

South Ayrshire Council

**Report by Head of Finance, ICT and Procurement
to Cabinet
of 20 June 2023**

Subject: Consultation: Council Tax for Second and Empty Homes, and Non-Domestic Rates Thresholds for Self-Catering Units

1. Purpose

- 1.1 The purpose of this report is to seek the approval of Members to respond to the joint Scottish Government/ COSLA Consultation exercise on Council Tax for Second and Empty Homes, and Non-Domestic Rates Thresholds for Self-Catering Units.

2. Recommendation

2.1 It is recommended that the Cabinet:

- 2.1.1 approves the consultation response as detailed in [Appendix 1](#); and**
- 2.1.2 instructs the Service Lead - Revenues and Benefits to arrange completion of the online consultation form by the deadline of 11 July 2023.**
- 2.1.3 notes that further consideration of any Scottish Government Legislative changes, once enacted, will be undertaken in due course with any recommendations and implications being brought forward to Cabinet for approval.**

3. Background

- 3.1 The Scottish Government has launched a joint consultation with COSLA to seek views on giving Councils powers to increase council tax on second homes, increase the existing premium (levy) charges on empty homes and to consider the existing definition of Non Domestic Rates Self Catering accommodation. The vision & principles contained in the Scottish Governments Housing to 2040 Strategy include 'prioritising homes for living in and not for accumulating wealth'. Over the past decade the growth of online platforms has fuelled the trend for residential homes, particularly in tourist hotspots, to be changed from primary homes to be used for short-term lets or second homes. This can cause problems for neighbours and make it harder for local people, particularly young people or those with fewer resources, to find homes to live in. The number of empty homes in Scotland, which could potentially be brought back into use for people to live in remains a concern for the Scottish Government.

- 3.2 The key proposals outlined in the consultation are;
- Giving local authorities the discretionary power to enable a premium of up to 100% (double the rate) on second homes.
 - Giving local authorities the discretionary power to enable a premium of greater than 100% to be applied to both second and long-term empty (LTE) homes.
 - Seeking views on whether the current premium on long-term empty homes should remain capped at 100% (double the rate) or if councils should have discretion to increase this beyond 100%.
 - Seeking views on whether the current non-domestic rates thresholds for self-catering accommodation remain appropriate.
- 3.3 Second homes and empty homes (unoccupied dwellings) are currently defined in the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 as follows:
- a 'second home' is a dwelling which is no one's sole or main residence but which is furnished and lived in for at least 25 days during the chargeable 12 month period; and
 - an 'unoccupied dwelling' is a dwelling, which is no one's sole or main residence but which is not used as a second home.
- 3.4 Second homes in South Ayrshire currently make up 0.9% of domestic dwellings which is the Scottish Average. A 'heat map' is attached at [Appendix 2](#) which details the location of second homes within South Ayrshire.
- 3.5 Where a dwelling is available for let for 140 days and actually let for 70 days or more in the financial year, it is classed as a self-catering unit (SCU), and subject to the owner applying to the Assessor at the Ayrshire Valuation joint Board it can be removed from council tax and becomes liable for non-domestic rates. If these thresholds are not reached, the accommodation will be treated as domestic and liable for council tax instead. There are currently over 300 SCU in South Ayrshire with 70% eligible for Small Business Rates relief who therefore pay no rates.
- 3.6 Councils can currently vary the rate of council tax charged for unoccupied homes (or long-term empty properties). From 1 April 2019 the rate is set at 200% (double) Council Tax for an empty property that is unoccupied for more than 12 months (or up to 2 years if actively marketed for sale or rent) with some limited local discretion not to apply the levy. Councils can also vary the rate of council tax charged for second homes. From 1 April 2018 owners of second home pay 100% (standard rate) Council Tax for their second property. An element of the additional income collected from the reduction of discounts for empty properties is used for the provision of new-build, affordable social housing in areas determined by the Council.
- 3.7 The removal of discounts from second & empty homes (ring fenced income for social housing) and the introduction of a 'levy' for long term empty properties provide considerable income to the Council. Since 2018/19 over £2.8m has been raised from removal of discounts with a further £1.75m raised from the application of the additional levy on empty properties.

