



Chelmsford City Council Cabinet

14 March 2023

Amendments to Council Tax Premiums in respect of empty properties with effect from 1 April 2024

Report by:

Cabinet Member for Connected Chelmsford

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Purpose

To extend the imposition of Council Tax premiums levied in respect of empty properties once a property has been empty and unfurnished for 12 months or if a property is empty and substantially furnished (a second home).

Options

1. To agree the extension of 100% premiums as detailed in the recommendations
2. To reject the extension of 100% premiums as detailed in the recommendations
3. To determine a lesser percentage than 100% to be applied in relevant cases

Recommendations

That Cabinet recommends to Full Council that a Council Tax premium of 100% is levied in respect of empty and unfurnished properties 12 months after the property becomes empty.

That Cabinet recommends to Full Council that a Council Tax premium of 100% is levied in respect of unoccupied dwellings, which are substantially furnished.

That Cabinet recommends to Full Council that the application of premiums in both cases is applied from 1 April 2024 or such other date as may be permitted following the passage of the Levelling Up and Regeneration Bill through Parliament, with the implementation date delegated to the Director of Connected Chelmsford.

1. Background

- 1.1. S.11B of the Local Government Finance Act 1992 (LGFA 1992) allows local authorities the discretion to levy additional Council Tax on the owners of property which has been empty and substantially unfurnished for more than two years. At the meeting of Full Council on 27 February 2019, Council decided that it would increase the Council Tax premium on such properties from 50% to 100% with effect from 1 April 2019. At a subsequent meeting of Full Council on 26 February 2020, Council decided to further increase the premium to 200%, with effect from 1 April 2020, in respect of properties empty for more than five years. It also agreed an increase of the premium to 300%, with effect from 1 April 2021, in respect of properties empty for more than ten years. These are the maximum amounts that can currently be levied.
- 1.2. The Levelling-up and Regeneration Bill, which is currently at Committee stage in the Lords, contains provisions to further amend s.11 of the LGFA 1992. S.75 proposes that local authorities may apply a Council Tax premium of up to 100% in respect of properties empty and unfurnished for more than one year, rather than the current two.
- 1.3. S.76 of the Levelling-up and Regeneration Bill proposes to insert s11C into LGFA 1992 to allow local authorities to levy a Council Tax premium on properties where nobody is resident and which are substantially furnished. Such properties are commonly referred to as 'second homes' insofar as they are nobody's sole or main residence. The wording in the Bill currently allows a premium of up to 100% to be levied, although the Secretary of State may make regulations to both vary the percentage amount and the classes of property to which this new power applies.
- 1.4. The Council must make a decision regarding the imposition of Council Tax premiums in respect of second homes at least one year before the beginning of the financial year in which they are to take effect. It may be that the effective date of this proposal is amended because it is unlikely that the Bill will receive Royal Assent before 31 March 2023 and it is unclear whether amendments will be made to allow a retrospective effect. The purpose of this report in respect of second homes is to seek delegation to Officers to apply the Council Tax premium from the earliest permissible date.

2. Long Term Empty Premium extension

- 2.1. At the time of writing this report, there are 705 properties being treated as empty and substantially unfurnished, which have been empty for between 3 months and 24 months. Of these, 160 have been empty for between 12 months and 2 years. It is these which would be affected by the proposal to impose a 100% Council Tax long term empty premium. Imposition of the premium would raise approximately £300k extra in Council Tax. The benefit to the City Council would be approximately £36k per annum.
- 2.2. Although the additional income may be welcome, the main reason for the imposition of a Council Tax premium after 12 months is to encourage owners to bring their property back into use more quickly in order to increase the amount of available housing stock.
- 2.3. Since the imposition of a 100% long term empty premium on properties empty for more than two years in 2019, the number of properties where a premium is applied has reduced from 118 to 109. Whilst this is a small number, it should be viewed in light of the increase in the number of residential properties in Chelmsford from 76,712 to 79,348 over the same period.
- 2.4. Not all properties which are empty and unfurnished attract a Council Tax liability. There are exemptions for properties awaiting probate or empty because: the resident is in prison or in a care home; the property has been repossessed, cannot be lived in by law or has been compulsorily purchased and will be demolished.

3. Properties empty and substantially furnished – ‘second homes’

- 3.1 The Council currently awards a 10% discount on the Council Tax levied in respect of properties which have no permanent resident, but which are substantially furnished. There are some 350 of these properties, representing a total discount of approximately £69.5k in 2022/23. The City Council's share of this is £8.7k.
- 3.2 The Council already has the power to amend or remove this discount, but this matter has not been reviewed since 2013. The Levelling-up and Regeneration Bill proposes to introduce a new local authority discretion to impose a Council Tax premium of up to 100% on what it refers to as ‘dwellings occupied periodically’.
- 3.3 Nominally, a decision to impose a 100% premium on such properties would increase Council Tax income by £764k, worth £95.5k to the City Council. However, it is clear from the drafting of the Bill that the Secretary of State is reserving the power to prescribe circumstances in which a premium may not

be applied or may be applied at a different rate. There may also be guidance as to considerations that must be taken into account before taking a decision to apply the premium in individual cases. Any such restrictions would reduce the additional income that could be anticipated.

