

LONDON BOROUGH OF CROYDON

REPORT:	CABINET
DATE OF DECISION	22 November 2023
REPORT TITLE:	Council Tax Empty & Second Home Premiums
CORPORATE DIRECTOR / DIRECTOR:	Allister Bannin, Director of Finance (Deputy Section 151 Officer)
LEAD OFFICER:	Catherine Black, Head of Payments, Revenues, Benefits and Debt Email: catherine.black@croydon.gov.uk Telephone: 27193
LEAD MEMBER:	Councillor Jason Cummings, Cabinet Member for Finance
KEY DECISION?	No
CONTAINS EXEMPT INFORMATION?	No
WARDS AFFECTED:	N/A

1 SUMMARY OF REPORT

- 1.1 This report details the history of charging Council Tax premiums for empty properties and the current situation.
- 1.2 This report details the proposed options to change the timeframe for applying empty property premiums and the introduction of premiums on second homes.

2 RECOMMENDATIONS

For the reasons set out in the report the Executive Mayor in Cabinet is recommended:

- 2.1 To recommend to Full Council, that Full Council make the necessary determinations as billing authority under Section 11B for financial year 2024-2025 to the effect that where permitted, for dwellings that have been unoccupied and substantially unfurnished for a period of at least one year the amount of Council Tax will be increased by 100% where the period is less than 5 years, by 200% where the period

is at least 5 years but less than 10 years, and by 300% where the period is at least 10 years, and that the discount under Section 11(2)(a) shall not apply. .

- 2.2** To recommend to Full Council, that Full Council make the necessary determinations under Section 11C as billing authority for financial year 2025-2026 to the effect that where permitted, for dwellings where there is no resident of the dwelling and the dwelling is substantially furnished, the amount of Council Tax will be increased by 100%, and the discount under Section 11(2)(a) shall not apply.

3 REASONS FOR RECOMMENDATIONS

- 3.1** The long-term empty homes premium is designed to encourage more empty homes into productive use, therefore, assisting with the current housing pressure in the borough.
- 3.2** The Levelling-up and Regeneration Act 2023 is enabling councils to raise and retain additional revenue to support local services and keep Council Tax down for residents.
- 3.3** Implementing the change from 2 years to 1 would allow the council to encourage use of properties at an earlier stage and to generate greater income earlier on those properties where the owner wishes them to remain empty.
- 3.4** The second homes premium would allow the council to collect a premium on empty furnished properties which includes those that are actively being used as a second home as well as those which are vacant but furnished.

4 BACKGROUND AND DETAILS

- 4.1** The Levelling-up and Regeneration Act 2023 achieved Royal Assent on 26 October 2023. The intention of this act is to speed up the planning system, hold developers to account, cut bureaucracy, and encourage more councils to put in place plans to enable the building of new homes.
- 4.2** One of the governments measures in this act is to rebalance the housing and land markets, giving local councils the power to increase Council Tax on empty homes.
- 4.3** This act recognises the impact that high levels of second home ownership can have in some areas and will introduce a new discretionary Council Tax premium on second homes of up to 100%.
- 4.4** It will also allow councils to apply a Council Tax premium of up to 100% on homes which have been empty for longer than one year (rather than the two years currently in place).
- 4.5** The premium for second homes can only be implemented with at least 12 months' notice before the start of the financial year to which it relates, meaning the earliest the second home premium can be implemented is the 1 April 2025, providing the decision to implement the premium is taken before 1 April 2024.

- 4.6** It is worth noting that the 12-month lead time is for any initial decision to implement a second home premium. Therefore, if we choose not to implement a premium from 1st April 2025, a decision made after 1st April 2024 can only be effective from 1st April 2026.
- 4.7** The change to long term empty premium can be implemented from 1st April 2024, in accordance with S11B Local Government Finance Act 1992, which allows for a decision to be varied or revoked providing the decision is taken before the start of the financial year.
- 4.8** Both the premiums for long term empty and second homes are in respect of a “financial year” which means the premiums cannot be implemented part way through a year.
- 4.9** Data used for the October CTB1 2023 return shows 828 properties were long term empty and unfurnished between 1 and 2 years, it is likely that a high percentage of these would be for sale, rent or occupied but have not yet informed the council.
- 4.10** The October CTB1 2023 return has 367 properties listed as empty and furnished (second homes). As this would be a new scheme there is likely to be a change in these numbers as owners inform us that these properties are occupied or advertised for sale or rent.

