



Chelmsford City Council Cabinet

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Discretionary Exception to Council Tax Premiums in respect of second homes

Report by:
Cabinet Member for Finance

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Purpose

To determine whether to apply an additional local discretionary exception to Council Tax premiums imposed in respect of second homes and to consider whether to delegate such decisions to Officers in future.

Options

- 1 To agree a limited local discretionary exception to Council Tax premiums imposed on second homes and to recommend the delegation of future such decisions to Officers
- 2 To refuse to agree to extend local discretionary exceptions to Council Tax premiums imposed on second homes
- 3 To not recommend the delegation of future such decisions on discretionary exceptions to Officers

Recommendation

That Cabinet recommends to Full Council to agree the implementation of an additional local discretionary exception to Council Tax premiums imposed on second homes as defined in paragraph 2.4 and to delegate future decisions on such matters to the Director of Connected Chelmsford in consultation with the relevant Cabinet Member (Option 1)

1. Background

- 1.1. At its meeting on 21 February 2024 Full Council agreed to impose a council tax premium of 100% on properties where there is no resident occupier and which are substantially furnished (commonly known as 'second homes') with effect from 1 April 2025. At its meeting on 18 December 2024, Council agreed a range of discretionary exceptions to the application of the 'second home' premium, which extended the statutory exceptions and exemptions created by legislation.
- 1.2. The 'second home' premium has now been in place for ten months and the statutory and discretionary exceptions have served their intended purpose to reduce hardship in cases where it would be unfair or unreasonable to increase the Council Tax liability.
- 1.3. Inevitably there are situations which were not foreseen either by legislators or Officers and this report requests that Cabinet approves a specific technical amendment to the existing discretionary exceptions (Option 1).

2. Proposed discretionary exception to the application of the second home premium

- 2.1. Billing authorities are prevented by statute from charging council tax following the death of the liable person whilst probate or letters of administration are still outstanding. Once probate or letters of administration have been granted, and council tax can again be charged, there is a further 12-month exemption period when the second home premium cannot be charged if the property remains unoccupied but furnished. There is a clear legislative intention not to impose additional charges immediately after a bereavement.
- 2.2. However, where a property is owned by a third party and occupied by a person who has no material interest in that property nor any sort of formal licence to occupy it, such as a tenancy agreement, the exemptions and exceptions in paragraph 2.1 do not apply. Council tax continues to be

charged after the death of the occupier and a second home premium is applied immediately.

2.3. It is proposed that a very specific local discretionary exception is introduced in these circumstances to allow the owner of the property some time to come to terms with the death of the occupier, who is often a close friend, and to decide what to do with the property. It is not possible to override the statutory requirement to levy council tax in this particular circumstance, but the Council does have the discretion not to apply the second home premium.

2.4. The proposal is that the 100% second home premium shall not be applied for a period of six months after:

- an occupier has died and leaves a property, which they neither owned nor had a contractual right to occupy (via tenancy or licence or some other recognised legal instrument), furnished and unoccupied; *and*,
- the owner of the property becomes liable for council tax; and,
- that owner is a private individual; *and*,
- the deceased person was a relative by blood or marriage or some other close personal connection: *and*,
- no council tax probate or statutory second home premium exception can be granted

2.5. The reason for such specificity in the definition is that there is already a statutory exception to the second home premium if a property is put up for let, which would be the situation with respect to a property routinely let on a commercial basis. This proposal gives the owner a breathing space, following a personal bereavement, to decide on their next course of action now that their second home is unoccupied.

2.6. It is not anticipated that there will be many of these cases as only one has arisen since 1 April 2025. The potential financial loss to the Council by not charging the second home premium for six months is less than the cost of using alternative discretionary methods to mitigate the premium once charged. This is because the benefit to the Council of charging the premium is 12% of the total charged, whereas the Council bears the full cost of awarding discretionary hardship relief to cancel out the premium once it has been levied.

3. Delegation to Officers in respect of future local discretionary exceptions to the long term empty or second home premiums

3.1 It is possible that further discretionary exceptions may become desirable in the future and these are likely to be narrow and highly specific in scope. That being the case, Cabinet is requested to recommend to Full Council that a delegation is agreed to allow Officers to define and implement future

discretionary exceptions, subject to consultation and agreement with the relevant Cabinet Member.

4 Conclusion

4.1 This report seeks Cabinet's agreement to implement an additional discretionary exception to the second home council tax premium to reduce residents' emotional and financial distress in limited circumstances. It also suggests delegation of future technical exceptions to Officers so that the Council can react swiftly in appropriate cases.

List of appendices:

None

Background papers:

None

Corporate Implications

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

Financial: Implementing discretionary exceptions to empty property premiums will cause a minor financial loss.

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
