

## **Additional Council Tax Premiums**

Executive Member(s): Deputy Leader of the Council and Lead Member for Resources and Performance

Local Member(s) and Division: N/A

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## **Summary / Background**

1. In recent years Government have provided increasing flexibility to local authorities to determine the amount of discount awarded, if any, for empty properties and second homes. In addition, local authorities have been provided with the ability to charge premiums for long-term empty properties. Recognising the national housing shortages, the intention of these changes is to bring properties back into full-time use.
2. Last year, in the lead up to the creation of the new Somerset Council, detailed work was undertaken to formally align the existing legacy district discretionary policies in relation to Council Tax discounts and premiums. This was a relatively straightforward exercise as there was already a high degree of alignment across the legacy districts, although some changes were introduced. The then Somerset County Council agreed to the new aligned policy at its meeting on 23 November 2022. A summary of the current policy can be found at Appendix 1.
3. Prior to 23 November 2022, the Government had been indicating for some time their intention to extend the powers to charge premiums through the introduction of the Levelling Up and Regeneration Bill. Specifically, they indicated that they intended to implement discretionary powers for local authorities to reduce the qualifying period for the long-term empty premium from two years to one and to introduce a premium for 'second homes' (dwellings which are furnished, but unoccupied).
4. In anticipation of this change in law Council agreed in principle on 23 November 2022, as part of the broader policy decision, that it would implement both additional premiums when they came into law. This recommendation along with the wider Council Tax discounts and premiums policy recommendations were considered by the appropriate Scrutiny Committee and the Executive in advance of the Council decision.

5. The Levelling Up and Regeneration Bill has now received Royal Assent and has passed into law. The core elements of the Council Tax changes, as outlined above, remain the same. However, Government have indicated their intention to provide for specific 'exemptions' from the additional premiums and have made provision for this within the Act. Consultation was undertaken over the summer regarding the potential content of these exemptions, but, at the time of writing, we have yet to receive details of the actual exemptions. (NB. The consultation can be viewed at [Consultation on proposals to exempt categories of dwellings from the council tax premiums in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/consultation-on-proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums-in-england))
6. Given that these changes have only just come into law and the intention to provide for statutory exemptions from the premiums, it makes sense for Council to formally reaffirm its decision to implement both premiums. Doing so will help to significantly minimise the risk of any legal challenge to these new premiums.
7. Consequently, as this report simply seeks the reaffirmation of decisions which have already been subject to scrutiny and which have already been taken in principle by the Council, these recommendations are going straight to Council on 20 December 2023.
8. The reduction in the qualifying period for the long-term empty premium can be implemented from 1<sup>st</sup> April 2024. The decision to implement a second homes premium cannot by law be implemented until 1<sup>st</sup> April 2025.
9. If implemented and based upon the current year's Council Tax charges we estimate that these changes could generate £1.72m of additional Council Tax revenue in 2024/25 and £4.09m in 2025/26. This additional income would benefit the Council Tax Collection Fund and consequently would be split proportionately between the major preceptors.

## **Recommendations**

10. Council is recommended to reaffirm the decision taken on 23 November 2022 to:
  - i) Reduce the qualifying period for the long-term empty property premium to one year effective from 1<sup>st</sup> April 2024; and
  - ii) Implement a 100% premium for second homes (dwellings which are furnished, but unoccupied) effective from 1<sup>st</sup> April 2025.
11. Council is also recommended to delegate powers to the Council's Section 151 Officer to enable them to amend the policy and / or any associated procedures to ensure

alignment with the regulations or statutory guidance relating to the exemptions from the premiums, when these are issued or subsequently amended by Government.

### **Reasons for recommendations**

12. These recommendations allow us to implement changes already agreed in principle by Council on 23 November 2022.

### **Other options considered**

13. The alternative to asking Council to reaffirm its original decision would be to simply rely on that decision to enable us to implement the new legislation. Given that the original decision was taken prior to the finalisation of the legislation and that minor adjustments have been made, this could potentially leave that original decision open to legal challenge. Reaffirming the decision will help to significantly reduce the risk of legal challenge.
14. The adjustments that have been made to the legislation are minor and do not impact on the core principles and intentions of the legislation (i.e. to reduce the long-term empty qualifying period to one year and provide for the charging of a premium for second homes). Consequently, as these changes are minor the original decision in principle does not need to be reconsidered.

