

Agenda Item Introduction

Committee	CORPORATE SCRUTINY COMMITTEE
Date	6 FEBRUARY 2024
Topic	PRE-DECISION SCRUTINY - COUNCIL TAX PREMIUMS ON SECOND HOMES AND EMPTY PROPERTIES

Background

1. The Government's Levelling Up and Regeneration Bill, which was announced in May 2022, will give Councils the power to introduce a 100% Council Tax premium on second homes. In order for the premium to be implemented in 2024, the bill must have received Royal Assent by 1 April 2023.
2. The bill received Royal Assent on 26 October 2023 which means the next date for changes to be implemented will be 1 April 2025. For this to take place a resolution must be passed by Full Council before 1 April 2024.
3. The committee will review the proposed policy ahead of it going to Cabinet and Full Council.

Focus for Scrutiny

4. The role of the committee is not to act as a 'shadow Cabinet'. Its function is to ensure that the principles of decision making have been complied with:
 - taking into account all relevant considerations and ignoring those which are irrelevant
 - compliance with finance, contract and all other procedure rules
 - due consultation and proper advice is taken, and alternative options considered before decisions are reached
 - impartiality and an absence of bias or pre-determination
 - any interests are properly declared
 - decisions are properly recorded and published
 - decisions are proportionate to the desired outcome
 - respect for human rights and equality impacts
 - a presumption in favour of transparency and openness
 - clarity of aims and desired outcomes
 - due consideration of all available options
 - reasons are given for decisions

Outcome(s)

5. Does the committee support the proposed recommendations, or wish to report any comment to Cabinet?

Document(s) Attached

Cabinet Report – Council Tax Premiums of Second Homes And Empty Properties

Appendix 1 – Equality Impact Assessment

Appendix 2 – Draft Council Tax Policy for Second Homes, Long Term Empty Properties
and determining discounts for certain dwellings

Appendix 3 – Climate and Sustainable Development Impact Assessment tool

Contact Point: Melanie White, Statutory Scrutiny Officer,
(01983) 821000 ext 8876, e-mail melanie.white@iow.gov.uk

Cabinet Report

ISLE OF WIGHT COUNCIL

Date	8 FEBRUARY 2024
Title	COUNCIL TAX PREMIUMS OF SECOND HOMES AND EMPTY PROPERTIES
Report of	DEPUTY LEADER, CABINET MEMBER FOR HOUSING AND FINANCE

Executive Summary

1. The Levelling-up and Regeneration Bill was given its first reading in the House of Commons on 11 May 2022, its aim to devolve power and give local leaders and communities, the tools they need to make better places.
2. This bill has now received Royal Assent and is set in legislation in the Levelling-up and Regeneration Act 2023.
3. This legislation empowers councils to apply a council tax premium of up to 100 per cent on any home left empty for longer than a year, rather than two thereby encouraging more empty homes back into productive use.
4. The legislation also recognises the impact that high levels of second home ownerships can have in some areas and will introduce a new discretionary council tax premium on second homes of up to 100 per cent.
5. Billing authorities wishing to adopt any changes arising from the legislation are required to make a council resolution confirming their requirements at least 12 months prior to the financial year in which the changes will come into effect. This means that in order to implement the changes from 1 April 2025, the resolution must be made before 1 April 2024.
6. This paper seeks to establish Cabinet's recommendation to Full Council as to the options available.

Recommendation(s)

- | |
|--|
| <ol style="list-style-type: none">7. That Cabinet recommends to Full Council the following:<ol style="list-style-type: none">a) To adopt the power enacted in the legislation that enables local authorities to apply a premium from 1 April 2024 namely: 100 per cent premium for |
|--|

properties which have been left empty and unfurnished for a period of between one and two years; and

- b) To adopt the power enacted in the legislation that the additional council tax premiums be applied from 1 April 2025: namely 100 per cent premium for second homes; and,
- c) To grant the council's Section 151 Officer delegated powers to amend the council's policy of premiums in line with legislative or government requirements, as and when received in conjunction with the Revenues and Benefits Managers to ensure it meets the criteria set by government and the council.

