

**Folkestone & Hythe
District Council
Empty Homes
and
Second Homes
Premium Policy**



Contents

	Page no.
1. Background	3
2. Equalities	4
3. Empty Homes Premiums	4
4. Second Home Premiums	5
5. Exceptions from the premiums	6
6. Outcome expected and 'safety net'	8
7. Legislation	8
8. Finance	8
9. Notification	9
10. Publicity	9
11. Appeals	9
12. Delegated Powers	9
13. Fraud	9
14. Complaints	10
15. Policy Review	10

1 Background

- 1.1 This policy outlines the Folkestone & Hythe District Council's approach to the levying of the Empty Homes Premium and Second Homes Premium.
- 1.2 Premiums were also introduced by Government from 1 April 2013 with a view to encouraging homeowners to occupy homes and not leave them vacant in the long term.
- 1.3 The legislation which introduced premiums is Section 11B of the Local Government Finance Act 1992 (inserted by the Local Government Finance Act 2012). Premiums could only be charged on long-term empty dwellings. An empty dwelling is one which is 'unoccupied' and 'substantially unfurnished'. The definition of long-term is where the dwelling has been empty for a continuous period of at least 2 years; this was updated with later changes to the premium as detailed in section 3.1.
- 1.4 Initially the maximum level of premium was set by Government at 50% of the amount of Council Tax chargeable. Each Council could determine the level of premium up to the maximum and this is charged in addition to the amount determined by the Council as payable for an empty dwelling (under the Council Tax (Prescribed Classes of Dwelling)(England) Regulations 2003 and amended by the Council Tax (Prescribed Classes of Dwelling)(England) (Amendment) Regulations 2012 – Classes C & D).
- 1.5 Certain classes of dwellings cannot be charged a premium:
 - A dwelling which would be the sole or main residence of a person but which is empty while that person resides in accommodation provided by the Ministry of Defence by reason of their employment, for example, service personnel posted away from home (Council Tax (Prescribed Classes of Dwelling)(England)(Amendment) Regulations 2012 – Class E); or
 - Dwellings which form annexes in a property which are being used as part of the main residence or dwelling in the property (Council Tax (Prescribed Classes of Dwelling)(England)(Amendment) Regulations 2012 – Class F).
- 1.6 In 2018 the Rating of Property in Common Occupation and Council Tax (Empty Dwellings) Act allowed authorities to increase the level of premiums on empty dwellings with effect from 1 April 2019 as follows:
 - Dwellings left unoccupied and substantially unfurnished for 2 years or more, from 1 April 2019 a premium can be levied up to 100%;

- Dwellings left unoccupied and substantially unfurnished for 5 years or more, from 1 April 2020 a premium can be levied up to 200%;
 - Dwellings left unoccupied and substantially unfurnished for 10 years or more, from 1 April 2021 a premium can be levied up to 300%;
- 1.7 It should be noted that premises are charged in addition to the 100% Council Tax payable on empty premises.
- 1.8 Government, together with local authorities has seen a rise in the number of empty homes together with a growth in second homes.
- 1.9 Inconsistencies in the legislation have also been identified whereby a premium can be avoided by the taxpayer furnishing an empty premises, when it would become a 'second home' which currently has a maximum charge of 100% with no premium.
- 1.10 In order to address these inconsistencies, and also to bring more dwellings into use, Government has introduced sections within the Levelling Up and Regeneration Act 2023 (the Act).
- 1.11 This policy details Folkestone & Hythe District Council's approach in the charging of premiums as allowed within the new legislation.
- 1.12 The continued pressure on local authority finance (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. The new legislation for second homes will encourage the use of dwellings as primary residences.

2 Equalities

- 2.1 The Council is committed to equality and the fair application of the policy, ensuring that people receive fair outcomes in the standard of service they received from the Council and equality of access to Council services. This policy is fully inclusive and could support all members of the community, regardless of their race, gender, age, religion or belief, sexual orientation, marital or civil partnership status and/or disability in line with the principles set out in the Equalities Act 2010.