4. Proposals

- 4.1 The suggested response to the Scottish Government consultation questions is attached as [Appendix 1](#). It is proposed that the Service Lead - Revenues and Benefits should complete the online consultation in accordance with [Appendix 1](#).
- 4.2 On conclusion of the consultation process the Scottish Government will review the responses as part of their considerations and will likely enact changes to increase Council powers in relation to this matter. The specific changes to current legislation to be enacted by the Scottish Government are not known at this time however once any new powers are confirmed a further report will be brought before Members to consider any required Council Policy changes.

5. Legal and Procurement Implications

- 5.1 There are no legal implications arising from this report.
- 5.2 There are no procurement implications arising from this report.

6. Financial Implications

- 6.1 The primary reason for the introduction of a levy is to encourage Second Home owners to make their property available for use as 'lived in' homes. However if 75% of existing second home properties remain as second homes, and a levy of 100% was introduced the Council could generate additional revenue in the region of £0.414m per annum. (Based on a Band D average and current collection rates for properties currently being charged the LTE levy). This is subject to the Scottish Government introducing new legislation and any discretionary policy the Council may introduce.

7. Human Resources Implications

- 7.1 Not Applicable.

8. Risk

8.1 *Risk Implications of Adopting the Recommendations*

- 8.1.1 There are no risks associated with adopting the recommendations.

8.2 *Risk Implications of Rejecting the Recommendations*

- 8.2.1 If the recommendations are rejected there is a risk that additional costs would be incurred to pursue debt recovery with very limited income generated.

9. Equalities

- 9.1 The proposals in this report have been assessed through the Equalities Impact Assessment Scoping process. There are no significant potential positive or negative equality impacts of agreeing the recommendations, and therefore an Equalities Impact Assessment is not required. A copy of the Equalities Scoping Assessment is attached as [Appendix 3](#).

10. Sustainable Development Implications

- 10.1 **Considering Strategic Environmental Assessment (SEA)** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

11. Options Appraisal

- 11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

12. Link to Council Plan

- 12.1 The matters referred to in this report contribute to Priority 4 of the Council Plan: Efficient and effective enabling services.

13. Results of Consultation

- 13.1 There has been no public consultation on the contents of this paper.
- 13.2 Consultation has taken place with Councillor Ian Davis, Portfolio Holder for Finance, Human Resources and ICT, and the contents of this report reflect any feedback provided.

14. Next Steps for Decision Tracking Purposes

- 14.1 If the recommendations above are approved by Members, the Head of Finance, ICT and Procurement will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Cabinet in the 'Council and Cabinet Decision Log' at each of its meetings until such times as the decision is fully implemented:

<i>Implementation</i>	<i>Due date</i>	<i>Managed by</i>
Online consultation will be completed	11 July 2023	Service Lead – Revenues and Benefits
Submit new policy proposals to Cabinet once changes to legislation are implemented	30 June 2024	Service Lead – Revenues and Benefits

Background Papers None

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Date: 12 June 2023

Consultation Questions
Council tax on second and empty homes and Non-domestic rates Self Catering Accommodation

Proposed Council responses to questions are in bold.

1. Do you think the current definition of a second home should continue to apply?

Yes

~~No~~

~~Don't Know~~

Please give reasons for your answer

The current definition of no-one's sole or main residence, furnished and occupied for at least 25 days in the year is a reasonable definition of a second home to differentiate from an otherwise 'empty' property. Albeit it should be recognised in any new proposals that self declaration of this by owners is acceptable to determine this status as it remains difficult to evidence periods of occupation with minimal powers in place to refute owners position.

