

Report to: **Council**
Date: **21 February 2023**
Title: **Council Tax Discounts and Premiums**
Portfolio Area: **Cllr Neil Jory – Leader of the Council**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:

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Recommendations:

That Council RESOLVES:

- 1. To adopt Council Tax discounts as follows with effect from 1 April 2023:**
 - The discount for unoccupied and substantially unfurnished dwellings is 100% for a maximum period of 1 month;**
 - The discount for unoccupied and substantially unfurnished dwellings for 1 month to 2 years is zero;**
 - The discount for dwellings which are vacant and require major repair work to render them habitable is 50% for a maximum period of 12 months;**
 - The discount for unoccupied furnished dwellings (second homes) is zero;**
 - An empty homes premium of an additional 100% is levied on dwellings that have remained unoccupied and substantially unfurnished for at least two years, but less than 5 years;**
 - An empty homes premium of an additional 200% is levied on dwellings that have remained unoccupied and substantially unfurnished for at least five years, but less than 10 years;**

- **An empty homes premium of an additional 300% is levied on dwellings that have remained unoccupied and substantially unfurnished for at least 10 years.**
- 2. That, subject to the Levelling Up and Regeneration Bill receiving Royal Assent, from 1 April 2024 the current 100% premium for dwellings which are unoccupied and substantially unfurnished will be levied after a period of one year.**
 - 3. That subject to the Levelling Up and Regeneration Bill receiving Royal Assent, from 1 April 2024 a premium of 100% will be levied on all dwellings which are unoccupied and substantially furnished (second homes).**

1. Executive summary

- 1.1 The Local Government Finance Act 2012 abolished certain council tax discounts with effect from 1 April 2013 and replaced them with discounts which can be determined locally.
- 1.2 The majority of council tax legislation incorporates mandatory discounts such as single person discounts, disregards and exemptions where no local discretion is allowed.
- 1.3 The report confirms the council tax discounts already in place and makes recommendations for changes from 1 April 2024 to the levying of council tax premiums in the District.
- 1.4 The changes are contained in the Levelling Up and Regeneration Bill which is currently making its way through Parliament. The changes impacting on council tax are in two parts and relate to second homes and long term empty dwellings.
- 1.5 The Bill proposes to bring forward the period from two years to one year when an unoccupied and unfurnished dwelling can be charged a council tax premium of 100%. All other empty homes premiums remain unchanged, namely:
 - A premium of 200% can be levied where a dwelling has remained empty for a period of 5 years or more;
 - A premium of 300% can be levied where a dwelling has remained empty for a period for 10 years or more;
- 1.6 Any decision must be taken by Full Council as a Billing Authority. The Levelling Up and Regeneration Bill will require one year's notice to be given and, if adopted, the premiums would be effective from 1 April 2024.
- 1.7 Due to the likely timescale, it is imperative that a decision is taken by Full Council by 31 March 2023. Any resolution will be

subject to the Levelling Up and Regeneration Bill receiving Royal Assent.

2. Background

- 2.1 The Local Government Finance Act 2012 abolished certain council tax discounts with effect from 1 April 2013 and replaced them with discounts which can be determined locally.
- 2.2 Prior to 1 April 2013, billing authorities could charge up to a maximum 100% council tax on dwellings that had been empty for more than two years. From 1 April 2013, billing authorities were given new powers to charge a premium of up to 50% of the council tax payable. Further legislation was then introduced allowing a 100% empty homes premium to be levied from 1 April 2019.
- 2.3 There were then further incremental changes leading to the current position as follows:
 - Dwellings left unoccupied and substantially unfurnished for two years or more can be charged a premium of up to 100%
 - Dwellings left unoccupied and substantially unfurnished for 5 years or more up to 200%
 - Dwellings left unoccupied and substantially unfurnished for 10 years or more up to 300%
- 2.4 The original legislation and subsequent amendments were introduced with the express intention to encourage owners to bring empty properties back into use and the Council charges the maximum premium in all cases.
- 2.5 Both the Government and local authorities have recognised that as well as there having been an increase in the number of empty properties, there is also a loophole regarding second homes which requires further legislation to address. A premium can be avoided by the dwelling being unoccupied and 'furnished' which means it is classed as a second home for council tax purposes as it is non-one's sole or main residence.
- 2.6 Clauses in the Levelling Up and Regeneration Bill have been introduced to seek to address this loophole and bring more empty properties back into use.
- 2.7 The table below the current discounts and premiums the Council has adopted:

	Definition	Current discount/premium
Class A – Second Homes	Dwellings which are no one's sole or main residence which are substantially furnished and subject to a 28 day planning restriction.	0% discount
Class B – Second Homes	Dwellings which are no one's sole or main residence and are substantially furnished.	0% discount
Class C	Dwellings which are unoccupied and substantially unfurnished.	100% discount for a period of 1 month.
Class D	Dwellings which are unoccupied and substantially unfurnished and require major repair work to render them habitable.	50% for a maximum period of 12 months.
Empty Homes Premium	Dwellings which are unoccupied and substantially unfurnished for more than 2 years and less than 5 years.	100% premium.
Empty Homes Premium	Dwellings which are unoccupied and substantially unfurnished for between 5 years and 10 years.	200% premium.
Empty Homes Premium	Dwellings which are unoccupied and unfurnished for 10 years or more.	300% premium.

The Council's lobbying of Government in response to the Housing crisis

- 2.8 The Council declared a housing crisis in February 2022 and has agreed an Action Plan for 2022-23 within its Housing Strategy 'Better Homes, Better Lives'. One of those actions included lobbying the Government to allow councils to charge a 100% premium, i.e. 200% council tax, on second or holiday homes, to ensure they contribute fairly to the services they receive.
- 2.9 The Council's lobbying has proved successful, as in May 2022, the Government published the Levelling Up and Regeneration Bill which includes proposals aimed at addressing the negative impact of second homes on the supply of homes available to meet local housing need.

- 2.10 The Bill proposes that billing authorities will be able to introduce a council tax premium of up to 100% in respect of second homes, meaning second homes would pay double the amount of council tax for an area.

Introduction of a council tax premium for second homes

- 2.11 At present an empty homes premium can only be charged in respect of dwellings which are unoccupied and substantially unfurnished. This term is not defined by legislation and instead use must be made of case law. Dwellings which are no one's sole or main residence and furnished are classed as second homes.
- 2.12 Second home ownership in West Devon is significant and is recognised to have a negative impact in terms of the supply of homes available to meet local housing need.
- 2.13 The long-term viability of communities within West Devon has been detrimentally affected by the level of second homes ownership. The sheer quantity of second homes means that house prices are pushed upwards. This can deny a home to a local resident as prices are pushed outside of what they can reasonably afford. This is especially acute for the younger generation.
- 2.14 Clause 73 of the Levelling Up and Regeneration Bill will insert a new section 11C into the Local Government Finance Act 1992. This will allow billing authorities to apply a premium to dwellings which have no resident and are "substantially furnished". The maximum council tax charge in these cases would be a standard 100% plus a further 100% premium resulting in a total council tax charge of 200%.
- 2.15 There would be no requirement for the dwelling to have been used as a second home for a fixed period of time before the premium could be levied.
- 2.16 During the 2023/24 financial year the level of income from second homes will be maintained at the same level as at present, subject to any natural movement in the property market.
- 2.17 For 2024/25 the implementation of a second homes premium would increase the amount of council tax received in the Collection Fund and would also increase the council tax base.
- 2.18 Based on the CTB (October 2022) form, the Council has 650 second homes. The table below illustrates the number by council tax band.

Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
128	150	128	93	65	54	28	4	650

- 2.19 Council tax is charged to households to help fund the services that the area's local town, district, county council, police and crime commissioner and fire and rescue service provide. These services are essential for a community to function and are designed to improve the quality of life for people who live in these communities. Many services provided by local authorities such as waste services, highways and the blue light services all increase with an increase in seasonal population.
- 2.20 Initial high level analysis shows that the levying of a 100% premium on second homes could generate further council tax income of £1.38million, with West Devon's share being £157,000.
- 2.21 These estimated figures may be revised subject to the Bill receiving Royal Assent and any subsequent guidance regarding the circumstances in which a council tax premium can be charged.
- 2.22 The Secretary of State has the power to prescribe certain classes of dwelling that will not be subject to a council tax premium. Currently these are dwellings that are empty due to the council taxpayer living in armed forces accommodation for job-related purposes or where annexes are being used as part of the main dwelling. It is anticipated that there may be similar exceptions in any new guidance and the Council would look to exercise these in a fair and equitable manner, particularly on the grounds of unique and extenuating circumstances.

