

**CYNGOR SIR POWYS COUNTY COUNCIL.**

**COUNCIL**  
**9<sup>th</sup> March 2016**

**REPORT AUTHOR: County Councillor Graham Brown**

**SUBJECT: Housing (Wales) Act 2014 – Council Tax premiums**

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**REPORT FOR: Decision**

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**1. Introduction**

- 1.1 The Housing (Wales) Act 2014, amends the local Government Finance Act 1992 by inserting new sections 12a and 12b, which enables a billing authority, in Wales, the discretion to charge up to a 100% council tax premium on long-term empty dwellings (both unoccupied and substantially unfurnished) and dwellings occupied periodically (second homes/holiday homes that are furnished and not a main residence), a total charge of up to 200%.
- 1.2 There is a requirement to give affected council tax payers twelve months' notice of these changes, which may only be introduced from the start of a financial year. The earliest that a premium may be charged is 1<sup>st</sup> April 2017.

**2. Background Information**

- 2.1 On the 22<sup>nd</sup> October 2014 Council determined with effect from the 1<sup>st</sup> April 2015 to end the 50% discretionary discount awarded to properties that were unoccupied and substantially unfurnished, and as such a 100% council tax charge now applies.
- 2.2 The council tax legislation already provides a number of specific exemptions from council tax, and this includes a number of exemptions where the property is unoccupied, such as:
- Where only resident is in long-term residential care
  - Where only resident is in hospital
  - A dwelling requiring or undergoing structural repair (for up to one year)
  - Where resident has died and for a period of six months after grant of probate or letters of administration
  - A dwelling that is unoccupied and unfurnished( for up to six months)
- 2.3 A dwelling that is exempt from council tax is not liable for a premium. However where an exemption ends and remains unoccupied it would

become liable for a premium. In the case of empty and unfurnished properties it will be liable for a premium after it has been empty for a continuous period of twelve months.

- 2.4 With regard to periodically occupied properties (second/holiday homes) the Council determined, back in 1996, not to grant a discretionary discount and as such a 100% charge applies.
- 2.5 Billing authorities may impose a premium of up to 100% in respect of either or both categories of property, i.e. up to 200% council tax may be charged.
- 2.6 With regard to long-term empty properties, the premium may only be imposed after the property has been empty and substantially unfurnished for a period of twelve months.
- 2.7 The billing authority may specify different percentages for different dwellings and in the case of long-term empty properties may have different percentages based on the length of time for which the property has been empty.
- 2.8 In England, from 1st April 2013, billing authorities have had the discretion to charge a premium on a property that has been unoccupied and unfurnished for two years or more. The premium can be up to 50% of the Council Tax on the property. For information, the neighboring authorities of Herefordshire and Shropshire charge the maximum 50% premium for properties that have been unoccupied and unfurnished for two years or more. Of the Welsh Authorities considering a premium majority are proposing a 50% premium for both long-term empty and periodically premises.
- 2.9 A consultation has been undertaken via the citizen's panel to gather taxpayers views and comments regarding a council tax premium. The results are contained within **appendix one**.
- 2.10 Key findings as a result of the consultation showed that 79% of panel members support a premium for long-term empty properties, with 71% supporting a premium for periodically occupied properties. For both premiums there was a strong belief (81% & 63%) the introduction of a premium would encourage owners to bring such properties into full use.

### **3. Policy Objectives**

- 3.1 The implementation of a premium is to **incentivise** owners to bring empty and periodically occupied properties back into use. Charging a premium will support the councils aims in increasing the number of properties fully occupied within the community.
- 3.2 A reduction in the number of long term empty and periodically occupied properties within the council's boundary would increase the availability of safe, secure and affordable homes. At present there are 1,236 listed on the housing

register a reduction in empty/periodically occupied premises would increase the availability of both rental properties and properties for sale.

- 3.3 The council's empty homes strategy details the objectives to address the increasing problem of insufficient supply of housing by providing good quality rental accommodation and bringing empty homes into the market place. Support and assistance is available to owners through the work of the private sector housing team, who have a suite of loan products specifically designed to address empty properties. The team also delivers specific Welsh Government empty property initiatives via Houses into Homes and Town Centre Loan schemes. Both aim to address the problem of empty units whilst simultaneously delivering urban regeneration.
- 3.4 The sustainability of the local economy is reliant on a populated and vibrant community. Any reduction in empty/periodically occupied properties would have a positive impact on the local economy, house prices and services available within the community.