2. Do you think the discount eligibility for job related dwellings and purpose built holiday accommodation is appropriate?

~~Yes~~

No

~~Don't Know~~

Please give reasons for your answer

The definition of Job related dwellings in the current legislation is limited to accommodation provided by employers, or attached to the place of work for the 'furtherance' of the employment, e.g. flat above a pub. The current legislation provides for 50% discount in these circumstances. Consideration should be given to extend the definition so that people who own or rent a 'second property' for the purpose of employment (that can be evidenced) to be afforded a level of discount or at least a mandatory exemption from any levy. Further employers such as the NHS retain 'second homes' for temporary or visiting staff to use and these should differentiate from second homes used for 'leisure'

3. Do you think Councils should be able to charge a council tax premium (levy) on top of regular council tax rates for second homes?

Yes

~~No~~

~~Don't Know~~

Please give reasons for your answer

The introduction of a levy for Second Homes would generate additional income for the council, whilst encouraging people to reconsider their ownership of a second home. However it should be noted that the areas where most second

homes are in South Ayrshire would not particularly have a beneficial impact on the delivery of Social Housing if they were to become available as the demand is lower than in other areas. Therefore whilst increasing the tax to “encourage” owners to make better use of their properties may not make a difference to the pressure of social housing waiting lists the extra income from this could be directed towards the delivery of social housing or to fund other incentives such as the Empty Homes initiative or the Social letting Service.

The introduction of a levy for Second Homes would also bring this in line with Long Term Empty (LTE) properties and reduce the incidence of ‘levy’ avoidance which currently exists.

4. If you have answered yes to Q3 what do you think the maximum premium councils charge should be?

- 50%
- 100%
- 150%
- 200%
- 250%
- 300%
- Other amount

Please give reasons for your answer

100% levy is double the standard council tax rate, which is the same as the current LTE levy. This rate is recoverable, without being overly punitive. There are a range of circumstances where second homes may not easily be brought into use as someone’s main residence, they may be in a state of poor repair, they may have been in family ownership for many years and they may be areas where there is little demand for social or affordable housing. Higher premiums may simply add to properties falling into disrepair and becoming derelict

5. What factors should be taken into account by councils when deciding whether to introduced a premium on council tax for second homes?

Please list factors you think should be taken into account by councils and give reasons for your answer

- **numbers and percentages of second homes in the local area – where level of second homes are far in excess of the Scottish Average the implications are more wide ranging therefore it is important to ensure that Councils have discretion to apply any levy to meet local conditions**
- **patterns of demand for, and availability of, affordable homes – the location of second homes are not necessarily attractive for social housing**
- **local policies that are aimed at increasing housing supply and the availability of affordable housing – it is important that resources are available to assist owners who wish to bring properties back into use as permanent homes**

Councils may also decide not to use the powers or to disapply a premium for a specific period of time.

Please list factors you think should be taken into account by councils and give reasons for your answer

A balance needs to be reached when considering a levy and then offering a range of discretions. Whilst a level of local discretion is welcome local policies will ensure any specific issues are considered these may include

- **exceptional reasons why the home could not be lived in as a permanent residence or otherwise sold or let**
- **where the owner's use of their accommodation is restricted by exceptional personal circumstances not covered by an exception from the premium**
- **where charging a premium might cause undue hardship**

6. If you do, or were to, own a second home please tell us what you would do if the applicable rate of council tax were to increase, and the 'thresholds' to be classed as self-catering holiday accommodation for non-domestic rates purposes stayed the same?

Not Applicable – No Response

7. Do you think councils should be able to charge a higher premium than the current 100% (double the full rate) of council tax on homes empty for longer than 12 months?