Summary

- 4.11** The Local Government Finance Act 2012 (LGFA 2012) made provision for Local Authorities to technically reform Council Tax discounts and exemption with effect from 1st April 2013. Sections 10,11, and 12 of the LGFA 2012 contained provisions for changes that were agreed by Cabinet in December 2012, and those changes included:
- - Reducing the discount on 2nd homes to nil.
 - Class A and Class C exemption were abolished and replaced by discounts which the Council had the discretion to reduce the discount to nil.
 - Where a discount replaced a Class A exemption, and the discount was not nil, the discount could be limited to 12 months.
 - Where a discount replaced a Class C exemption, and that discount was not nil, the discount could be limited to 12 months.
 - The Council has the discretion to add a “premium” of up to 50% on long term empty properties which has been unoccupied and substantially unfurnished for more than 2 years.
- 4.12** In 2019 The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 further enabled a council to increase the premium charged for properties that have been empty and unfurnished for more than 2 years from 50% to 100%. From 2020 a further 100% premium on properties empty and unfurnished for more than 5 years was implemented increasing the premium to 200%. From 2021 a further 100% premium on properties empty and unfurnished for more than 10 years was implemented increasing the premium to 200%.
- 4.13** This premium applies to the property, so a change of ownership or tenancy will not affect the premium. If when purchased or leased the property has already been empty and unfurnished for two years or more, the new owner will be liable to pay the additional premium.

4.14 The Council Tax (Prescribed Classes of Dwellings) (England) (Amendment) Regulations 2012, describe which classes of dwellings could not be included in the reduced discounts and additional premiums, these are:-

- No premium can be added on a dwelling which is exempt (see Appendix 1 for list of exemptions)
- No premium can be added on a dwelling which is genuinely on the market for sale or letting:
- No premium can be added on a dwelling which is the sole or main residence of a member of the armed forces, who is absent from the property as a result of such service
- No premium can be added on an annex deemed unoccupied, because it is treated by the occupier of the main dwelling as part of the main dwelling.
- We provide a 6 month exemption from the premium for properties that are undergoing works to bring the property back into use.

4.15 The October CTB1 2023 return showed 400 properties are currently charged premiums which result in an additional Council Tax liability of £1,181k.

	100% premium	200% premium	300% premium	Total additional liability from premiums
Number of Properties	283	81	36	400
Croydon Council Tax	£433,785	£239,305	£164,655	£837,745
Croydon adult social care precept	£59,295	£32,711	£22,507	£114,513
GLA precept	£118,568	£65,410	£45,006	£228,984
Overall Council Tax premium liability	£611,648	£337,426	£232,168	£1,181,242

Considerations & Challenges

4.16 Determining the difference between a second home, a vacant furnished property and a vacant unfurnished property has always proved complicated.

4.17 Collection of premiums is more difficult with a lower percentage collection rate. It is important to remember that in all cases this is a person's second home so there is always the option to bring the property back into use or to sell the property.

4.18 Monitoring properties that are "genuinely" for sale & those undergoing building work can pose a problem.

4.19 Although the changes to the unfurnished premium can be implemented from 1 April 2024 the Council would look to provide reasonable notice to owners, so it is important that a decision to implement these changes is made as soon as reasonably practicable and prior to the start of the financial year.

5 ALTERNATIVE OPTIONS CONSIDERED

5.1 The report relates to discretionary premiums the only two options are to implement the changes to empty premiums and second home premiums or to leave the current premiums in place.

- 5.2** If we were to take the option to leave things as they are currently:
- There would be less incentive for the owners of furnished empty properties to bring them into permanent use.
 - The incentive for unfurnished properties to be brought into use would not take effect until a year later.
 - The opportunity to collect additional income on empty properties would be reduced.

6 CONSULTATION

6.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) have confirmed that there is nothing in the LGFA 2012 that suggests Local Authorities should consult on this matter, as such a consultation is not required.

7. CONTRIBUTION TO COUNCIL PRIORITIES

7.1 The proposal contributes to the Mayors business plan outcomes 1, getting our finances right and outcome 2 a place of opportunity as detailed below.

7.2 Encouraging owners to bring properties increases the availability of housing in the borough.

7.3 Empty properties if not maintained can become in a state of disrepair and can become an eyesore on the local area

7.4 If owners decide to leave a property empty the council will be able to collect additional income to support local services and keep Council Tax down for local residents.

8. IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

8.1.1 The table below shows the annual value of the premium if all properties currently empty and unfurnished remain so. It is likely that a proportion will be brought back into use, and others will be up for sale or rent, therefore the actual number of properties that will have the premium applied will be significantly lower. It is anticipated that between 25% and 50% would have the premium applied.

	All properties	50%	25%
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Number of properties	828	414	207
Croydon Council Tax	£1,332,768	£666,384	£333,192
Croydon adult social care precept	£182,180	£91,090	£45,545
GLA precept	£364,291	£182,146	£91,073
Overall tax 2023/24	£1,879,239	£939,620	£469,810

8.1.2 The liability generated using current figures would be between £470k and £940k.

8.1.3 Below is a table showing the possible premium liability for second homes. Those empty for under and over a year have been separated as those over a year are far more likely to be liable for the premium. It is unlikely that more than 50% of those recorded as second homes for over a year and 30% of those under would end up having the premium applied.

		(A)		(B)	(A + B)
	2 nd homes over 1 year	2 nd homes over 1 year (assume 50%)	2 nd homes under 1 year	2 nd homes under 1 year (assume 30%)	Total (over 1 year 50% under 1 year 30%)
Number of properties	268	134	99	30	164
Croydon Council Tax	£405,901	£202,951	£157,066	£47,120	£250,071
Croydon adult social care precept	£55,484	£27,742	£21,470	£6,441	£34,183
GLA precept	£110,947	£55,473	£42,932	£12,879	£68,352
Overall tax 2023/24	£572,332	£286,166	£221,468	£66,440	£352,606

8.1.4 Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance. 09/11/23

8.2 LEGAL IMPLICATIONS

8.2.1 Under Section 67 of the Local Government Finance Act 1992, the function of making a determination under Section 11B in relation to long-term empty dwellings as recommended in this report, or under the new Section 11C in relation to dwellings occupied periodically as recommended in this report, must be discharged only by Full Council.

8.2.2 If Full Council makes the recommended determination under Section 11B, notice of it must be published in at least one local newspaper before the end of a 21 day

period starting with the date of the determination. Likewise, a similar notice must be published if full Council makes the recommended determination under the new Section 11C. A billing authority's first determination under the new Section 11C must be made at least one year before the beginning of the financial year to which it relates.

8.2.3 The increases proposed in this report are the maximum by which Council Tax can be increased under Section 11B and the new Section 11C. Billing authorities are required to have regard to any guidance issued by the Secretary of State in exercising their functions under Section 11B and Section 11C. Insert at the end of the legal section: Comments approved by the Head of Litigation & Corporate Law on behalf of the Director of Legal Services and Monitoring Officer. (Date 7/11/2023)

8.3 EQUALITIES IMPLICATIONS

8.3.1 The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must, in the performance of its functions, therefore have due regard to:

eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.3.2 Given the nature of empty properties, it is hard to capture any diversity data of the owners. Properties could be empty for a range of different reasons, ranging from owner's death to property being own by charities and has been left empty. It is clear from the EQIA that the Council only has information about the owner's name and address and is in no position to collect any further data. For this reason, the EQIA is unable to provide any information about the likely impact on any groups due to lack of data.

8.3.3 Comments by Naseer Ahmad for the Equalities Manager. (13/11/2023)

9. APPENDICES

Appendix 1 - Unoccupied Property Exemptions

10. BACKGROUND DOCUMENT

10.1 N/A

11. URGENCY

11.1 N/A

Appendix 1 - Unoccupied Property Exemptions

Below is a list of empty property exemptions. If these exemptions are relevant to a property the premium is not applied:

- the owner or tenant has died
- the owner or tenant is in prison
- the owner or tenant is a long-term hospital in-patient
- the owner or tenant lives in a nursing home, care home or certain type of hostel
- the owner is a student in the UK who is living elsewhere for their studies
- the owner has been made bankrupt and the property is in the hands of the trustees in bankruptcy
- the owner or tenant has moved out in order to provide personal care for another person or to receive personal care themselves
- it is a self-contained unit that forms part of a larger property and the occupier is a dependent relative of the person living in the other part of the property
- the property is an annex that cannot be let separately from the main property because of planning restrictions
- the property is an empty caravan pitch or houseboat mooring
- occupation of the property is prohibited by law
- the property is in the hands of the executor or administrator of the estate (either probate has yet to be granted or it is less than six months since probate was granted)
- the property has been repossessed by the mortgage lender
- the property is owned by a charity and has been empty for less than six months