#### **4. Exceptions to Premium**

- 4.1 The Act gave Welsh ministers powers to make regulations setting out exceptions to the premium: that is, classes of dwellings where a Local Authority could not charge a premium.
- 4.2 The Welsh government consulted on the proposed exceptions between 13 March 2015 and 13 June 2015.
- 4.3 The Council tax (exceptions from higher amount) (Wales) Regulations 2015 prescribed the classes of dwelling that are excepted from a Premium being charged, and they apply as follows:
- 4.4 Long-term empty & substantially unfurnished dwellings:
- Class 1- Properties being marked for sale (**exception period up to 12 months**)
  - Class 2 – Properties being marketed for let (**exception period up to 12 months**)
  - Class 3 – Annexes forming part of, or being treated as part of the main dwelling
  - Class 4 – Dwellings which would be someone's sole or main residence if they were not residing in Armed Forces accommodation or were not in service in the Armed Forces of the Crown.
- 4.5 Dwellings occupied periodically:
- Class 1- Properties being marked for sale (**exception period up to 12 months**)
  - Class 2 – Properties being marketed for let (**exception period up to 12 months**)

- Class 3 – Annexes forming part of, or being treated as part of the main dwelling
- Class 4 – Dwellings which which would be someone’s sole or main residence if they were not residing in Armed Forces accommodation or were not in service in the Armed Forces of the Crown.
- Class 5 – Occupied caravan pitches and boat moorings
- Class 6 – Seasonal homes where year-round occupation is prohibited
- Class 7 – Job-related dwellings

## **5. Financial Implications**

- 5.1 Any additional funds raised through the council tax premium on long term empty and periodically occupied dwellings would be retained by the authority and would not be incorporated into the tax base for the calculation of Revenue Support Grant. The Welsh Government have not ring-fenced how authorities use any additional funds generated through a premium.
- 5.2 Any reduction in number of long term empty and periodically occupied dwellings could have a positive impact on the Revenue Support Grant. The Welsh Government Financial Settlement is based on a Standard Spending Assessment (SSA). Any increase to the indicators used to calculate the SSA can have a positive impact if the change is in line with the rest of Wales. If for example Powys pupils increased the share for Powys may increase.
- 5.3 Charging a Council Tax premium can be a positive incentive to bring long-term empty or periodically occupied dwellings back into full use. However in certain circumstances it needs to be recognised that this may for some place an additional financial burden on the owners of such properties who may face genuine difficulty in disposing of property or bringing property back into use. The classes of dwellings where a premium may not be charged offer some assurances to such owners who meet the criteria set.
- 5.4 Under Section 13a of Local Government Finance Act, discretionary powers exist to reduce the council tax liability as the council sees fit. The power can be exercised in a particular case or by determining a class. The power may be used to reduce council tax liability where a premium is applicable. The Council will consider each case on its merits having regard to the circumstances of the case.
- 5.5 The charging of a premium on long-term empty properties and properties occupied periodically will increase the council tax yield. The table below estimates the potential increase in the Councils tax yield based on implementing the premiums, whilst giving an indication of the impact in a reduction in the number of properties where a premium would be applicable (due to becoming occupied or being excepted from a premium).

<b>Prescribed Class</b>	<b>No: Accounts</b>	<b>17-18 liability</b>	<b>10% reduction</b>	<b>20% reduction</b>	<b>30% reduction</b>
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2nd Home	1,261	1,864,184	1,677,765	1,491,347	1,304,929
Long-term Empty	1,220	1,675,150	1,507,635	1,340,120	1,172,605
		<b>3,539,334</b>	<b>£3,185,401</b>	<b>£2,831,467</b>	<b>£2,477,534</b>

<b>0% Premium</b>	Nil	Nil	Nil
<b>30% Premium</b>	£955,620	£849,440	£743,260
<b>50% Premium</b>	£1,592,700	£1,415,734	£1,238,767

- 5.6 The figures quoted as potential additional Council Tax yield in above table does not reflect loss in collections and it would be prudent to assume a lower collection rate for the premium to current in-year Collection rate of 97.6%.
- 5.7 Council properties that are unoccupied and substantially unfurnished for a period of 12 months would be subject to the premium, at present there are 12 such properties with a Council tax liability of £15,400.
- 5.8 No revenue from a premium has been included within the medium term financial plan as the policy intent is to reduce the number of long-term empty and partially occupied properties within the county.

## **6. One Powys Plan**

- 6.1 This proposal links to the one Powys plan by supporting the outcome for stronger, safer and economically viable communities by bringing properties back into full use.

## **7. Administrative Procedures**

- 7.1 There will be difficulties in identifying which properties are periodically occupied as there has been no previous requirement to ask council tax payers to specify if a property was a holiday/second home as this status had no bearing on the level of council tax payable.
- 7.2 A recent exercise revealed that 75% of properties classed as second homes had a mailing address which was out of county. New checks would be implemented in order to identify and verify second homes.
- 7.3 Legislation determines as to whether a holiday let property falls to be liable for Council Tax or Business Rates, a property is liable for Business Rates when a property is available to let for 140 days a year **and** actually let for a period of 70 days or more. The administration of this is undertaken by the Valuation Office Agency. There is potential for properties to

move between Council Tax and Business Rates due to meeting this criteria equally properties may move from Business Rates to Council Tax due to above criteria no longer being met.