Yes

No

Don't Know

Please give reasons for your answer

100% levy is double the standard council tax rate, which is the current LTE levy. This rate is recoverable, without being overly punitive. There are a range of circumstances where LTE homes may not easily be brought into use as someone's main residence, they may be in a state of poor repair, with limited funds to undertake the work, they may have been in family ownership for many years and they may be areas where there is little demand for social or affordable housing. Higher premiums may simply add to properties falling into disrepair and becoming derelict. Any increase to the levy would requires a review of local discretionary policy, with potentially more discretion awarded negating the increased levy. Also if the council tax rate was to be increased then it may be prudent to offer some other incentives in order to bring the properties back into use. Which brings up the question of would it be financially beneficial to increase the tax if this increase was to be used for incentives anyway

8. If you have answered yes to question 7, what do you think the maximum premium councils could charge should be?

Not Applicable – No Response

9. Do you think there should be a stepped approach to charging higher rates of council tax on long-term empty homes?

By 'stepped approach' we mean only giving councils powers to charge higher rates of council tax the longer the home is empty. For example, 100% premium at 12 months, 200% premium at 2 years, 300% premium at 5 years.

100% premium is the same as double the normal amount of council tax.

200% premium is the same as three times the normal amount of council tax

300% premium is the same as four times the normal amount of council tax.

Yes

No

Don't Know

Please give reasons for your answer

If there are increases to the levy rates a stepped approach would allow owners to take reasonable steps to sell or bring properties back into use.

10. Are there any exceptions that are not already taken into account, that should be, when charging a premium of council tax on homes empty for longer than 12 months?

No

Mandatory & Discretionary powers are currently in place not to apply a levy for up to 24 months if a property is being marketed for sale or rent or undergoing repairs to make it habitable. There are also a number of mandatory 100% exemptions from Council Tax in place for empty property e.g. deceased estates, dwellings awaiting demolition, repossessed dwellings.

The current legislation allows for discretion for the LTE levy to be agreed locally and applied as necessary.

11. What factors should be taken into account by councils when deciding whether to introduce a premium on council tax for homes empty for longer than 12 months?

Current legislation allows for local discretion not to apply the levy e.g. where repair work is ongoing to bring a property back into use. Change in ownership & prohibitively long delays in planning process are other areas where discretion could be applied.

12. If you do, or were to, own a home that has been empty for longer than 12 months, please tell us what you would do if your council decided to increase the maximum council tax charge above 100% premium?

Not Applicable – No Response

13. Do you think that the letting thresholds for self-catering accommodation for non-domestic rates should be changed?

The owners, tenants or occupiers of self-catering accommodation (who may be businesses, the public or the third sectors) may be liable for either council tax or non-domestic rates. This includes owners of second homes who use them for self-catering accommodation. The current threshold for defining premises as self-catering holiday accommodation liable for non-domestic rates is it must be available to let for 140 days or more and actually let for 70 days or more in the same financial year.

Yes

No

Don't Know

Please give reasons for your answer

70% of the 300+ Self Catering Unit's within South Ayrshire Council are eligible for 100% rates relief under the Small Business Bonus Scheme (SBBS) and therefore make no contribution to local taxation however if they are actively letting the property they are generating income. An alternative option to changing the threshold is the removal of, or limit to the value of, SBBS relief for SCU's e.g., 25% rates relief.

14. If you have answered yes to question 13, what do you think the threshold for the number of days self-catering accommodation must actually be let for should be?

Please select one of the following options.

~~50 days~~

100 days

~~140 days~~

~~180 days~~

Other - please specify

Please give reasons for your answer

70% of 300+ SCU's within South Ayrshire Council are eligible for 100% rates relief under the Small Business Bonus Scheme (SBBS) and therefore make no contribution to local taxation however they are generating income from their property. An alternative option to changing the threshold is the removal of, or limit to the value of, SBBS relief for SCU's e.g., 25% rates relief.

15. If you have answered yes to question 13, what do you think the threshold for the number of days self-catering accommodation must be available to let should be?

Please select one of the following options.

