up Act 2023 which came into force in October 2023 inserts a new section 11C into the Local Government Finance Act 1992 which is applicable to Dwellings Occupied Periodically (premiums for second homes).
- 9.2 Section 80 of the Regeneration and Levelling Up Act 2023 inserts a new section 11D into the Local Government Finance Act 1992 which enables the Secretary of State to make regulations or issue guidance on the application of the premiums and Full Council is asked to delegate authority to the s151 Officer to implement further changes are prescribed by the Secretary of State.
- 9.3 A resolution by the Full Council arising from the recommendations in this report should be published in the local newspaper within 21 days of the resolution being made.
- 9.4 Under Section 111 of the Local Government Act 1972, the council has the power to do anything that is calculated to facilitate, or which is conducive or incidental to, the discharge of any of their functions.
- 9.5 Section 3(1) of the Local Government Act 1999 (LGA 1999) contains a general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness

### **Background Papers**

- [Levelling Up White Paper](#)
- [Levelling-up and Regeneration Act 2023 - Parliamentary Bills - UK Parliament](#)
- [Consultation on proposals to exempt categories of dwelling from the council tax premiums in England](#)

## **Sustainability & Risk Assessment**

The recommendations are directly in line with the council's Our Plan - by enabling communities to thrive. The recommendations are designed to bring empty homes back into use and to encourage second home owners to ensure that the dwellings are used as a primary residence.

The main risk associated with the implication of the recommendations will be the increase in non-compliance, with some taxpayers actively trying to avoid the new charges by providing incorrect information to the council.

The council already has processes and procedures in place in order to ensure that all charges are applied correctly. Further compliance procedures will be established to ensure that the new second homes premium is applied in accordance with the legislation and the council's requirement.

### **1. Economic**

- The additional income from the changes to premiums will be shared, as part of the collection fund, with both the council and the major preceptors in accordance with their share of the council tax.

### **2. Social**

#### **2.1 Social Value**

- There are no anticipated impacts on protected characteristics associated with this report. The proposals do, however, include the potential generating of positive outcomes for local people who are struggling to secure sustainable accommodation in the district, and may subsequently ease current inequalities around access to local homes.

#### **2.2 Equality Issues**

- There are no anticipated impacts on protected characteristics associated with this report. The proposals do, however, include the potential generating of positive outcomes for local people who are struggling to secure sustainable accommodation in the district, and may subsequently ease current inequalities around access to local homes.

#### **2.3 Community Safety Issues (Section 17)**

- The anticipated benefits would be around reducing the number of empty homes in the district and there are associated safer communities benefits.

#### **2.4 Human Rights Issues**

- Matter considered and no issues identified.

### **3. Environmental**

- Matter considered and no issues identified.

#### **4. Governance**

- Matter considered and no issues identified.