- 7.3 In relation to long term unoccupied and unfurnished properties, these were reviewed annually and going forward intelligent reviews would be undertaken through use of available datasets to identify long-term empty properties.
- 7.4 Robust checking regime will be introduced to ensure where a premium or an exception to a premium is appropriate it is applied. Neighbouring authorities who have introduced a premium reported significant additional administrative work was generated in dealing with queries and administering the premium. If a premium is introduced the resource capacity to manage the additional administrative processes including the billing, collection and recovery within Income & Awards section would need to be considered.

## **8. Options Considered/Available**

- 8.1 Option one – No premium for long-term empty and periodically occupied properties
- 8.2 Option Two – 30% premium for long-term empty and periodically occupied properties
- 8.3 Option Three – 50% premium for long-term empty and periodically occupied properties

## **9 Preferred Choice and Reasons**

- 9.1 That option Three be adopted, and a 50% premium for both long-term empty and periodically occupied properties be determined so that a premium be charged from **1<sup>st</sup> April 2017**, and this decision shall remain effective each financial year unless rescinded.
- 9.2 That the premium for both long-term unoccupied and periodically occupied properties be the same (at 50%) in order to prevent “premium avoidance tactics” being undertaken, so that the status of a property falls into a prescribed class with a lower council tax premium.
- 9.3 Determining to charge a 50% premium will act as an incentive for owners of long term empty and periodically occupied properties to bring them back into use thus increasing the availability of housing stock, which in turn will provide a positive impact on the sustainability of local communities.
- 9.4 Following a determination to charge a 50% premium, the council would Monitor and review the impact of such a premium on the number of long term empty and periodically occupied premises and the Council has the discretion to

vary or revoke a determination made, provided it is does so before the beginning of the financial year to which the determination applies.

**10. Sustainability and Environmental Issues/Equalities/Crime and Disorder, Welsh Language/Other Policies etc**

10.1 An equality impact assessment has been undertaken, see appendix two.

**11. Children and Young People's Impact Statement - Safeguarding and Wellbeing**

11.1 There is no impact on children and young people

**12. Local Member(s)**

12.1 The Polices will apply equally throughout the County

**13. Other Front Line Services**

13.1 There is no impact on front line services

**14. Support Services (Legal, Finance, HR, ICT, BPU)**

14.1 The Professional Lead-Legal recognises that the changes proposed in this report will require a robust regime in identifying the properties that fall into the categories which this report aims to target before any enforcement of the policy proposed can be enforced. There are likely therefore to be increases in both administration and legal work and costs to be considered.

14.2 Finance commented: The recommendation in the report is supported as the additional funds can be utilised in whole by the Authority thus aiding the overall Medium Term Financial Strategy.

**15. Local Service Board/Partnerships/Stakeholders etc**

15.1 Not applicable

**16. Communications**

16.1 There is a requirement to publicise the decision in local media within 21 days of a determination being made.

16.2 Communications commented: The report is of public interest and requires use of news release and social media to publicise the report and decision.

**17. Statutory Officers**

17.1 The Strategic Director Resources (S151 Officer) notes the financial implications of the decision.

17.2 The Solicitor to the Council (Monitoring Officer) has commented as follows: "I note the legal comment and have nothing to add to the report.

**18. Members' Interests**

18.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
<ul style="list-style-type: none"> <li>• To determine, that in accordance with Section 139 Housing (Wales) Act 2014 and Local Government Finance Act 1992 (as amended) Sections 12A &amp; 12B, to charge a premium of 50% from 1<sup>st</sup> April 2017 for long-term empty properties and periodically occupied properties.</li> <li>• Determine that this decision shall remain effective each financial year unless varied or revoked.</li> <li>• To publish the determination within 21 days in at least one local newspaper in accordance with Section 12 of the Local Government Finance Act 1992.</li> </ul>	<p>The council is required to make a determination in order to charge a premium and publish the decision under section 12 of the Local Government Finance Act 1992.</p>

Relevant Policy (ies):			
Within Policy:	Y	Within Budget:	Y

Relevant Local Member(s):	
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Person(s) To Implement Decision:	David Morris
Date By When Decision To Be Implemented:	1 <sup>st</sup> April 2017

Contact Officer Name:	Tel:	Fax:	Email:
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David Morris	01597 826687	David.morris@powys.gov.uk
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**Background Papers used to prepare Report:**

**Housing (Wales) Act 2014**

**The Council Tax (Exceptions to higher amounts) (Wales) Regulations 2015**

**Powys County Council Empty Homes Strategy.**

**Appendix One**

**Appendix Two**