~~120 days~~

160 days

~~200 days~~

~~250 days~~

Other - please specify

Please give reasons for your answer

70% of 300+ SCU's within South Ayrshire Council are eligible for 100% rates relief under the Small Business Bonus Scheme (SBBS) and therefore make no contribution to local taxation however they are generating income from their property. An alternative option to changing the threshold is the removal of, or limit to the value of, SBBS relief for SCU's e.g., 25% rates relief.

16. Do you think councils should have discretion to change the self-catering accommodation 'days actually let' threshold, for their local area?

Yes

No

Don't Know

Please give reasons for your answer.

Rates are administered locally however the rates poundage is set by the Scottish Government and all income is 'pooled' and re-distributed to councils based on an agreed formula. Any changes should apply nationally.

17. If you answered yes to question 16 do you think that councils should have discretion to;
- Increase the number of days actually let only
 - Decrease the number of days actually let only
 - Increase or decrease the number of days actually let

Not Applicable – No Response

18. Do you have any other comments on the non-domestic rates system in respect of self-catering accommodation?

70% of 300+ SCU's within South Ayrshire Council are eligible for 100% rates relief under the Small Business Bonus Scheme (SBBS) and therefore make no contribution to local taxation however they are generating income from their property. An alternative option to changing the threshold is the removal of, or limit to the value of, SBBS relief for SCU's e.g., 25% rates relief.

19. If you do, or were to, own a second home please tell us what you would do in the event that the applicable rate of council tax and non-domestic rate thresholds both increased?

Not Applicable – No Response

20. If you do, or were to, own a second home please tell us what you would do in the event that:
- a. Council Tax powers remained as they are for second homes (i.e. no provision for councils to charge a premium), but
 - b. the 'thresholds' to be classed as self-catering holiday accommodation for Non-Domestic Rates purposes increased?

Not Applicable – No Response

21. Please tell us how you think changes to council tax and/or non-domestic rates thresholds for self-catering accommodation might affect businesses in your area:

Maintaining the status quo, will mean South Ayrshire cannot use taxation as a way of incentivising homes to be occupied more frequently, either as domestic residence or guest accommodation. However, this must be balanced against

the possible reduction in overall availability of self-catering accommodation, a vital contributor to the visitor economy. Further increases to days let and made available to let criteria for qualification under non-domestic rates, is a more targeted measure to ensure, second homes are deployed in supporting the visitor economy.

22. Please tell us how you think changes to the maximum council tax rate for second and/or empty homes and non-domestic rates thresholds might affect your local area or Scotland as a whole (social, economic, environment, community, cultural, enterprise):

Tourism is a vital sector for South Ayrshire, both in terms of Employment and Gross Value Added. Any changes which encourage the repurposing of empty property into genuine use as self-catering provision should be encouraged.

23. Please tell us how you think the changes identified might affect Island Communities.

Not Applicable – No Response

24. Do you think there are any equality, human rights, or wellbeing impacts in relation to the proposed changes set out in the consultation?

