

REPORT TITLE: Council Tax provisions within the Levelling Up and Regeneration Act 2023 in relation to long term empty property and second homes.

Cabinet date	20th February 2024
Cabinet Member	Cllr Graham Turner
Key Decision Eligible for Call In	No No
Purpose of Report	
To take a recommendation for decision by Council on 6th March 2024	
Recommendations	
<ul style="list-style-type: none"> To recommend to Council that it determine that the qualifying period for the long-term empty property premium in Council Tax be reduced to one year effective from 1st April 2024; and To Recommend to Council that it determine a 100% Council Tax premium for second homes (dwellings which are furnished, but unoccupied) effective from 1st April 2025. It is also recommended to delegate powers to the Council’s Section 151 Officer In conjunction with the portfolio holder 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	
<ul style="list-style-type: none"> These are new powers available to local authorities as legislated for in the Levelling Up and Regeneration Act 2023 The long-term empty measure will potentially increase the numbers of properties that are brought back into use more quickly, or increase the revenue collectable in relation to empty property if that is not the case. The Second home measure will increase the revenue from those properties. 	
Resource Implications: The measures are not anticipated to have any particular resource implications.	
Date signed off by <u>Strategic Director</u> & name	09/02/2024 Rachel Spencer Henshall
Is it also signed off by the Service Director for Finance?	09/02/2024 Isabel Brittain
Is it also signed off by the Service Director for Legal Governance and Commissioning?	09/02/2024 Julie Muscroft

Electoral wards affected: All

Ward councillors consulted: none

Public or private: Public

Has GDPR been considered? Yes

1. Executive Summary

The Levelling Up and Regeneration Act 2023 amends the Local Government Finance Act 1992 in order that a Billing Authority can determine that it will:

- Reduce the qualifying period for the long-term empty property premium in Council Tax to one year to be effective from 1st April 2024; and
- charge a 100% Council Tax premium for second homes (dwellings which are furnished, but unoccupied) to be effective from 1st April 2025.

The decision to make such a determination can only be made by council in accordance with s67 Local Government Finance Act 1992. And it must be made before 31st March 2024 in order to have effect from the years set out above, any determination after that date would delay implementation by a further year for both provisions.

2. Information required to take a decision

2.1 s11A, 11B and 11C of the Local Government Finance Act are amended to introduce the provisions set out in the Levelling Up and Regeneration Act 2023.

2.2 Those provisions were last determined by Council on 16th January 2019 where council determined to charge the 100% premium after the two years permitted at the time. The second home premium was not then in scope.

2.3 At that time the Government stated that it was considering legislating to limit the extent to which authorities could charge in certain circumstances. That did not happen, however this time the government has consulted on exceptions but is yet to provide any direction as to how that regulation, should it happen, will be applied. Appendix 1 sets out what we know at this stage.

2.4 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 as a result. This report recommends in addition to the determination proposed in this report 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, once they are made, those changes so far as are known are those set out in Appendix 1

2.5 The data we currently hold suggests that there are 587 properties in the borough that will be empty for one year but less than two years at 1st April 2024. All of the properties would immediately attract a 100% premium as it stands however it is impossible at this stage to know what the impact will be of the exceptions referred to above and in Appendix 1.

2.6 We do know however that if all of those properties become chargeable with a 100% premium that it would equate to £953k additional revenue – the behavioural effect is however very important as we also expect that many properties will be brought back into use and that the premium will cease to apply. This and the prospect of the exceptions mean that it is impossible to accurately predict what any additional revenue might look like.

3. Implications for the Council

3.1 Working with People

The empty property premium is about bringing properties into use so increasing housing supply. Increased Housing Supply reduces pressure on people seeking accommodation meaning that more people have a place that they can call home.

3.2 Working with Partners

There will be no impact

3.3 Place Based Working

There will be no impact

3.4 Climate Change and Air Quality

There will be no impact

3.5 Improving outcomes for children

Children in households positively affected by increased housing supply will have better outcomes.

3.6 Financial Implications

It is impossible to establish the financial implications at this stage without also knowing the impact of the potential legislative changes yet to be made by government though we know that they will impact upon all empty property including those to which a premium already applies.

3.7 Legal Implications

No additional impact other than what is set out in this report. It is worth noting here however that a determination is required by council before 31st March 2024 in order to give effect to a determination as set out in the recommendation. Any determination after that date would introduce an additional delay of a year in respect of both provisions.

3.8 Other (eg Risk, Integrated Impact Assessment or Human Resources)

There are no particular risks other than potential non payment of additional council tax payable. Ordinary recovery processes will apply as with any other outstanding debt.

An Integrated Impact Assessment has been undertaken.

[Integrated Impact Assessments - IntegratedImpactAssessment \(kirklees.gov.uk\)](https://www.kirklees.gov.uk/IntegratedImpactAssessment)

4. Consultation

No Consultation required, this is though a decision for Council by way of a determination

5. Engagement

There has been no engagement, other than with the portfolio holder, this is though a decision for Council by way of a determination. Cllr Turner as portfolio holder wishes to make the following statement.

I welcome the changes in legislation that now allow us to charge 100% council tax to non-exempt homes after a year of been left empty.

With a national shortage of homes, it seems only right that we try to encourage these empty properties to be brought back into the housing market.

Since we introduced the scheme for extra council tax for homes that had been empty for two years or more, we have seen a significant reduction in empty homes.

I hope that these proposals will have a similar impact and significantly reduce the number of empty homes, and provide much needed housing

6. Options

6.1 Options considered

The change in the legislation creates an opportunity to both raise revenue and incentivise through an additional council tax premium the bringing of property back into use earlier than might have been the case. Council has the the option not to use the new power. The recommendation here is to seek such a determination from council as the only sensible option.

It is therefore recommended that Cabinet:

- Recommend to Council that it determine that the qualifying period for the long-term empty property premium in Council Tax be reduced to one year effective from 1st April 2024; and
- Recommend to Council that it determine a 100% Council Tax premium for second homes (dwellings which are furnished, but unoccupied) effective from 1st April 2025.

- Recommended to delegate powers to the Council's Section 151 Officer in conjunction with the portfolio holder 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

6.2 Reasons for recommended Option

- These are new powers available to local authorities as legislated for in the Levelling Up and Regeneration Act 2023
- The long-term empty measure will potentially increase the numbers of properties that are brought back into use more quickly, or increase the revenue collectable in relation to empty property if that is not the case.
- The Second home measure will increase the revenue from those properties.

7. Next steps and timelines

To take a report to Council on the 6th March that includes the recommendation to make such a determination.

8. Contact officer

Julian Hobson – Head of Service Welfare & Exchequer.

9. Background Papers and History of Decisions

<https://www.legislation.gov.uk/ukpga/2023/55/enacted> Levelling Up and Regeneration Act 2023

<https://www.legislation.gov.uk/ukpga/1992/14/contents> Local Government Finance Act 1992

<https://democracy.kirklees.gov.uk/ieDecisionDetails.aspx?ID=6966> previous decision of Council

10. Appendices

Appendix 1 – Potential Exceptions

Government have also now made provision within the Act to enable them to create specific exemptions from the additional premiums. 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 a 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.

11. Service Director responsible

Isobel Brittain