Reducing the minimum period for an empty homes premium

- 2.23 The second key measure in the bill is a proposal to reduce the minimum period for charging a council tax premium for empty properties from two years to one year.
- 2.24 Clause 72(1) (b) of the Bill will allow billing authorities in England to charge an empty homes premium after one year rather than the current two. This gives effect to a commitment given by the Government in the Levelling Up White Paper.
- 2.25 Clause 72(1) (a) requires billing authorities to have regard to any guidance issued by the Secretary of State when deciding whether to charge an empty homes premium. It is expected that the current guidance, which was published in 2013, will be updated.

- 2.26 Clause 72(2) of the Bill proposes that from 1 April 2024, that billing authorities can charge an empty homes premium of 100% after one year even if it became empty before this date.
- 2.27 Potential income related to this proposal is difficult to estimate as the eligibility of a dwelling for this premium changes over time. Financial benefit is likely to decrease in time as the premium is there to incentivise bringing empty properties back into use and change behaviours.
- 2.28 The table below sets out the number of dwellings recorded on the CTB (October 2022) form as empty and being charged an Empty Homes Premium as they have been unoccupied and substantially unfurnished for more than two years. Of these, 1 has been empty for between 5 and 10 years and 1 has been empty for more than 10 years.

Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
16	5	3	5	3	0	2	1	35

- 2.29 The table below sets out the number of properties recorded on the CTB (October 2022) form that have been empty for more than 6 months and are therefore likely to be subject to a premium in the future, if the qualifying period is reduced to one year.

Band A	Band B	Band C	Band D	Band E	Band F	Band G	Band H	Total
42	35	26	15	9	5	3	1	136

- 2.30 Due to the nature of the housing market there is always some movement in the number of empty homes, however the figures above give an estimate of the number of additional dwellings likely to be subject to a premium in the future.

3. Outcomes/outputs

- 3.1 The Government encourages all billing authorities to charge council tax premiums on empty properties with a view to incentivising property owners to bring those properties back into use.
- 3.2 Whilst recognising the importance of second homes to the visitor economy, the Council has long recognised the negative impact of second homes in terms the supply of homes to meet local housing need and the affordability of housing for local people. Some business sectors may also be negatively impacted by the decline in year round residential populations due to properties being purchased as second homes.

- 3.3 It is not unreasonable to expect second home owners to make a financial contribution to the areas in which their properties are located with the assumption that generally they are in a better position to make that contribution.
- 3.4 West Devon has a significant level of second home ownership and is clearly the type of area the Government has in mind in bringing forward this legislation.
- 3.5 Financially the levying of a 100% second homes premium could generate a significant amount of additional council tax for the Council and precepting authorities in Devon.
- 3.6 Second home owners could decide to sell their properties rather than pay the additional council tax, which although potentially reducing income from council tax, would release properties onto the market to help address local housing need.

4. Options available and consideration of risk

- 4.1 The Council could choose not to charge a 100% premium on second homes. This option is not recommended for the reasons outlined in the report.
- 4.2 A number of concerns have been raised regarding whether charging a second homes premium would encourage council tax 'avoidance', for example through owners transferring such dwellings to business rates. Given that the current discount for second homes is zero and therefore is the same as full council tax charge, the levying of a second home premium may result in some customer contact seeking to reclassify the dwelling for genuine reasons and reducing the potential revenue which could be derived from the premium.
- 4.3 At the present time, dwellings that are available to let for 140 days in a calendar year can be assessed as business rates by the Valuation Office Agency. Limited evidence is required by the Valuation Office Agency, such as an advertisement letting the dwelling, in support of this assessment. From 1 April 2023, the Valuation Office Agency (VOA) will look at letting information from the previous operating year. In order to be liable for business rates rather than council tax, the property must be:
 - Available for letting commercially (with a view to making a profit) for short periods. These short periods must total 140 days or more in the previous and current year.
 - Actually let commercially for 70 days or more in the previous 12 months.
- 4.4 The new rules will apply equally to all self-catering properties across England. New holiday lets will be liable for council tax each day until the property meets the eligibility rules.