Yes

No

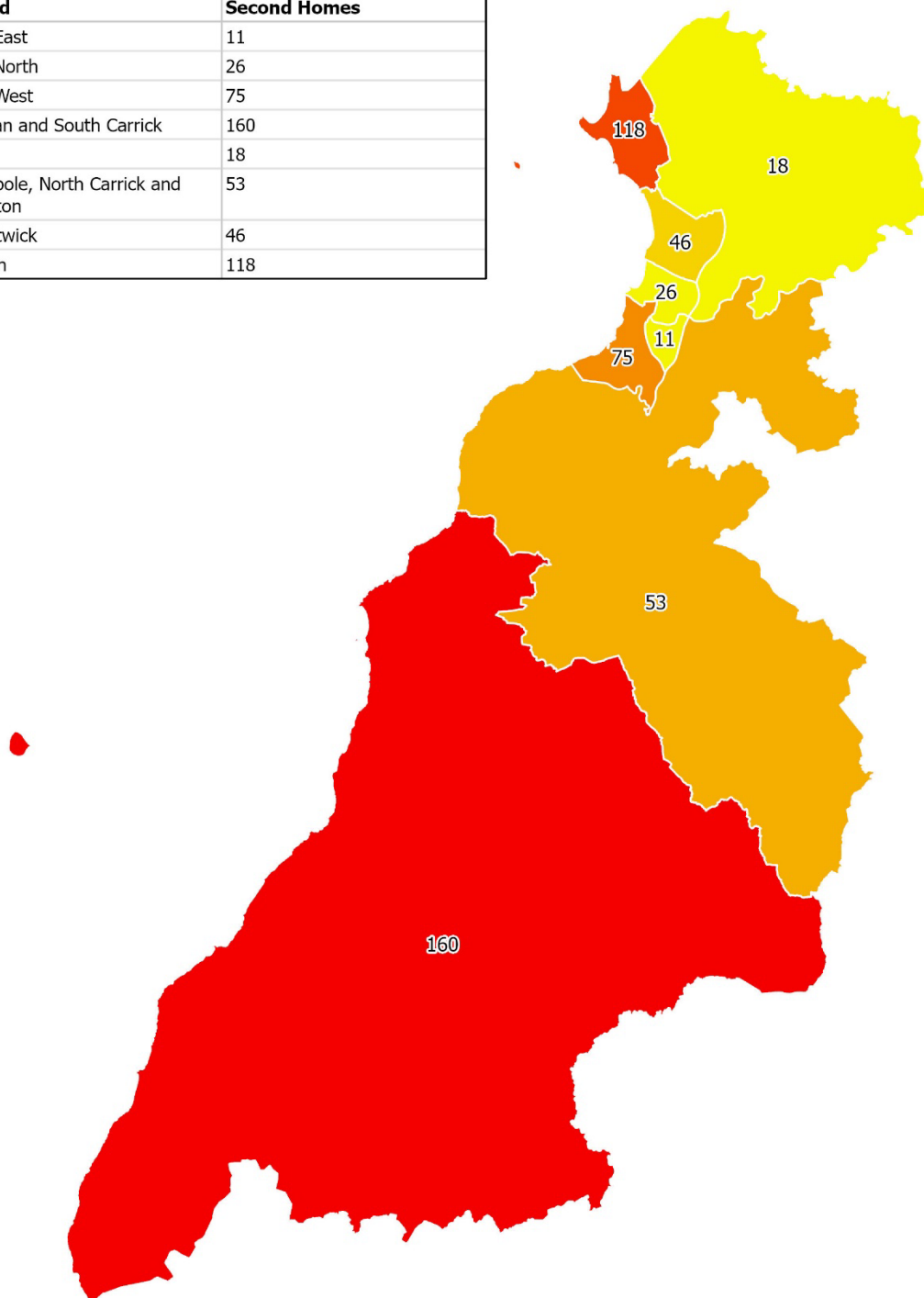
Don't Know

A detailed impact assessment process should be carried out by the Scottish Government to assure themselves that any potential negative impacts are mitigated.

25. Is there anything else you would like to tell us in relation to this consultation?

The different demographics of Councils should be taken into consideration when developing any new legislation. For example second homes in rural areas are far less attractive either as affordable rental properties or marketed for sale for first time buyers as those properties within or close to towns and cities. Creating additional charges for second homes used for leisure purposes that are in rural areas may simply impact on the local economy if owners are no longer able to afford premium charges. Other unintended consequences of increased taxation is that some second home owners may seek loopholes to avoid payment leading to increased resources to implement local polices.