Background

8. The government encourages all billing authorities to adopt council tax premiums on empty properties with a view to incentivising property owners to bring those properties back into use. Premiums can be charged currently where properties are left unoccupied and unfurnished for periods exceeding two years.
9. In May 2022 the government published the Levelling Up and Regeneration Bill which has now been enacted as the Levelling-Up and Regeneration Act 2023. This includes provisions which address empty properties through the application of council tax premiums, in addition to measures that recognise the impact that high levels of second home ownership can have in some areas.
10. The legislation allows local authorities to:
 - Reduce the minimum period for the implementation of a council tax premium for empty properties from two years to one year; and
 - Allow councils to introduce a council tax premium of up to 100 per cent in respect of second homes
11. The changes outlined above will become effective from 1 April 2024 at the earliest. Local authorities are required to make a resolution confirming their intentions on the application of the premiums at least 12 months prior to the financial year in which the changes will come into effect.
12. This report seeks a decision from Full Council to agree the proposals relating to council tax premiums as set out by the legislation.
13. Recent years have seen an increase in second home/holiday home ownership and a rise in 'staycations' and short-term lets. These factors have reduced the availability of housing on the Island. Second home ownership across the Island is significant and is recognised to have a negative impact in terms of the supply of homes available to meet local housing needs.

Exceptions from the premiums (empty homes premiums and second homes premium)

14. For information, government issued a 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.

15. The consultation proposes that there will be circumstances where either premiums will either not apply or be deferred for a defined period of time. These are as follows:

- **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 is granted. This does not affect the 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 alternations 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 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 a family home elsewhere or where an individual is posted to a new location but maintain 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; and
- **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.

16. 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 the above consultation, however no such regulations have been published at the time of this paper. In view of this, the Council will need to ensure that any charging policy is in line with legislation. It is therefore recommended that the Council's Section 151 Officer is granted delegated powers to amend the Council's policy of premiums in line with legislative or government requirements, as and when received in conjunction with the Revenues and Benefits Managers.
17. Full details of the premiums can be found in the draft Isle of Wight Council's Council Tax Policy for Second Homes, Long Term Empty Properties and determining discounts for certain dwellings, at Appendix 2.
18. Initial analysis shows that the application of a 100 per cent premium on second homes could generate in excess of £4.2m (from 1 April 2025) and £88k for empty properties (from 1 April 2024) in additional council tax revenue for the council as detailed in the tables below.
19. Table 1: Potential additional council tax revenue generated from a 100% premium on second homes (figures correct as at November 2023)

Properties	Number of properties	Current Council Tax Charge £	Value with 100% premium £
Band A	383	1,211.74	464,096.42
Band B	527	1,413.7	745,019.9
Band C	535	1,615.65	864,372.75
Band D	566	1,817.61	1,028,767.26
Band E	439	2,221.52	975,247.28
Band F	246	2,625.44	645,858.24
Band G	175	3,029.35	530,136.25
Band H	23	3,635.22	83,610.06
Sub total			5,337,108.16
Total	2894		£4,269,686*

*The above excludes second homes which are likely to be exempt and makes adjustments for further exemptions and losses of 20%

20. Table 2: Potential **additional** council tax revenue generated from a 100 per cent premium on properties empty more than one year but less than two years (figures correct as at November 2023)

Properties	Number of properties	Current Council Tax Value £	Value with 100% premium £
Band A	14	1,211.74	16,964.36
Band B	10	1,413.7	14,137
Band C	17	1,615.65	27,466.05
Band D	11	1,817.61	19,993.71
Band E	7	2,221.52	15,550.64
Band F	3	2,625.44	7,876.32
Band G	3	3,029.35	9,088.05
Band H	0	3635.22	0
Sub total			111,076.13
Total			£88,860*

*The above excludes second homes which are likely to be exempt and makes adjustments for further exemptions and losses of 20%

21. For the financial year 2023/24, the council tax precept was approximately broken down as follows: -
- Isle of Wight Council – 81 per cent
 - Hampshire and Isle of Wight Police and Crime Commissioner – 11 per cent
 - Hampshire and Isle of Wight Fire Authority 3 per cent
 - Town, parish, and community councils – 5 per cent.
22. Income generated from the premium would be shared across all preceptors.
23. A number of concerns have been raised in regard to whether the application of a second homes premium might encourage council tax ‘avoidance’, for instance by the owners of such properties transferring the property to business rates. Given that the council tax rates for second homes mirror those of main residences, there may also be issues with the current classification of properties within each district’s council tax system, and the application of a second home premium may prompt owners to reclassify properties for genuine reasons; reducing the potential revenue that might be derived from the premium and the figures quoted in the tables detailed above. Paragraphs 3.17 and 3.18 below provide further detail on the checks that are in place to ensure that the classification of properties remains accurate according to its use and therefore is charged appropriately.
24. Properties available to let for more than 20 weeks (140 days) in a calendar year can be rated as business rates by the Valuation Office Agency (VOA). From April 2023, these claims must be supported by evidence of an advertisement for let for the property. The owners must demonstrate that the property was available to let for

more than 20 weeks in the previous year as well as evidence that the property was actually let for short periods totalling at least 70 days. The burden of providing evidence to support future changes will be the owner's and will be verified by the VOA. This change should ensure that any properties transferring from council tax to business rates relate to genuine circumstances where the property is being utilised for business purposes.

