

REPORT TITLE: SECOND HOME COUNCIL TAX PREMIUM:

REPORT OF THE MONITORING OFFICER PURSUANT TO SECTION 5 OF THE LOCAL GOVERNMENT AND HOUSING ACT 1989 AND ENDORSEMENT OF THE COUNCIL'S 100% SECOND HOME COUNCIL TAX PREMIUM.

2 JUNE 2026

CABINET MEMBER: Cllr Neil Cutler, Deputy Leader and Cabinet Member for Finance and Transformation

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WARD(S): ALL

PURPOSE

The purpose of this paper is for the Monitoring Officer to advise members that whilst making a decision on 27 February 2025 to implement a 100% second home council tax premium, with effect from 1 April 2026, the report to Full Council failed to demonstrate compliance with statutory guidance issued by MHCLG on 1 November 2024 ("the Statutory Guidance" set out at 11.18 below and Appendix 1) relating to a determination made under S11C of the Local Government Finance Act 1992. The Monitoring Officer, therefore, considers it their duty under S5 (2) of the Local Government and Housing Act 1989 to prepare a report in respect of this omission.

Following the decision taken by Full Council on 27 February 2025, more than one year before bringing the premium into effect (as required by the 1992 Act), the Council advertised notice of the decision in the local press and wrote to owners of affected properties on two occasions in both March and December 2025. Because more than 3 months has lapsed since the decision was made, it is now too late for a third party to challenge the decision to impose the 100% second home premium, which can only be done by way of Judicial Review. There is no other legal mechanism for challenge. As it can no longer be challenged the decision to implement the premium from 1 April 2026, remains valid and legally effective.

This paper also invites members to consider the analysis of the statutory guidance that the Council Tax Team have undertaken and to confirm the decision made by Council on 27 February 2025 to impose a 100% second home council tax premium and to approve the adoption of a 100% second home premium for next year - 2027/2028 - and future years unless and until an alternative determination is made.

RECOMMENDATIONS:

1. Consider the Monitoring Officer's report under S5 of the Local Government and Housing Act 1989.
2. Approve the analysis of the Statutory Guidance at Appendix 1 of this report and confirm the Council's decision of 27 February 2025 to adopt a policy of charging a 100% second home council tax premium with relevant exemptions
3. Approve the adoption of a 100% second home council tax premium for the next year 2027/2028 and future years unless and until an alternative determination is made.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 The Council's Monitoring Officer is under a legal duty pursuant to S5 of the Local Government and Housing Act 1989 to report a failure to demonstrate compliance with the Statutory Guidance resulting in a breach of S11C (4) of the Local Government Finance Act 1992.
- 1.2 The second home council tax premium as with all council tax income underpins delivery of all the priorities in the Council Plan and all core services provided across the district of Winchester.

2 FINANCIAL IMPLICATIONS

- 2.1 The 100% second home premium on council tax raises an additional £450,000 per annum, of which £32,000 is retained by Winchester City Council and the remaining £418,000 is split between the other preceptors (Hampshire County Council, the Police and Crime Commissioner and Hampshire Fire and Rescue).
- 2.2 At the point of publication of this report, the total second homes premium collected since its introduction on 1 April 2026 has been £136,919, of which £9,789 is for retention by Winchester City Council.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 S5 of the Local Government and Housing Act 1989 provides that it shall be the duty of the Monitoring Officer, if it at any time it appears to him that any proposal, decision or omission by the authority has given rise to or is likely to or would give rise to a contravention of any enactment or rule of law or of any code of practice made or approved by or under any enactment to prepare a report to the authority with respect to that decision.
- 3.2 In accordance with the Local Government and Housing Act 1989, the Monitoring Officer has consulted with the Head of Paid Service and the Section 151 Officer. Section 5 requires a Full Council meeting to be convened within 21 days of this report being issued.
- 3.3 External legal advice has been sought from Kings Counsel and members have been briefed on this prior to publication of this paper at an all-member briefing.
- 3.4 The decision to implement a 100% second home council tax premium with effect from 1 April 2026 can no longer be challenged by Judicial Review as it is now far too late to bring such a challenge.

4 WORKFORCE IMPLICATIONS

- 4.1 If Council approves the recommendations in this report then there are no workforce implications associated with it.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None

6 CONSULTATION AND COMMUNICATION

- 6.1 Prior to seeking external advice, the Monitoring Officer discussed the matter with the statutory officer group consisting of the Head of Paid Service, Section 151 Officer and Monitoring Officer. This report has been shared with the statutory officer group prior to publication.
- 6.2 The Monitoring Officer has provided an all-member briefing prior to publication of this report.
- 6.3 Affected council tax payers were advised in writing on 14 March 2025 and again on 8 December 2025 of the decision to impose the second home council tax premium on 27 February 2025.
- 6.4 The decision to impose the premium was advertised in the Mid Hampshire Observer on 27 February 2025 and it was also reported in an online article in the Hampshire Chronicle on 4 March 2025.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 No specific implications arising from this report.