### **Links to Council Plan and Medium-Term Financial Plan**

15. The intention of the policy is to encourage the owners of second properties to bring them back into full time use and occupation through the imposition of premiums. This supports the council's priorities around the provision of housing.
16. The implementation of the additional premiums will provide additional Council Tax income for the Council.

### **Financial and Risk Implications**

Financial implications

17. We have worked with an external Revenues and Benefits specialist, David Airey from ACS Ltd, to identify the estimated additional income we can potentially generate from implementing the new premiums.

The long-term empty premium

18. The reduction in the long term empty qualifying period from two years to one year can be implemented from 1 April 2024. We currently have a total of 2,638 empty and unoccupied properties, which are comprised of both short term and long term. The breakdown is shown in Table 1 below.

**Table 1 Empty properties**

10 years +	87
5 years +	106
2 years +	453
Less than 2 years	1,992
<b>TOTAL</b>	<b>2,638</b>

(The above figures are taken from the October 2023 Council Tax Base report)

19. Based on exercises conducted in other local authorities we estimate that approximately 40% of empty dwellings will be subject to a long-term empty premium if we reduce the qualifying period to one year. This increases the tax base by an estimated 813 band D equivalent properties. Multiplied by the current year's average band D amount of £2,115, this generates additional income of £1.72m in 2024/25.

#### Second homes premium

20. The new legislation allows for us to implement the new second homes premium from 1 April 2025. Based on the October 2023 Council Tax Base report, we currently have a total of 2,888 properties which are classed as being second homes (dwellings which are furnished, but unoccupied).
21. The Government are, as stated above, introducing certain exemptions from premiums and these were outlined in the consultation paper entitled; Consultation on proposals to exempt categories of dwellings from the council tax premiums in England. The consultation (which has now ended), sought views on possible categories of dwellings which should be dealt with as exceptions to the council tax premiums. It covers the empty homes premium, and also the second homes premium, provisions for which are included within the Levelling Up and Regeneration Act 2023. The consultation can be viewed at [Consultation on proposals to exempt categories of dwellings from the council tax premiums in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/consultation-on-proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums-in-england)
22. In view of this, it is prudent to assume that the exemptions may apply to up to 30% of properties in this category. Taking this estimated 30% reduction into account, this change produces an estimated increase in the tax base of 1,932 band D equivalent properties. Based on the current year's average band D amount of £2,115, this would

generate additional income of in the region of £4.09m effective during the financial year 2025/26.

Risk implications

23. Set out below are the key risks identified in respect of these proposals.

<b>Risk</b>	<b>Mitigating actions / comments</b>	<b>Score</b> <b>L =</b> <b>Likelihood</b> <b>I = Impact</b>
Legal challenge by way of an appeal to the Valuation Tribunal on our ability to charge the premiums	Asking Council to reaffirm the decision to charge the premiums following the enactment of the Levelling up and Regeneration Bill should significantly reduce the risk of successful legal challenge.	L3 x I3 = 9
The new premiums do not generate the anticipated additional income	We have purposefully been conservative in the income projections and made reasonable adjustments for the impact of the new exemptions from the premiums	L3 x I3 = 9
The new premiums cause financial hardship to people struggling to dispose of second properties	Protection is provided by existing discounts and exemptions, the new exemptions from the premiums and in extreme cases we can use the Section 13A 1(c) provisions	L3 x I3 = 9

### **Legal Implications**

24. Sections 79 and 80 of the Levelling Up and Regeneration Act 2023 provide the legal powers for the Council to apply these changes and additional premiums.
25. Council took a decision in principle on 23 November 2022 in advance of these changes in law, but it is recommended that it reaffirm this decision in order to reduce the potential risk of legal challenge.

### **HR Implications**

26. There are no HR implication resulting from this report.

### **Other Implications:**

#### Equalities Implications

27. The changes proposed relate to the charging of premiums for long-term empty properties and for second homes (furnished, but unoccupied properties). Legislation provides local authorities with the discretion to decide whether or not to apply these additional premiums. Should we decide to do so then the level of the premium to be charged is determined by legislation.