- 4.5 In order to pre-empt some of these issues, the Revenues team will be undertaking an exercise over the coming months to ensure that all dwellings are properly classified as a second home. The council taxpayer will be required to provide evidence in the form of a council tax bill that they are liable for full council tax on their main residence.
- 4.6 The initial burden of proof, where the owner says the property should be business rated rather than subject to council tax, lies on the owner of the property. Any information provided will be verified by the Council and reported to the VOA who will then contact the owner for further information.
- 4.7 A further concern is that couples who own second homes may claim that they are living separately and occupy each property on their own. If such cases arise the Council can check and validate the circumstances giving rise to any discount or exemption claimed, including single person discounts. Financial penalties can be imposed where false information is provided and will assist in ensuring that data held is accurate.

5. Proposed Way Forward

- 5.1 The Council confirms the council tax discounts and premiums applicable from 1 April 2023 and the premiums which will be charged from 1 April 2024, subject to the Levelling Up and Regeneration Bill receiving Royal Assent before 31 March 2023.
- 5.2 The approach taken by the Council is to encourage council taxpayers to use a dwelling as their main residence or allow others to do the same. It also seeks to bring empty properties back into use to increase the supply and affordability of housing in the Borough.
- 5.3 The implementation of revised and additional council tax premiums, will provide additional income from council tax which will be used to provide services to residents.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		Section 11B of the Local Government Finance Act 1992 (as amended) allows the Council to charge a council tax premium. Section 67(2) of that Act provides that the power to decide to charge a premium can only be exercised by full Council. Further, The Rating (Property in Common Occupation) and Council Tax Empty Dwellings Act 2018 allows billing authorities, from 1 April 2020, to

		<p>apply a premium of an additional 200% of the council tax due where a dwelling has been empty for five years and over. A premium of an additional 300% can be applied where the dwelling has been empty for ten years and over from April 2021.</p> <p>The recommendations set out within this report are subject to the Levelling Up and Regeneration Bill receiving Royal Assent.</p>
Financial implications to include reference to value for money		<p>Although a key driver for levying a premium is to bring empty dwellings back into use, charging council tax premiums will result in additional council tax income being generated.</p> <p>Initial high level analysis shows that the levying of a 100% premium on second homes could generate further council tax income of £1.38million, with West Devon's share being £157,000.</p> <p>The levying of council tax premiums also increases the taxbase.</p>
Risk		<p>There is a risk that the implementation of a second homes premium may encourage council tax 'avoidance' through owners seeking to transfer their properties to business rates as holiday lets. This will be reduced by the new evidence requirements being introduced by the Valuation Office Agency. It is for the Valuation Office Agency to make the decision if a property is entered into the Rating List or the Valuation List.</p> <p>There is a risk that the legislation may be delayed, making it more challenging to build assumptions into the medium-term financial strategy.</p>
Supporting Corporate Strategy		<p>Maximising our resources. 'Better Homes, Better Lives'</p>
Consultation & Engagement Strategy		<p>As this relates to an amendment to council tax legislation, no consultation is required.</p>
Climate Change - Carbon / Biodiversity Impact		<p>No impact.</p>
Comprehensive Impact Assessment Implications		

Equality and Diversity		There are no specific equality and diversity issues emerging from the potential implementation of additional council tax premiums. If adopted, there will be additional revenue to invest in services for the residents of West Devon.
Safeguarding		None as a direct result of this report, however if more dwellings are brought back into use it may help to keep vulnerable children and adults safe.
Community Safety, Crime and Disorder		None as a direct result of this report, however there may be a reduction in anti-social behaviour in respect of empty properties.
Health, Safety and Wellbeing		There is a potential positive impact on the wellbeing of residents if under used or empty properties are brought back into use.
Other implications		The recommendations in the report are subject to the Levelling Up and Regeneration Bill receiving Royal Assent.

Appendices:

None

Background Documents:

None