

Committee and DatePerformance Management  
Scrutiny Committee

30 November 2022

ItemPublic

## Review of Charging Policy for Second Homes and Empty Properties

Responsible Officer: James Walton, Executive Director of Resources  
(Section 151 Officer)

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### 1. Synopsis

The Council has power to increase council tax on second homes and long term empty property. The Levelling Up and Regeneration Bill, subject to the Bill receiving Royal Assent prior to 31 March 2023, will provide further charging options for the Council in relation to second homes and empty property premium. There is therefore an opportunity to consider these options alongside current charging policy with effect from 1 April 2024.

### 2. Executive Summary

- 2.1 In council tax law empty property is either classed as a second home, or long term empty property. A second home is a furnished dwelling that is no one's main home. A long term empty property is a property that is unoccupied and substantially unfurnished for more than six months.
- 2.2 The Council has discretion to award a discount of between 50% and zero on second homes. Current policy is to award zero discount meaning second homes attract full council tax.
- 2.3 Holiday homes that are available for let for more than 140 days in the year pay business rates, and not council tax, and are therefore not impacted by this policy.
- 2.4 Long term empty property that has been unoccupied and substantially unfurnished for more than two years attracts a council tax premium. The level of the premium is determined by how long the property has been unoccupied and substantially unfurnished as set out below.

- Unoccupied and substantially unfurnished for more than two years but less than five years - 100% premium
- Unoccupied and substantially unfurnished for more than five years but less than ten years - 200% premium
- Unoccupied and substantially unfurnished for more than ten years – 300% premium

2.5 The Levelling Up and Regeneration Bill will further enhance charging options with effect from 1 April 2024. Through the Bill it is the Government's intention to enable billing authorities to:

- reduce the minimum period for the implementation of the council tax premium for long term empty premises from two years to one year; and
- allow billing authorities to introduce a council tax premium of up to 100% in respect of second homes

2.6 In its current form the Bill requires billing authorities to make a resolution confirming their intentions on the application of the premiums at least twelve months prior to the start of the financial year in which the changes would come into effect, meaning that the Bill will require Royal Assent to be obtained prior to 31 March 2023 in order for billing authorities to be given the powers to make a resolution and adopt the changes for the year commencing 1 April 2024.

2.7 The Council taxbase reflects the Council's empty property charging policy, and this has already been prepared and built into budget planning for 2023-24 and will be voted on by Council on 15 December 2022. Any changes to the current policy recommended by this committee would not therefore be able to take place until 1 April 2024.

### **3. Recommendations**

3.1 Members are asked to consider, challenge and comment as appropriate on the contents of the green paper to provide a steer before the Charging Policy for Second Homes and Empty Properties is taken through the next stages of the Council's decision making process.

## **REPORT**

### **4. Risk Assessment and Opportunities Appraisal**

- 4.1 Any decision to move away from the current empty property charging policy would increase the financial risk to the Council and reduce income via Council Tax. The current maximum amounts levied as a result of the existing charging policy is set out at point 5.1 below.
- 4.2 There is an opportunity to increase income collection from empty property charges with effect from 2024-25 by implementing the changes in the Levelling Up and Regeneration Bill, and applying a 100% premium for second homes, and levying the council tax premium after a property has been unoccupied and substantially unfurnished for one year, rather than two. The potential maximum amounts that could be levied as a result of the agreeing this charging policy is estimated at point 5.2 below.
- 4.3 Any decision to increase empty property charges will lead to an increase of requests for discretionary discounts.

## 5. Financial Implications

- 5.1 Financial impact of current empty property charging policy based on information as of 3 October 2022.

Current charging policy	dwelling as at 3 October 2022	Council tax band D equivalent	Total income based on 2022-23 average council tax £	Shropshire Council Precept (78.07%) £
Second Homes - zero discount	1548	712.32	1,424,355.07	1,111,994.00
Premium 100%	340	293.89	587,662.44	458,788.07
Premium 200%	118	203.77	407,458.49	318,102.84
Premium 300%	74	183.00	365,926.80	285,679.05

- 5.2 Financial impact of introducing second homes premium and charging 100% premium for unoccupied and substantially unfurnished property after twelve months with effect from 1 April 2024 based on information as of 3 October 2022.