25. Another concern that has been mooted is that couples who own second homes may claim that they are living separately and are single occupants of each respective property. If such cases arise, there will be mechanisms available to the council to check the circumstances giving rise to any discount or exemption claimed, including single person discounts. These circumstances can be verified against the information that has been supplied to the council to claim the reduction. Financial penalties can be imposed where false information is provided and will assist in ensuring that data held is accurate.
26. Legislation to apply a 100 per cent premium on second homes was introduced in Wales in 2017/18 and the premium was applied to 24,873 properties in the 2021/22 year. This number has increased across Wales by 2,005 from the number recorded at the outset of the scheme in 2017/18. Some areas, which historically had the highest number of second homes have seen a downward adjustment to the number of recorded second homes and the maximum recorded reduction in any area is 9 per cent. It is uncertain whether these downward trends have been triggered by avoidance loopholes or are evidence that the premiums have achieved one of the intended outcomes of bringing second homes back into use as mainstream housing provision.
27. The second homes figures in Wales suggest that regardless of any avoidance issues that might remain within the system there should be sufficient incentive for the council to consider a council tax premium on second homes in order to help address the issues caused by second home ownership within the area.

Corporate Priorities and Strategic Context

Provision of affordable housing for Island Residents

28. The Island faces a housing crisis. Since the onset of the Covid-19 pandemic, over 80 per cent of its private rented stock has become unavailable for long term lets. Approximately 15,000 households struggle to accommodate themselves in the local housing market. Those on the lowest incomes and highest needs struggle to afford current market rents and prices, well below the Government's accepted standard definition of affordable housing. Hence, by reducing the amount of time a property can be empty and introducing a premium on second homes, the council can encourage the empty properties back into use sooner and increase the charge for second homes thereby discouraging their use and the impact it has on local residents' housing needs.

Responding to climate change and enhancing the biosphere

29. The proposed draft Council Tax Policy for Second Homes, Long Term Empty Properties and determining discounts for certain dwellings aligns with socio-economic factors including the reduction of poverty on the Island by assisting in the equal access for people in poverty to have affordable homes which they could rent. By applying a premium to empty properties and second homes, it discourages owners from leaving them empty, thus freeing them up for local people to rent or buy.
30. A Climate and Sustainable Development Impact Assessment (CSDIA) has been completed in full for the proposed draft Council Tax Policy for Second Homes, Long Term Empty Properties and determining discounts for certain dwellings with the score visible below. As described above, there is a positive outcome for the socio-economic area of No Poverty. The full rationale and scoring can be found at Appendix 3.

Impact Assessment

Socio-economic Outer Ring	Scores
No Poverty	5
Zero Hunger	3
Good health and wellbeing	3
Quality Education	3
Gender Equality	3
Clean Water and Sanitation	3
Affordable and clean energy	3
Decent work and economic growth	3
Industry, Innovation and Infrastructure	3
Reduced inequalities	3
Sustainable cities and communities	3
Responsible consumption and production	3
Climate Action	3
Life below water	3
Life on land	3
Peace, justice and strong institutions	3
Partnerships for the Goals	3

Environment Inner Ring	Scores
Transport	3
Energy	3
Housing	3
Environment	3
Offset	3
Adaptation	3



Economic Recovery and Reducing Poverty

31. The council intends to take full advantage of the power within legislation to gain additional revenue to fund services for Island communities in order to support its most vulnerable residents. Many of these residents are affected by the limited rental housing market on the Island and are experiencing financial difficulty in trying to find suitable affordable rented accommodation.

Impact on Young People and Future Generations

32. A decision to implement the council tax premiums on empty homes and second homes would have an impact on young people who may be entering the rental housing market in the future as it is designed to assist with properties being left vacant and unused, therefore creating opportunities for future generations to rent on the Island.

Corporate Aims

33. Application of these council tax premiums aligns with the council's core value of being community focused and putting the needs of our residents first, wherever possible. The council tax premium would assist with the housing needs of Island residents.
34. It also aligns with the council's aspirations to keep the council solvent and take all measures to improve the financial position of the council and to invest as much council money on the Island as possible. The council tax premium would generate income for the council which could be used towards providing services to local residents.
35. The premium also relates to providing greater support to those on low incomes, as these residents are often those with housing needs.
36. The council also aspires to prioritise truly affordable housing for Island residents and wherever possible, bring appropriate empty buildings back into use for affordable housing, in line with its Empty Property Strategy.

