

COUNCIL TAX PREMIUMS

**FINANCE, MODERNISATION & PERFORMANCE
(COUNCILLOR CHRIS WEAVER)**

AGENDA ITEM: 5

Reason for this Report

1. To provide information and consider the discretionary powers to charge higher amounts of Council Tax (Premiums) on long-term empty dwellings provided for by the Housing (Wales) Act 2014.

Background

2. The Housing (Wales) Act 2014 amended the Local Government Finance Act 1992 by inserting section 12A, which gave the Council the discretion to discontinue any discounts granted to long-term empty homes and apply a premium of up to 100% on top of the standard rate of Council Tax.
3. In 2019, Cardiff Council decided to apply a premium of 50% on long-term empty dwellings and then, in March 2023, the Council decided to increase the premium charge to 100% from 1st April 2023. The reason for introducing the premium was to encourage homeowners to bring properties back in occupation. A long-term empty dwelling is defined as a dwelling that is both unoccupied and substantially unfurnished for a continuous period of at least a year. Therefore, a Council Tax charge of 200% is currently made on these properties (a 100% premium plus the 100% standard charge).
4. In March 2023, the Council decided to charge second homes/furnished properties that are no-one's residence a 100% premium. The Council provided the statutory 12 month notice for this premium and this charge will become effective from 1st April 2024.
5. The Council can make, vary, or revoke a determination made under Section 12A of the 1992 Act, but only before the beginning of the financial year to which the determination applies. Where a determination is made to apply a Council Tax premium, a local authority must publish a notice of the determination in at least one newspaper circulating in its area within 21 days of the date of the determination.

6. Council Tax legislation provides for several specific exemptions from the charge, including several exemptions where a dwelling is unoccupied and substantially unfurnished such as a dwelling that is undergoing structural repairs (for up to 12 months) and a dwelling that is unoccupied and substantially unfurnished (for up to 6 months). A dwelling that is exempt from Council Tax is not liable for a premium. However, where a dwelling is no longer eligible for an exemption, but remains unoccupied, it may become liable for the premium. In the case of a dwelling that is unoccupied and substantially unfurnished, it could be liable for a premium after it has been empty for a continuous period of one year.
7. Additionally, a premium cannot be charged on a dwelling that falls within an exception class. The Council Tax (Exceptions to Higher Amounts Wales) Regulations 2015 set out the following exceptions:

Class	Definition	Application
Class 1	Dwellings being marketed for sale – time limited for one year.	Second Homes and Long-Term Empty Properties
Class 2	Dwellings being marketed for let – time limited for one year	
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	
Class 5	Occupied caravan pitches and boat moorings	Second Homes
Class 6	Seasonal homes where year-round occupation is prohibited	
Class 7	Job-related dwellings	

8. The Council Tax (Long-term empty Dwellings and Dwellings Occupied Periodically) (Wales) Regulations 2022 have now further amended Sections 12A and 12B of the Local Government Finance Act 1992 to provide that, with effect from 1st April 2023, the Council has the discretion to charge a premium of up to 300% on top of the standard rate of Council Tax on both properties occupied periodically and long-term empty properties.
9. This will enable Councils to decide the level which is appropriate for their individual local circumstances. Councils will be able to set the premium at any level up to the maximum, and they will be able to apply different premiums to properties occupied periodically and long-term empty properties.

Long-term empty dwellings

10. Many issues of community concern arise from some of the empty properties within the city; these include fly tipping, nuisance, vandalism, criminal activity, and visual deterioration, all of which have the potential to adversely affect neighbouring properties and residents. Some empty properties can be a blight on a local community and boarded up dwellings have a significant impact on the way potential investors perceive an area. In addition to the above, empty properties also represent a wasted resource considering the housing demand within the city. As at 31st December 2023, there were 1563 empty for more than six months at any one time and the Housing Enforcement Team within Shared Regulatory Services (SRS) actively monitors 200 of those empty properties on a prioritised basis as part of the Private Sector Empty Homes Policy. Priority is given to problematic empty homes and those vacant for more than 5 years.
11. In addition to reactive visits to complaints about empty properties, SRS work proactively to capture the wider scope of long-term empty properties. The Council seeks to incentivise owners to act positively in bringing properties into beneficial use in several ways. These include signposting owners to the Houses into Homes loan scheme, providing a list of private property developers, referring to a Housing Association for lease and repair where feasible or providing proof of empty status letters for VAT reduction on renovation costs. Although some owners may be receptive to this approach, there are of course situations where owners are absent and cannot be traced or are resistant to resolving the issues. In these circumstances, SRS can exercise a number of enforcement powers. These can deal with immediate issues such as fly tipping and making premises secure to more long-term solutions such as enforced sale or compulsory purchase.
12. The number of long-term empty properties that are charged a Council Tax premium has only reduced from 882 at the beginning of April 2023 to 808 on 16th January 2024, despite the level of the premium charge being increased to 100% from 1st April 2023. Even more concerning is that more than half of these properties (406) have currently been empty for more than 2 years and 252 of these properties have been empty for more than 3 years. This is an indication that the current level of premium may not be sufficient to act as an added incentive to bring properties back into beneficial occupation.

Options for level of premiums

13. With effect from 1st April 2023, the Council has the discretion to charge a premium of up to 300% on both long-term empty dwellings and properties that are occupied periodically.
14. Where a Council decides to charge a premium on long-term empty dwellings, it may specify different percentages for different dwellings based on the length of time for which they have been empty. This enables Councils to take a stepped approach, with incremental increases applying over time.