28. Full Council took a decision in principle on 23 November 2022 to charge these additional premiums. A full Equalities Impact Assessment (EIA) was undertaken and included with the report and recommendations that went to that meeting. This can be viewed at Appendix A in Paper C to agenda item 6 in the [\(Public Pack\)Agenda Document for County Council, 23/11/2022 10:00 \(somerset.gov.uk\)](#).

29. We have not undertaken a further EIA in respect of this report as it is essentially just asking for Council to reaffirm a decision already taken.

30. However, it is worth commenting that existing legislation together with the intended new exemptions from the premiums will provide potential benefits for people with protected characteristics. These include:

- Existing Council Tax discounts exemptions will continue to apply for people who have left a property in order to receive or provide care
- The existing discount for job-related dwellings where a person is required to live elsewhere by reason of their employment will continue to apply. This can often apply to armed forces personnel
- The Section 13A 1(c) provisions allow us to make discretionary awards in case of hardship

#### **Community Safety Implications**

31. There are no community safety implications resulting from these recommendations.

#### **Climate Change and Sustainability Implications**

32. There are no specific climate change and sustainability implications from these recommendations.

## **Health and Safety Implications**

33. There are no specific health and safety implications from these recommendations.

## **Health and Wellbeing Implications**

34. The recommendations and policy changes are designed to encourage the occupation of empty premises and bring second homes into use for local residents and to provide additional revenue to the council. This should have positive benefits for local communities.

## **Social Value**

35. The recommendations and policy changes are designed to encourage the occupation of empty premises and bring second homes into use, which should benefit local communities.

## **Scrutiny comments / recommendations:**

36. The original proposals were considered by the Scrutiny for Policies and Place Committee on 11 October 2022 in conjunction with the wider Council Tax Discounts and Premiums policy. The committee were broadly supportive of the entire policy and made no specific comments in relation to the changes outlined in this report.

## **Background**

Council Tax discounts, premiums and local discretion

37. A large part of the Council Tax legislation is mandatory on all billing authorities within England. Discounts (such as Single Person Discounts), Disregards and Exemptions are set by statute with no local discretion allowed.

38. However, there are an increasing number of areas where each Council may determine locally the type and levels of charge to be made. The current main discretionary areas are as follows:

- (a) Second homes (premises which are no-one's sole or main residence but are furnished);
- (b) Unoccupied and substantially unfurnished premises;

- (c) Unoccupied and substantially unfurnished premises which require or are undergoing structural repairs; and
- (d) Premiums where premises have been unoccupied and substantially unfurnished for a period exceeding 2 years.

39. The clear intention of Government in introducing the powers to levy premiums for empty properties is to encourage such properties to be brought back into full time residential use.

40. Government have been indicating for some time their intention to extend the powers of local authorities to levy premiums in respect of certain types of unoccupied properties. Specifically this includes:

- (a) Long-term empty properties (i.e. unoccupied and unfurnished properties) where they intend to reduce the qualifying period from two years to one year; and
- (b) Second homes (i.e. dwelling which are furnished, but unoccupied) where they intend to introduce the power to charge a 100% premium.

41. These additional changes have now been enacted through the Levelling-up and Regeneration Act 2023. Government have also now made provision within the legislation to enable them to create specific exemptions from the additional premiums. These exemptions were not anticipated when Members considered the recommendations last year.

42. The exemptions will apply to properties in specific circumstances and prevent us from charging the levy for a specified period of time. The effect of this is to reduce rather than extend the scope of the premiums and it will obviously also reduce the amount of income that can be generated. We have not been formally notified yet of the exemptions, but Government did undertake consultation over the summer. From this consultation we understand that they are likely to include the following types of situations:

- Properties undergoing probate - the Government proposes that these properties should be exceptions to both the second homes and empty homes premiums for 12 months. The exception would start once probate or letters of administration are granted. This does not affect the existing Class F exemption or the ability for billing authorities to charge the normal rate of council tax following the expiry of the Class F exemption
- Properties that are being actively marketed for sale or rent - the Government proposes that this exception would apply for up 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. It will be essential that the Council will need to determine in its policy, what evidence will be required to support any exception