8 PUBLIC SECTOR EQUALITY DUTY

None

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 In accordance with our existing Data Protection Policy, The Council will continue to regard the lawful and correct treatment of personal information as very important, in order to maintain confidence between us and the people we deal with. We ensure that the Council treats personal information lawfully and correctly, with due regard to the rights and freedoms of individuals.

10 RISK MANAGEMENT

- 10.1 The legal position is set out elsewhere in this report. If Council approves the recommendations set out in the report, the prospect of successful legal challenge to the Council's second home council tax premium is considered low.

Risk	Mitigation	Opportunities
Financial Exposure Exposure to Challenge	Issue a S5 report and confirm the Council's decision to implement a second home council tax premium	The Council's decision to implement this charge is now time barred from a Judicial Review claim. The action to be taken under this report preserves the second home council tax premium policy.
Local Government Reorganisation	This decision will ensure that the second home premium will be in place for the remaining lifespan of Winchester City Council.	As a result of this premium having been implemented by the Council the new unitary authority will be able to continue to implement this policy for the Winchester district without giving the 1 year notice period required by the 1992 Act on first implementation.

11 SUPPORTING INFORMATION:

- 11.1 The Local Government Finance Act 1992 was amended with effect from December 2023 by the Levelling-up and Regeneration Act 2023 to give local authorities in England the discretionary power to implement a second home council tax premium of up to 100% from 1 April 2025.
- 11.2 This provision was coupled with a statutory requirement to make the determination at least one year before the beginning of the financial year to which it relates, to have regard to any guidance issued by the Secretary of State and to advertise the decision within 21 days in a local newspaper.
- 11.3 On 1 November 2024, some 10 months after local authorities were given the power to implement the second homes premium, the Statutory Guidance was published, with limited publicity. By this time many local authorities had already implemented a second homes council tax premium without any legal requirement to consider the as yet unpublished Statutory Guidance.
- 11.4 The Council was considering its position as to whether to introduce a second homes council tax premium during 2024 and prepared a draft budget paper in

late 2024 which included the proposed determination of a 100% premium with effect from 1 April 2026 (see the report to Full Council at paragraph 21).

- 11.5 At a meeting of Full Council on 27 February 2025 the Council approved the General Fund budget for 2025/26 and in addition resolved: *“That a Second Home Premium for Council Tax which will take effect from 1 April 2026 and the adoption of exceptions (listed at Appendix F) in respect of properties included in the Council Tax Premium schemes be approved”*.
- 11.6 Notice of the Decision was published in the Mid-Hampshire Observer on the same day and it was also referred to in an online article in the Hampshire Chronicle dated 4 March 2025.
- 11.7 The Decision to charge a 100% second home premium was made pursuant to s.11C of the Local Government Finance Act 1992 (“LGFA 1992”).
- 11.8 On 14 March 2025 the Council issued Council Tax bills for 2025/26. With the bills sent to owners of dwellings recorded as second homes the Council also included a letter which informed them that the second home premium would take effect from 1 April 2026 and of their right to apply for an exemption.
- 11.9 On 8 December 2025 the Council sent a further letter to owners of dwellings recorded as second homes which again informed them about the second home council tax premium and of their right to apply for an exemption.
- 11.10 In February 2026 the Council received a letter from 2 affected property owners challenging its decision to impose the second home premium and arguing that it was inconsistent with the legislative purpose, contrary to statutory guidance, irrational and disproportionate, contrary to article 1 of protocol 1 to the European Convention on Human Rights.
- 11.11 In taking the decision to impose the premium, the Council failed to demonstrate clearly in the decision papers before Full Council on 27 February 2025 that it had undertaken the reasoning process and analysis required to comply with the Statutory Guidance and consequently contravened S11C (4) of the LGFA 1992.
- 11.12 S66 of the LGFA 1992 provides that a determination under S11C cannot be challenged other than by an application for judicial review. An application for Judicial Review usually has to be made within 3 months of making the decision giving rise to the challenge.
- 11.13 Three months from the date of the decision was 27 May 2025. We are now approaching the anniversary of that date. Further, council tax bills for 2026/27 were issued on or about 12 March 2026.
- 11.14 There is now no realistic prospect of an affected property owner (or anyone else with a sufficient interest) being granted permission by the High Court to

bring a Judicial Review claim or obtaining a quashing order in respect of the decision. The decision, therefore, remains legally binding.