Consultation And Engagement

37. There is no requirement for any consultation to take place for this change.

Financial / Budget Implications

38. Implementing the powers provided by the new legislation will increase revenue. So far, it is currently estimated that:
- The implementation of a 100 per cent premium for properties empty for more than one year but less than two will result in an increase of council tax in the sum of £88k per year; and,
 - Applying a second home premium of 100 per cent is estimated to generate additions income in excess of £4.2m per year.

Legal Implications

39. The Local Government Finance Act 1992 makes provision, amongst other things, for the payment and liability for council tax.
40. The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 enabled local authorities to charge a premium on long-term empty dwellings that were empty and unfurnished more than 2 years.

41. Under amendments to the Local Government Finance Act 1992, made by the Levelling-up and Regeneration Act 2023 which come into force on 1 April 2024, the definition of long-term empty property is changed to one year instead of two. The Act provides that from 1 April 2024, a property can be charged an empty homes premium of 100% after one year, even if it becomes empty before 1 April 2024.
42. Where the recommendations are accepted, a resolution is to be made by Full Council. The decision needs to be published in at least one local newspaper within 21 days of the date the decision is made and must be done before the start of the new financial year.
43. Due to the changes in the legislation, the Council will be required by statute to be mindful of any guidance issued by the Secretary of State and any secondary legislation relevant to the powers. At the date of this paper no regulations or statutory guidance were published.

Equality And Diversity

44. An Equality Impact Assessment can be found at Appendix 1.

Property Implications

45. There are no property implications for the council if the recommended council tax premiums are applied.

Options

46. The options for Cabinet to consider recommending to Full Council are as follows:
47. OPTION 1 - To adopt, commencing the billing period starting 1 April 2024, a council tax premium of 100 per cent for all long-term empty properties as defined by amendments to the Local Government Finance Act 1992 in force on that date;
48. OPTION 2 - To adopt, commencing the billing period starting 1 April 2025, a council tax premium of 100 per cent for all dwellings occupied periodically as defined by amendments to the Local Government Finance Act 1992 in force on that date (second homes);
49. OPTION 3 - To adopt council tax premium/s at a lower percentage rate;
50. OPTION 4 - To adopt council tax premium/s commencing a different billing period;
51. OPTION 5 – Not to adopt a council tax premium as provided in the Levelling-up and Regeneration Act 2023;
52. OPTION 6 – that the council's Section 151 Officer be delegated authority to amend the council's policy of premiums in line with secondary legislation and/or statutory

guidance as and when published in conjunction with the Revenues and Benefits Managers to ensure it meets the criteria set by government and the council.

Risk Management

53. By not taking advantage of the legislation afforded to the council to increase council tax collection, it is not maximising the opportunity to collect further income to fund local services to meet the needs of its residents. The financial implications of such a decision are detailed at paragraph 6 of this report.
54. There is the risk that liable parties for council tax will try and avoid these premiums, but there are processes and checks in place to ensure that fraud is not being committed.
55. There is a risk that if council does not adopt this power before 1 April 2024, it will not be able to apply the empty property premium until 1 April 2025 and the second home premium until 1 April 2026 at the earliest.

Evaluation

56. The Levelling-up and Regeneration Act 2023 has granted additional powers for councils to implement premiums for empty properties and second homes in order to improve outcomes for local people by means of providing more housing or to generate more income to support local services where empty properties and second homes are retained. It would be remiss of the council not to take advantage of the ability to raise additional revenue for the good of Island residents.

Background Information

57. [Consultation on proposals to exempt categories of dwellings from the council tax premiums in England](https://www.gov.uk/government/consultations/proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums-in-england)
<https://www.gov.uk/government/consultations/proposals-to-exempt-categories-of-dwellings-from-the-council-tax-premiums-in-england>

Appendices Attached

58. Appendix 1 – Equality Impact Assessment
59. Appendix 2 – Draft Council Tax Policy for Second Homes, Long Term Empty Properties and determining discounts for certain dwellings
60. Appendix 3 – Climate and Sustainable Development Impact Assessment tool

Contact Point: Erin Rhodes, Benefits Manager, ☎ 821000 e-mail erin.rhodes@iow.gov.uk

CHRIS WARD
*Director of Finance
and Section 151 Officer*

COUNCILLOR IAN STEPHENS
*Deputy Leader, Cabinet Member for
Housing and Finance*