3 Empty Homes Premiums

- 3.1 Section 79(1)(b) of the Levelling Up and Regeneration Act 2023 permits the Council to impose an empty homes premium after one year instead of two years. Section 80 of the Act provides that from 1 April 2024, a property can be charged an Empty Homes Premium at 100% after one year, even if it became empty before 1 April 2024.

- 3.2 The Council has resolved to implement the change with effect from 1 April 2024. From this date an Empty Homes Premium will be applicable at the amounts below:

Empty Homes Premiums that will apply from 1 April 2024
100% premium for properties substantially empty and unfurnished for 1 year or more.
200% premium for properties substantially empty and unfurnished for 5 years or more.
300% premium for properties substantially empty and unfurnished for 10 years or more.

- 3.3 The legislation requires the Council to be mindful of any guidance or further regulation in relation to the implementation of the premiums and this is detailed in Section 5 of this policy.

4 Second Homes Premiums

- 4.1 The definition of a second home for Council Tax purposes is a dwelling which has 'no one resident' but it 'substantially furnished'.
- 4.2 Section 80(2) of the Act inserts a new section 11C into the Local Government Finance Act 1992. This permits the Council to apply a premium on second homes. The maximum Council Tax charge in these cases would be a standard 100% charge plus a premium of 100% making a total Council Tax charge of 200%.
- 4.3 Unlike empty dwellings, there is no requirement for a property to have been used as a second home for fixed period before the premium can apply.
- 4.4 Section 11C(3) also required 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. This decision was passed by Council on 24 January 2024, this resolution to charge second home premiums has been given the required notice which means that premiums for second homes will not take effect until the 1 April 2025 at the earliest.
- 4.5 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 becomes subject to a second homes premium.

5 Exceptions from the premiums

- 5.1 At the time of publishing this policy, Government has issued a consultation (which has now closed), seeking views on possible categories of dwellings which could be dealt with as exceptions for both empty homes and second homes premiums.
- 5.2 The Council has included the proposed exceptions below for information. However, it should be noted that these may change when the new regulations are commenced and then policy will be updated accordingly once these are published.
- 5.3 The consultation proposes that there will be circumstances where premiums will either not apply or be deferred for a defined period of time. These are as follows:
- a) Properties undergoing probate
Government proposes that these properties should be exceptions to both the **second homes** and **empty homes** premiums for a **maximum of 12 months**.
The exception would start once probate or letters of administration is granted. This will not affect the Class F Council Tax exemption or the ability for the Council to charge its determined rate of Council Tax following the expiry of the Class F exemption.
 - b) Properties that are being actively marketed for sale or rent
Government proposes that this exception will apply to a **maximum of 6 months** from the date that active marketing commenced, or until the property has been sold or rented, whichever is the sooner. The Council, in determining whether this exemption applies will require the following evidence:
 - i) Evidence that the dwelling is being **actively** marketed for sale or rent through a recognised agent (evidence can include contracts with agents, advertisements in recognised publications or marketing websites);
 - ii) Where the premises are being self-marketed by the owner or landlord, evidence that the premises is being **actively** marketed (evidence can include advertisements in recognised publications or letting websites);
 - iii) Where for sale, evidence that the premises are being sold at a true market level for the size and type of dwelling within the area which it is situated. Where the dwelling is let, that the rent requested is at a true market level for the size and type of dwelling within the area which it is situated.

The list above is not exhaustive and the Council reserves the right to request additional evidence to support any claim for exemption. The exemption will only be applied once to any taxpayer or taxpayers if they are jointly or severally liable.

- c) Empty properties undergoing major repairs
Government proposes that empty properties undergoing major repair works or structural alterations should have 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 will be applied at any time after the property has been empty for 12 months, so long as the Council is satisfied that the necessary repair work is being undertaken. As with all other exemptions to the premiums, the Council will require the taxpayer to provide evidence as required to support their application.
- d) Annexes forming part of, or being treated as, part of the main dwelling
Government proposes that such annexes should be an exception to the Council Tax Premium on **second homes**.
- e) Job related dwellings
There is currently 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.
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 family home elsewhere or where an individual is posted to a new location but maintain their previous address.
- f) Occupied caravan pitches and houseboat moorings
Government proposes that these caravans and boats should be an exception to the Council Tax premium on **second homes**.
- g) Seasonal homes where year-round or permanent occupations is prohibited or has been specified for use as holiday accommodation or prevents as a person's sole or main residence
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.