Proposal to increase the rate of premium for long-term empty dwellings

15. The Council is committed to minimising the number of empty properties that exist in view of the housing demand within the city and the impact that some empty properties have upon the local community.
16. To seek to achieve this, it is proposed that the premium rate for long-term empty dwellings that have been unoccupied and substantially unfurnished for more than 24 months is increased from 100% to 200% and for more than 36 months is increased from 100% to 300%. It is proposed that this change is effective from 1st April 2024.
17. The reason for adopting this incremental approach where premium charges increase over time is that the Council is keen to target those dwellings that have been empty for an extended period. It is hoped that this increased premium will encourage owners to either sell or bring the property back into occupation.

Consultation

18. A determination by a Council to charge a premium must be made by full Council. Prior to doing so, a Council must give due consideration to its statutory duties to carry out equality impact assessments under the Equality Act 2010 and the Welsh Public Sector Equality Duties 2011 (see **Appendix 1**) and to all other relevant considerations. The Welsh Government has also stated that a Council should consider engagement and consultation with key stakeholders, including the local electorate, before taking a decision as to whether or not to charge a premium.
19. The advice from Welsh Government is guidance and has no statutory obligation. The Council has previously consulted twice on the implementation of long-term empty premiums. The most recent consultation concluded in January 2023, which was overwhelmingly in favour of long-term empty premiums.

Other Councils

20. Over recent years, the use of premiums by Welsh Councils has increased with the majority now charging some form of premium.

Potential additional income

21. The Welsh Government has confirmed that Councils are able to retain any additional funds generated by implementing premiums and amendments to the calculation of the tax base will be made to facilitate this. However, Councils are encouraged to use any additional revenue generated to help meet local housing needs in line with the policy intentions of the premiums.

Reason for Recommendation

22. It is necessary for the Council to consider the discretionary powers that are available in relation to applying Council Tax premiums.

Financial Implications

23. Local authorities will be able to retain any additional funds generated by implementing the Council Tax premiums, although it should be noted that the Welsh Government is encouraging authorities to use any additional revenue generated to help meet local housing needs. The additional cost of administration and recovery needs to be considered when identifying the overall benefits of implementing a premium. No additional administration resources are requested currently as it is difficult to assess the impact prior to its implementation. This area will be kept under review and if additional resources are required it would be a first call on any income generated.

Legal Implications

24. The relevant legislative references appear throughout the text of this report. Specifically, section 12A of the Local Government Finance Act 1992, which empowers the Council to implement Council Tax premiums of the type described within the report, subject to following the processes set out within the Act and in the body of the report.
25. Section 12A does not impose a formal consultation requirement on the Council. However, the Welsh Government does advise that Councils undertake engagement and consultation when considering a Council Tax premium. The most recent consultation on this subject was concluded in January 2023. It is good practice for the Council to take that recent consultation into account as a part of its decision-making process.
26. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Equalities & Welsh Language

27. In considering this matter the decision maker must have regard to the Council's duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must, in making decisions, have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are: (a) Age, (b) Gender reassignment, (c) Sex, (d) Race – including ethnic or national origin, colour or nationality, (e) Disability, (f)

Pregnancy and maternity, (g) Marriage and civil partnership, (h) Sexual orientation, (i) Religion or belief –including lack of belief.

28. When taking strategic decisions, the Council also has a statutory duty to have due regard to the need to reduce inequalities of outcome resulting from socio-economic disadvantage ('the Socio-Economic Duty' imposed under section 1 of the Equality Act 2010). In considering this, the Council must take into account the statutory guidance issued by the Welsh Ministers ([WG42004 A More Equal Wales The Socio-economic Duty Equality Act 2010 \(gov.wales\)](#)) and must be able to demonstrate how it has discharged its duty.
29. An Equality Impact Assessment has been carried out which aims to identify the equalities implications of the proposed decision, including inequalities arising from socio-economic disadvantage. Due regard should be given to the outcomes of the Equality Impact Assessment annexed at **Appendix 1**.
30. The decision maker should be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

The Well-being of Future Generations (Wales) Act 2015

31. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales – a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible. In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in the Council's Corporate Plan 2023-26.
32. When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well-being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
33. The well-being duty also requires the Council to act in accordance with the 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
 - Look to the long-term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrated approach to achieving the 7 national well-being goals

- Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them
34. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible online using the link below:
<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

HR Implications

35. There are no HR implications in this report.

Property Implications

36. There are no further specific property implications in respect of the Council Tax Premiums report. Where there are any relevant property management matters, property transactions or valuations required to deliver any proposals, they should be done so in accordance with the Council’s Asset Management process and in consultation with Strategic Estates and relevant service areas.

RECOMMENDATION

It is recommended that Cabinet recommends to Council that, with effect from 1st April 2024, the premium charge of 100% on long-term empty dwellings is increased to 200% for dwellings that have been unoccupied and substantially unfurnished for more than 24 months, and to 300% for dwellings that have been unoccupied and substantially unfurnished for more than 36 months.

SENIOR RESPONSIBLE OFFICER	Christopher Lee Corporate Director Resources
	23 February 2024

The following appendix is attached:

Appendix 1: Single Impact Assessment