Current charging	dwelling as at 3 October 2022	Council tax band D equivalent	Total income based on 2022-23 average council tax £	Shropshire Council Precept (78.07%) £
Second Homes premium	1548	1,424.68	2,848,790.13	2,224,050.45
Premium 100% after 12 months	468	417.12	834,073.15	651,160.91

- 5.3 Based on figures held as of 3 October 2022 implementing the second homes premium would mean additional income to Shropshire Council of £2.2mil, and levying the premium after one year empty, rather than two, would mean additional income for Shropshire Council of £0.6mil. This income would be realised with effect from 2024/25 financial years.

## 6. Climate Change Appraisal

- 6.1 There are no direct implications for climate change as a result of this report and full implications and considerations of climate change as a result of any changes to the scheme will be reviewed at that time.

## **7. Background**

- 7.1 Current policy on empty property charging has been in place for a number of years. Properties are identified as either second homes or vacant properties either through notification from taxpayers, property inspector monitoring, or property review. The property status is then recorded in the council tax system.

### **7.2 Second Homes**

- 7.3 Current policy to offer no discount in respect of second homes has been in place for a number of years. The regulations on second homes do overlap with business rates where owners of second homes that are available for let as holiday lets for more than 140 days in the year have their property assessed for business rates rather than for council tax. Very often, where second homes are classed as holiday lets and fall into business rates the owner pays no rates because they can qualify for small business rate relief. The only evidence needed to support that the property is available for let as a holiday home is evidence of an advertisement for the property being available for let for more than 140 days.
- 7.4 From April 2023 these criteria will still apply, but additionally Government have said that it must be demonstrated that the property was available for let for more than 20 weeks in the previous year, and proof must be provided that the property was actually let for short periods totalling at least 70 days. The Valuation Office will be responsible for determining whether a property should be assessed for business rates or council tax under this system.

### **7.5 Council Tax Premium**

- 7.6 Since 2013 the Government have enabled Billing Authorities to levy a Council Tax premium in relation to any dwelling that, for a continuous two year period, has been unoccupied or substantially unfurnished.
- 7.7 Up until 2019 the premium was levied at 50% and since 1 April 2019 the Government have enabled Billing Authorities to increase the level of premium charge incrementally. Current charging policy is as set out below.

- 1 April 2019 the premium can be charged at 100% for properties unoccupied and substantially unfurnished for more than two years;
- 1 April 2020 the premium can be charged at 200% in relation to dwellings unoccupied and substantially unfurnished for more than five years, and
- From 1 April 2021 the premium can be charged at 300% for properties unoccupied and substantially unfurnished for more than ten years.

7.8 The regulations are clear that the decision to levy the premium is based on the condition of the dwelling, and this means that any changes in ownership which would change liability for council tax, have no impact on levying the premium, which must be charged once the Council has agreed the charging policy for the year. The regulations provide for the Government to prescribe classes of dwelling where the premium will not apply. They do not enable billing authorities to make their own determinations for exceptions to their policy to levy the premium. As a result, each year the Council decides whether to levy the premium, or not. It doesn't have the power to introduce classes of dwelling that would be exempt from the premium.

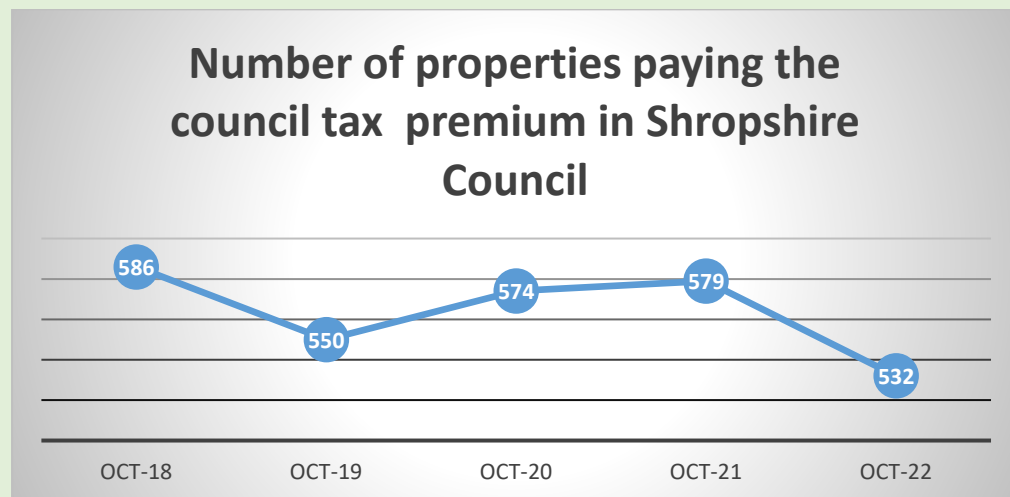
7.9 A fundamental principle in Council Tax regulations is the 'six weeks' rule. This stipulates that initial discount that can be awarded when a property first becomes unoccupied and unfurnished cannot be awarded again in respect of a property unless it has been either occupied, or substantially furnished, for a continuous six week period. That means that unless a property subject to the premium is occupied or substantially furnished for a continuous six week period then the premium will continue to apply even where there is a change of owner.