5.4 It is understood that regulations will be issued in 2024 and the Council will ensure that any charging policy is in line with legislation. Therefore, the Council's Section 151 Officer (in consultation with the Cabinet Member responsible for Finance & Governance) is granted delegated powers to amend the policy in line with legislative or Government requirements.

6 Outcome expected and 'safety net'

6.1 The expected outcomes of this policy are as follows:

- (a) Taxpayers will be encouraged, through the implementation of the premiums, to bring empty properties into use and to revert the use of second homes to primary residence;
- (b) The reduction of empty homes and second homes within the Council's area; and
- (c) Increased Council tax income from empty homes and second homes.

6.2 There may be circumstances where the implementation of these changes 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 – Discretionary Relief Policy.

6.3 Where such an application is received, it will be considered on an individual case by case basis taking into account the circumstances of the taxpayer and the situation regarding the level of Council tax charged. This may include requesting income, expenditure and savings details according to the policy.

6.4 Should the taxpayer be aggrieved by any decision of the Council a further right of appeal will be with the independent Valuation Tribunal.

7 Legislation

7.1 The legislation that covers this policy and the recommendations made is as follows:

- S11A & S11B of the Local Government Finance Act 1992;
- S11C of the Local Government Finance Act 1992 (as introduced by the Levelling Up and Regeneration Act 2023);
- The Levelling Up and Regeneration Act 2023; and
- S13A(1)(C) Local Government Finance Act 1992 (reduction in liability)

7.2 Due to changes in the legislation, the Council will be required to amend this policy, at any time, in line with statute.

8 Finance

8.1 Any amount of premium received will be part of the Council's Collection Fund and shared between the Council and Major Precepting authorities in line with their share of the Council Tax.

8.2 Any reduction granted under S13A(1)(C) will be financed through the Council's general fund and do not form part of the collection fund.

9 Notification

- 9.1 Where a taxpayer is granted an exemption, a revised demand notice will be issued. Where an exemption is applied for but not granted, the Council will provide a notification of its decision in writing via email or post.

10 Publicity

- 10.1 The Council will make a copy of this policy available for inspection and will be published on the Council's website.

11. Appeals

- 11.1 Appeals against the Council's decision may be made in accordance with Section 16 of the Local Government Finance Act 1992.
- 11.2 The taxpayer must in the first instance write to the Council outlining the reason for their appeal. Once received the Council will then consider whether any additional information has been received which would justify a change to the original decision and notify the taxpayer accordingly.
- 11.3 Where the taxpayer remains aggrieved, a further appeal can then be made to the Valuation Tribunal. This further appeal should be made within 2 months of the decision of the Council not to grant any reductions. Full details can be found on the Council's website or from the Valuation Tribunal Service website.

12 Delegated Powers

- 12.1 Delegation has been made by the Council that the Council's Section 151 officer in consultation with the Cabinet Member responsible for Finance and Governance can approve and amend this policy with consideration to any passed exceptions, once announced. This includes amendments to ensure it meets criteria set by the Government.

13. Fraud

- 13.1 The Council is committed to protect public funds and ensuring that premiums are correctly charged.
- 13.2 A taxpayer who tries to reduce their Council Tax liability by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.
- 13.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

14. Complaints

- 14.1 The Council's Complaints Procedure (available on the Council's website) will be applied in the event of any complaint received about the application of this policy.

15. Policy review

- 15.1 This policy will be reviewed in line with any changes in legislation and as a minimum on an annual basis. Alterations to the policy will be approved by Folkestone & Hythe District Council's Corporate Services Director or Chief Financial Services Officer in consultation with the Cabinet Member responsible for Finance & Governance. Any substantive alterations to the content of the policy will be approved by Cabinet.

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