- Empty properties undergoing major repairs - time limited to 6 months - the Government proposes that empty properties undergoing major repair works or structural alterations should be 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 the sooner. The exception could be applied at any time after the property has been empty for at least 12 months, so long as the Council is satisfied that the necessary repair work is being undertaken
- Annexes forming part of, or being treated as, part of the main dwelling - the Government proposes that such annexes should be an exception to the council tax premium on second homes
- Job related dwellings - currently, there is 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. The Government proposes that the job related dwellings provision 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 a family home elsewhere or where an individual is posted to a new location but maintains their previous address
- Occupied caravan pitches and houseboat moorings - the Government proposes that these caravans and boats should be an exception to the council tax premium on second homes
- Seasonal homes where year-round or permanent occupation is prohibited or has been specified for use as holiday accommodation or prevents occupancy as a person's sole or main residence - the 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

43. It is understood that regulations or guidance (which has to be followed in accordance with the Levelling Up and Regeneration Act) will be in line with government's proposal. In view of this, the Council will need to ensure that any charging policy or procedure aligns with legislation. It is therefore recommended that the Council's Section 151

Officer is granted delegated powers to amend the Council's policy relating to premiums in line with legislative or government requirements and changes.

44. Local authorities, as billing authorities, are required to make formal determinations as to the levels of discounts and premiums they choose to award and charge in respect of these categories. These decisions have to be taken by full Council and, once agreed, published within 21 days.

The existing Somerset Council policy

45. Somerset County Council agreed on 23 November 2022 the policies in relation to discounts and premiums that would be effective from 1<sup>st</sup> April 2023 for the new Somerset Council. This included the agreement in principle to charge the new premiums proposed through the Levelling-up and Regeneration Bill, which had not been enacted at that stage.
46. The policies agreed last year are summarised at Appendix 1. The only changes proposed to these policies are the two additional premiums detailed in this report, which were agreed in principle by Council on 23 November 2022.
47. Given that these changes have only just come into law and the intention to provide for statutory exemptions from the premiums, it makes sense to formally reaffirm the Council's decision to implement both premiums. Doing so will help to significantly minimise the risk of any legal challenge to these new premiums.
48. Upon receipt of the statutory exemptions to the premiums we will develop local procedures to ensure that they are implemented in a fair and consistent manner across Somerset.

Exceptional circumstances

49. Clearly there may be instances where it is not appropriate and we would not wish to levy an additional premium. Legislation makes provision for this and specifically so through:
  - (a) A range of pre-existing discounts and exemptions to cater for circumstances where properties are left unoccupied as a result of people moving into residential care, following bereavement, living elsewhere to provide care etc;
  - (b) The new exemptions from the premiums; and
  - (c) The provisions of our Section 13A 1(c) policy which provide us with general powers to reduce Council Tax in situations where there is hardship.

## Background Papers

50. [Meeting of SCC County Council on Wednesday, 23rd November, 2022, 10.00 am - Modern Council \(somerset.gov.uk\)](#) (see agenda item 6, Paper C)

## Appendices

- **Appendix 1 – Summary of the Council Tax Discount and Premiums Discretionary Policy agreed 23 November 2022 and proposed additional premiums**

## Report Sign-Off (if appropriate)

	Officer Name	Date Completed
Legal & Governance Implications	David Clark	1 Dec 2023
Communications	Peter Elliott	29 Nov 2023
Finance & Procurement	Nicola Hix	5 Dec 2023
Workforce	Dawn Bettridge	
Asset Management	Oliver Woodhams	5 Dec 2023
Executive Director / Senior Manager	Jason Vaughan	29 Nov 2023
Strategy & Performance	Sara Cretney	6 Dec 2023
Executive Lead Member	Cllr Liz Leyshon	29 Nov 2023
<b>Consulted:</b>	Councillor Name	
Local Division Members	N/A	
Opposition Spokesperson	Cllr Mandy Chilcott	29 Nov 2023
Scrutiny Chair	Cllr Bob Filmer	29 Nov 2023