- 3.4 As mentioned in para 1.4, it is at present unclear whether this measure can be implemented from 1 April 2024, but agreement is sought to implement the premium as far as is permitted by Regulations and delegated authority to the Director of Connected Chelmsford to determine the effective date of implementation once the legal position is clearer.

4. Hardship and Discretion

4.1 Any decision to reduce or remove the discounts on empty properties or to impose premiums needs to take into account local circumstances. Any change in policy would mean that the Council could increase hardship of those taxpayers who are already struggling or unable to sell a second property. There is a risk that specific personal requests for assistance may increase and could result in a direct cost to the City Council due to the use S13A LGFA 1992 powers to reduce the amount of Council Tax payable where the Council sees fit.

4.2 A report in 2006 by the Local Government Ombudsman stated that, after deciding to remove or change the level of discount, a council must still give proper consideration to individual taxpayers' requests that the additional liability should not apply to them, having regard to their circumstances. A copy of the Council's hardship policy is attached at Appendix A. Central Government produced guidance in 2013 stating that the discretion to introduce a premium should not be interpreted as a desire to penalise owners of property that is genuinely on the housing market for sale or rent. It suggested that billing authorities may want to take into account the health of their local housing market and average prices charged for particular types of properties before taking the decision to impose a premium. However, the guidance stressed that the final decision on any conditions to be imposed rests with the billing authority.

4.3 The Council decided in 2019 not to apply any specified exceptions but to rely on the judicious application of its powers to remit all or part of a Council Tax bill as described in paragraph 4.1 Further guidance seems likely to be produced by Government in respect of the imposition of premiums on 'second homes' and the Council will be asked to re-consider its approach if necessary.

5. Conclusion

5.1 The Council declared a housing crisis in February 2022 and needs to use as many tools as it can to increase the supply of residential accommodation to its residents. There are over 1,000 empty properties in Chelmsford and the measures

proposed in this report increase the Council Tax payable on over 500 of them. If the imposition of Council Tax premiums prompts the owners to bring some of those properties back into use more quickly, it will be of more benefit than the additional Council Tax income that the measures generate.

List of appendices:

Appendix A – Guidelines for determining applications for a Council Tax Reduction

Background papers:

None

Corporate Implications

Legal/Constitutional: All relevant legal considerations are addressed within the body of the report and the proposed policy.

Financial: Increases to the level and scope of Council Tax premiums is likely to generate additional income

Potential impact on climate change and the environment: None.

Contribution toward achieving a net zero carbon position by 2030: None

Personnel: None

Risk Management: None

Equality and Diversity: None

(For new or revised policies or procedures has an equalities impact assessment been carried out? If not, explain why)

Health and Safety: None

Digital: None

Other:

Consultees: Director of Connected Chelmsford, Legal and Democratic Services Manager,

Relevant Policies and Strategies: The report takes into account the following policies and strategies of the Council:

Chelmsford Housing Strategy 2022-2027

Appendix A

Guidelines for Determining Applications for a Council Tax Reduction

1. Section 13A of the Local Government Finance Act 1992 allows the council to reduce the amount of Council Tax payable. This power can be used for individual cases or class(es) of cases that it may determine.
2. The council will consider using its powers to reduce Council Tax liability for any Council Tax payer. The council would expect there to be exceptional circumstances to justify any reduction and the reduction will be intended as short term assistance. It should not be considered as a way of reducing council tax liability indefinitely.
3. Claims for a discretionary reduction must:
 - be made in writing by the taxpayer or by someone authorised to act on their behalf
 - be supported by any reasonable evidence which the council requires in support of the application.
4. Separate claims must be made in respect of different dwellings and/or council tax accounts.
5. Each case will be considered on its merits. The council will have regard to the following criteria in particular in relation to an application:
 - There must be evidence of financial hardship or personal circumstances which justify a reduction in council tax
 - The taxpayer must satisfy the council that they have taken all reasonable steps to resolve their situation prior to the claim
 - The taxpayer must have claimed council tax support where appropriate and supplied any information or evidence requested by the Benefits section in respect of that application
 - The taxpayer must have applied for any appropriate discount or exemption and supplied any information or evidence requested by the council tax section in respect of that application
 - The taxpayer does not have access to other assets which could be used to pay the council tax
 - The situation and reason for the application must be outside of the taxpayer's control
 - The situation cannot be resolved by some other legitimate means
 - The amount outstanding must not be the result of wilful refusal or culpable neglect to pay
 - The council's finances allow for a reduction to be made and it is reasonable to do so in the light of the impact on other Council Tax payers
6. The length of time any reduction will apply will be for a maximum period of one year.
7. A senior officer within the Revenues Team will determine applications.
8. The council will notify a customer of its decision within 14 days of receiving all the information needed to make the decision.
9. There is no right of appeal under the Local Government Finance Act 1992 against the council's use of its discretionary powers. However, the council will accept a written request for a review of its decision if it is supported by further information or evidence. Any further review will take place in accordance with the Council's complaints procedure.