- 11.15 Nevertheless the Council's Monitoring Officer is obliged to prepare and issue a report under s.5 LGHA 1989 in respect of the decision.
- 11.16 Issuing this report to members has had the effect of suspending further implementation of the decision until Full Council considers this report and determines the recommendations in it.
- 11.17 Council is invited to confirm the decision to implement a 100% second home council tax premium with effect from 1 April 2026 and to approve the analysis of the Statutory Guidance when determining adoption of a 100% second homes council tax premium for 2027/28 and subsequent years.
- 11.18 The relevant sections of the Statutory Guidance published by MHCLG on 1 November 2024 are set out below:

Councils have the discretion whether to apply the premium in their local areas and will determine how best to use this in combination with other measures to bring dwellings back into use or how the additional flexibilities may be used to improve the sustainability of local services.

The decision to make a determination under section 11B and 11C of the Local Government Finance Act 1992 is for councils to make. However, the government expects councils to have due consideration of local circumstances.

Councils can choose to apply either or both of the council tax premiums; they can also choose to apply the premium to parts of the local area rather than to the whole of their local area. This flexibility allows councils to tailor the premiums to best address local concerns or priorities.

Councils should carefully consider whether to charge a premium and make an assessment of possible impacts, including on the local population, its communities, and the local economy. Examples of factors that councils may wish to consider are set out below. Whilst some factors will be specific to either long-term empty dwellings or second homes, others will be common to both.

The list is not exhaustive, and councils will want to consider all factors they think are relevant before making a decision.

- *numbers and proportion of long-term empty dwellings and/or second homes in the local area*
- *circumstances which may affect whether the dwelling can be used as a main residence*
- *potential impact on local economies and the tourism industry*
- *potential impact on the local community*
- *potential impact on local services*

- *other measures that are available to councils to help bring empty dwellings back into use*

Councils should consider the reasons why dwellings are unoccupied in deciding whether they want such dwellings to be included in their determination. Examples of issues councils may want to take account of in making their determination include:

- *on average, how long dwellings in their area are available for sale or rent before completion/occupation*
- *the average price/rent in the local area*
- *whether there are circumstances which make the dwelling unsuitable for use as main residence*
- *whether there are circumstances which make the dwelling difficult to sell/let*
- *whether the dwelling is empty so that improvements can be made between sale/let*

11.19 An analysis of how the Council considers that it complies with the 1992 Act and the Statutory Guidance in implementing the second home council tax premium is set out at Appendix 1 to this report.

11.20 In making this report, I am obliged to consult with the S151 (Chief Finance officer) and the Head of Paid Service, and I can confirm to members that I have done this.

12 OTHER OPTIONS CONSIDERED AND REJECTED

12.1 Revoke the second homes council tax premium in respect of 2026/27. If this option is legally permissible despite the terms of section 11C (6) of the LGFA 1992. This is not recommended as it will result in adjustments to council tax accounts to reflect reductions totalling £136,919.02 (where £9,789.71 relates to Winchester City Council) of lost council tax to date and a total of £450,000 over the whole financial year.

12.2 Discontinue the second homes council tax premium with effect from 2027/28. This is not recommended as the analysis of the Statutory Guidance set out below results in a recommendation to adopt a 100% second home council tax premium for 2027/28 and subsequent years.

BACKGROUND DOCUMENTS:-

[CAB3494 - General Fund Budget 2025/26](#)

[CAB3494 – Appendix A MTFP](#)

[CAB3494 – Appendix B Budget Proposals](#)

[CAB3494 – Appendix C Earmarked Reserves update](#)

[CAB3494 – Appendix D WTA](#)

[CAB3494 – Appendix E CTR Income Bands 25 26](#)

[CAB3494 – Appendix F Empty and Second Home Premium Exceptions](#)

APPENDICES:

Appendix 1 – Analysis of Legislation and Statutory Guidance

Appendix 1**Matters for consideration for the Council Tax Second Home Premium****Part 1 Legislation – Local Government Finance Act 1992, section 11C:**

Higher amount for dwellings occupied periodically: England

(1)(b) the amount of council tax payable in respect of that dwelling and that day is increased by such percentage of not more than 100 as it may specify in the determination.

Considered in guidance at point 1. below

(2) The conditions are—

(a) there is no resident of the dwelling, and

(b) the dwelling is substantially furnished.

These points detail the class of property as a second home and are considered when assessing liability for council tax on a case-by-case basis.

(3) A billing authority's first determination under this section must be made at least one year before the beginning of the financial year to which it relates.