Ward	Second Homes
Ayr East	11
Ayr North	26
Ayr West	75
Girvan and South Carrick	160
Kyle	18
Maybole, North Carrick and Coylton	53
Prestwick	46
Troon	118



Council Tax Second Homes by Ward

Scale 1:286,738



South Ayrshire Council Equality Impact Assessment Scoping Template

Equality Impact Assessment is a legal requirement under the Public Sector Duty to promote equality of the Equality Act 2010. Separate guidance has been developed on Equality Impact Assessment's which will guide you through the process and is available to view here: <https://www.south-ayrshire.gov.uk/equalities/impact-assessment.aspx>

Further guidance is available here: <https://www.equalityhumanrights.com/en/publication-download/assessing-impact-and-public-sector-equality-duty-guide-public-authorities/>

The Fairer Scotland Duty ('the Duty'), Part 1 of the Equality Act 2010, came into force in Scotland from 1 April 2018. It places a legal responsibility on Councils to actively consider ('pay due regard to') how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. [FSD Guidance for Public Bodies](#) in respect of the Duty, was published by the Scottish Government in March 2018 and revised in October 2021. See information here: <https://www.gov.scot/publications/fairer-scotland-duty-guidance-public-bodies/>

1. Policy details

Policy Title	Consultation: Council Tax for Second and Empty Homes, and Non-Domestic Rates Thresholds for Self-Catering Units
Lead Officer (Name/Position/Email)	Nicola Gemmell, Service Lead – Revenues and Benefits – nicola.gemmell@south-ayrshire.gov.uk

2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this policy? Please indicate whether these would be positive or negative impacts

Community or Groups of People	Negative Impacts	Positive impacts
Age – men and women, girls & boys	-	-
Disability	-	-
Gender Reassignment (Trans/Transgender Identity)	-	-
Marriage or Civil Partnership	-	-
Pregnancy and Maternity	-	-
Race – people from different racial groups, (BME) ethnic minorities and Gypsy/Travellers	-	-
Religion or Belief (including lack of belief)	-	-
Sex – (issues specific to women & men or girls & boys)	-	-

Community or Groups of People	Negative Impacts	Positive impacts
Sexual Orientation – person’s sexual orientation i.e. LGBT+, lesbian, gay, bi-sexual, heterosexual/straight	-	-
Thematic Groups: Health, Human Rights & Children’s Rights	-	-

3. What likely impact will this policy have on people experiencing different kinds of social disadvantage i.e. The Fairer Scotland Duty (This section to be completed for any Strategic Decisions). Consideration must be given particularly to children and families.

Socio-Economic Disadvantage	Negative Impacts	Positive impacts
Low Income/Income Poverty – cannot afford to maintain regular payments such as bills, food, clothing	-	-
Low and/or no wealth – enough money to meet Basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future	-	-
Material Deprivation – being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure/hobbies	-	-
Area Deprivation – where you live (rural areas), where you work (accessibility of transport)	-	-
Socio-economic Background – social class i.e. parent’s education, employment and income	-	-

4. Do you have evidence or reason to believe that the policy will support the Council to:

General Duty and other Equality Themes Consider the ‘Three Key Needs’ of the Equality Duty	Level of Negative and/or Positive Impact (High, Medium or Low)
Eliminate unlawful discrimination, harassment and victimisation	Low
Advance equality of opportunity between people who share a protected characteristic and those who do not	Low
Foster good relations between people who share a protected characteristic and those who do not. (Does it tackle prejudice and promote a better understanding of equality issues?)	Low
Increase participation of particular communities or groups in public life	Low
Improve the health and wellbeing of particular communities or groups	Low
Promote the human rights of particular communities or groups	Low
Tackle deprivation faced by particular communities or groups	Low

5. Summary Assessment

Is a full Equality Impact Assessment required? (A full Equality Impact Assessment must be carried out if impacts identified as Medium and/or High)	YES NO
Rationale for decision: The report asks Members to approve the response to the Scottish Government Consultation on Council Tax for Second and Empty Homes, and Non-Domestic Rates Thresholds for Self-Catering Units. Their decision on this has no specific equality implications	
Signed : Tim Baulk	Head of Service
Date: 18 May 2023	