7.10 This means that when someone purchases a property that is already subject to the premium, they are charged the premium from the date of purchase, unless they occupy or furnish the dwelling for more than six weeks. This has created some complaint from taxpayers that claim that this is unfair because they have only just become responsible for the property. However, it is within the taxpayers or their representatives power to check the tax position prior to purchase of the property, and often the property will be purchased at a reduced rate due to the previous owner wanting a quick sale (due to the imposition of the premium).

7.11 The Councils charging policy for unoccupied and substantially unfurnished property is set out at appendix A.

7.12 Shropshire Council did not levy the premium until 1 April 2014 and have increased the level of premium charged incrementally as allowed by subsequent legislation. The decision to levy the premium is agreed by full Council each December when the Council agrees the taxbase for the forthcoming financial year. The six week rule is explained as part of this determination.

7.13 Over the previous five years the number of properties paying a council tax premium has reduced overall from 586 to 532.



7.14 A number of appeals from other Billing Authorities against the Council Tax Premium were heard by the Valuation Tribunal in 2014 after the premium had been introduced. The then president of the Tribunal Service, Professor Zellick, concluded in 2014 that there were only three avenues open to taxpayers that wished to appeal against the imposition of the premium. They were: -

- i. Apply for judicial review in High Court
- ii. Apply to the billing authority for discretionary relief (Section 13A (1)(c)) Local Government Finance Act 1992 (LGFA 1992)
- iii. Complain to the Local Government Ombudsman (although recent ombudsman cases have concluded they have no jurisdiction in this matter)

7.15 As a result, when taxpayers wish to appeal against the premium, they are considered for discretionary council tax discount under S 13A (1) (c) of the LGFA 1992. The Council has an approved policy for considering these requests. In doing so, they are asked to provide evidence that their circumstances are exceptional enough that the agreed Council policy should not apply. The Council does have power under Section 13A (1)(c) to determine a class of dwellings that could receive a council tax discount. The full cost of any discount awarded under Section 13A (1) (c) is picked up by Shropshire Council, and not shared with precepting authorities.

Therefore the cost of any discount awarded under Section 13A (1) (c) must be picked up by the wider council taxpayer.

## 7.16 **Additional charging options - Levelling Up and Regeneration Bill**

7.17 The Levelling Up and Regeneration Bill contains proposals aimed at further addressing empty properties via council tax charging and would enable the Council to levy the premium on unoccupied and substantially unfurnished dwellings after 12 months and levy a premium in respect of second homes. Assuming the bill receives Royal Assent, the Council will be required to make a resolution confirming the intention on the application of the premiums at least 12 months prior to the financial year in which the changes would come into effect, so prior to 31 March 2023 in order for the changes to be implemented for the 2024-25 financial year. Assuming the Levelling Up and Regeneration Bill become legislation, this resolution will form part of the council tax setting report to be considered by Council on 2 March 2023.

7.18 If Council agrees to these changes the Revenues Team would notify all impacted residents of the impending changes well in advance of the implementation date 1 April 2024.

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

### **Cabinet Member (Portfolio Holder)**

Gwilym Butler, Portfolio Holder for Finance and Corporate Resources

### **Local Member**

All

### **Appendices**

**Appendix A Shropshire Council, empty property charging policy**



## Appendix A Shropshire Council, empty property charging policy

*'The only way to get the council tax charge back to the bottom of the ladder is for the **property** to be occupied or substantially furnished for a continuous six week period'*

*'Remember, a new owner will have to pay the council tax depending on how long the **property** has been vacant, from date of purchase. So if a new owner buys a property that has already been vacant for more than two years, they will pay the 100% premium immediately'*



**Amount due based on average council tax 2022-23 £1999.60**

### Step five

- **Over ten years vacant**
- 300% premium
- £7,998.40

### Step four

- **Five to ten years vacant**
- 200% premium
- £5,998.80

### Step three

- **Two to five years vacant**
- 100% premium
- 3,999.20

### Step two

- **one month to two years vacant**
- full charge
- £1,999.60

### Step one

- **Up to one month vacant**
- Property exempt
- £0