The determination was introduced by Cabinet on 12th February 2025; and approved by Full Council on 27th February 2025.

(4) In exercising its functions under this section, a billing authority must have regard to any guidance issued by the Secretary of State.

See consideration in Part 2 below.

(6) A billing authority may make a determination varying or revoking a determination under this section for a financial year, but only before the beginning of the year.

The scheme was implemented with effect from 1st April 2026, and no variations have been made to the scheme.

(7) Where a billing authority makes a determination under this section it must publish a notice of the determination in at least one newspaper circulating in the area.

(8) The notice must be published before the end of the period of 21 days beginning with the date of the determination.

A notice of the determination was published in the Mid Hants Observer on 14th March 2025.

Part 2 Guidance issued by the Secretary of State in accordance with the Local Government Finance Act 1992 Section 11C (4):

Guidance on the implementation of the council tax premiums on long-term empty homes and second homes

1.	Councils have the discretion to decide whether to introduce a premium in their local area or parts of the area on long-term empty homes and second homes. They also have the discretion to decide on the level of the premium, up to the maximum statutory threshold [100%].
Consideration	<p>Why 100% - not less?</p> <p>The premium functions as a charge, which increases the cost for those council taxpayers who are keeping a property under-used, in order to change that behaviour. The goals are to encourage property being brought into use as a main residence and to improve sustainability of local services. Regardless of the number of second homes the purpose and mechanism of the charge are the same, so the percentage does not need to vary in relation to the scale of the issue.</p> <p>Relevant consideration include whether the premium is set at a level which is likely to be effective and proportionate in relation to its aims.</p>
Recommendation	The maximum 100% applies.
2.	Relevant factors the Council may want to consider
a.	Number and proportion of second homes in the local area

Consideration	<p>As at the latest available data, the Council has identified 281 dwellings classed as second homes (excluding statutory exceptions) out of 59,796 council tax dwellings. This represents 0.47% of all properties.</p> <p>While this proportion is small in numerical terms, even relatively low absolute numbers can have a pronounced localised impact, particularly in specific communities or neighbourhoods where second homes are clustered. In such areas, the effect on housing availability, community cohesion and local service demand can be disproportionately high.</p> <p>In addition, second homes form part of the wider context of under-occupied or intermittently occupied dwellings, limiting the effective supply of homes available for permanent residents.</p> <p>The local context is that residential sale prices and rents in Winchester are high. According to the ONS, the average house price in February 2026 was £461,000 and the average rent in March 2026 was £1,498.</p>
b.	Circumstances which may affect the use of a dwelling as a main residence
Consideration	<p>Factors for consideration:</p> <ul style="list-style-type: none"> • Employment and Economic Factors • Accessibility and Suitability • Location and Connectivity • Planning or Legal Restrictions • Personal and Family Circumstances
c.	Potential impact on local economies and the tourism industry
Consideration	<p>The application of a second homes premium may offer several economic benefits:</p> <ul style="list-style-type: none"> • Encouraging conversion of second homes into permanent residences, supporting a more resilient year-round economy

	<ul style="list-style-type: none"> • Helping to relieve housing affordability pressures, allowing local workers to live closer to employment opportunities • Generating additional Council Tax revenue that can be reinvested in local services and communities <p>While the tourism sector benefits from visitor accommodation, the premium may encourage a more balanced housing mix without preventing short-term visitation.</p>
d.	Potential impact on the local community
Consideration	<p>A second home premium has the potential to influence community dynamics in several ways:</p> <p><u>Improved Community Stability</u> An increase in permanent residents can strengthen:</p> <ul style="list-style-type: none"> • Community networks and volunteering • Electoral participation • Viability of schools, clubs and community groups <p><u>Reduced “Hollowing Out” of Communities</u> In areas with seasonal occupancy, prolonged periods of low population can reduce social cohesion and local activity. Encouraging year-round occupation may help sustain vibrant communities throughout the year.</p> <p><u>Risk of Perceived Unfairness</u> Some owners may perceive the premium as punitive, particularly where properties:</p> <ul style="list-style-type: none"> • have been family-owned for generations • are difficult to occupy throughout the year due to legitimate constraints <p><u>Demographic Balance</u> Improved availability of homes for permanent occupation may help retain younger households and working-age residents, supporting long-term demographic sustainability.</p>
e.	Potential impact on local services
Consideration	<p>Local services (like council services, transport, health etc) may be affected in a range of ways:</p> <p><u>Increased Demand for Services</u> A rise in full-time residents may increase demand for:</p> <ul style="list-style-type: none"> • Waste and recycling services

	<ul style="list-style-type: none"> • Education provision • Social care and health services • Transport and highway maintenance <p><u>More Predictable Service Planning</u> A more stable resident population allows the Council and its partners to plan and fund services more effectively and efficiently.</p> <p><u>Improved Funding Position</u> Additional revenue generated through the second homes premium may contribute to sustaining or improving services, particularly in the context of ongoing budget pressures.</p> <p><u>Reduction in Seasonal Pressures</u> In some areas, seasonal population fluctuations place short-term strain on services such as waste collection, parking and emergency response. Greater year-round occupancy may smooth these peaks and troughs.</p>
f.	Other measures that are available to councils to help bring dwellings back into use
Consideration	<p>The second homes premium sits alongside other powers and initiatives available to the Council, including:</p> <ul style="list-style-type: none"> • Council Tax Empty Homes Premium This is already in place and has been since 2019. It currently applies to dwellings that have been unoccupied and unfurnished for one year or more. • Empty Dwelling Management Orders (EDMOs) Allowing the Council to take temporary control of long-term empty properties to bring them back into residential use. • Compulsory Purchase Orders (CPOs) These require a compelling case in the public interest. • Renovation Grants and Loans Financial assistance to help owners address disrepair or improve habitability. • Leasing Schemes Arrangements with housing associations or the Council leasing properties for temporary or affordable housing purposes. • Advice and Engagement Initiatives Support from dedicated officers working with owners to overcome barriers to occupation.
3.	Councils should consider the reasons why dwellings are unoccupied in deciding whether they want such dwellings to be

	included in their determination. Examples of issues councils may want to take account of in making their determination include:
Consideration	<ul style="list-style-type: none"> • on average, how long dwellings in their area are available for sale or rent before completion/occupation • the average price/rent in the local area • whether there are circumstances which make the dwelling unsuitable for use as main residence • whether there are circumstances which make the dwelling difficult to sell/let • whether the dwelling is empty so that improvements can be made between sale/let • are mandatory exceptions sufficient <p>Mandatory exemption class G exempts dwellings being actively marketed for sale and class H exempts dwellings being actively marketed for let, in each case subject to a time limit of 12 months.</p> <p>Mandatory exemption class E exempts owners residing in job-related armed forces accommodation; class F exempts annexes to the main dwelling; class J exempts job-related dwellings; and class L exempts seasonal homes where year-round occupation is legally prohibited.</p> <p>As stated above, local house prices and rents are high. In general, it is reasonable to expect an owner to be able to sell or rent a residential property in Winchester within 12 months. As such, in general it is reasonable to view second home status to be a matter of choice for the owner.</p> <p>Viewed overall in the context of local housing conditions, the mandatory exemptions are considered to be sufficient.</p>
4.	Councils should consider how it might engage and consult with key stakeholders, including the local electorate and second homeowners, before taking a decision to charge a premium.
Consideration	<p>The following action was taken:</p> <ul style="list-style-type: none"> • the proposal was set out in the council's budget report which was published ahead of the Scrutiny Committee, Cabinet and Full Council meetings in February 2025.

	<ul style="list-style-type: none"> • a written notification was issued with the annual council tax bill in March 2025, shortly after the decision to introduce the premium, • notification was placed on the Council’s website in March 2025 • a public notification was placed in the Mid-Hampshire Observer in March 2025 confirming the Council’s decision to introduce the premium, • a further written notification was issued, as a reminder, in December 2025, • reference to the new incoming premium was included in all annual council tax bills in March 2026
5.	Consider how this [the introduction of the second home premium] is communicated, particularly to those who might be directly affected. Councils should also consider how they advise or inform those who may be affected but may reside outside the local area.
	<p>The following action was taken:</p> <ul style="list-style-type: none"> • a written notification was issued with the annual council tax bill in March 2025, shortly after the decision to introduce the premium, • notification was placed on the Council’s website in March 2025 • a public notification was placed in the Mid-Hampshire Observer in March 2025 confirming the council’s decision to introduce the premium, • a further written notification was issued, as a reminder, in December 2025, • reference to the new incoming premium was included in all annual council tax bills in March 2026

Part 3 Summary

Although second homes account for 0.47% of the district’s total housing stock, their impact should not be viewed solely in numerical terms. Second homes form a significant component of under-occupied housing and can contribute to reduced housing availability.

In areas facing housing affordability pressures and limited supply, even small numbers of non-permanently occupied dwellings can have a meaningful effect and this is the case in Winchester.

The second home premium therefore represents a proportionate policy tool, aimed at influencing behaviour, improving effective housing supply, and supporting sustainable communities, rather than penalising second home ownership in itself.