

COUNCIL: 29 NOVEMBER 2018

CABINET PROPOSAL

COUNCIL TAX UNOCCUPIED DISCOUNTS AND PREMIUMS

Reason for this report

1. For Cabinet to:
 - Note the impact that long term empty properties can have on communities.
 - Recommend to Council the removal of the 50% council tax discount that is currently granted to dwellings that are unoccupied and unfurnished.
 - Approve a public consultation on the application of discretionary powers that are available to charge council tax premiums for long term empty dwellings.

Long term empty dwellings in Cardiff

2. Many issues of community concern arise from empty properties; these include fly tipping, nuisance, vandalism, criminal activity and visual deterioration, all of which have the potential to adversely affect neighbouring properties and residents. 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 in light of the housing demand within the city. There are currently 1700 properties empty for more than six months at any one time and the Housing enforcement team within the Shared Regulatory Services (SRS) actively monitor 200 of those empty properties on a prioritised basis as part of the Cardiff Housing Strategy.
3. In addition to reactive visits to complaints about empty properties, the SRS also 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 a number of 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, the SRS is able to

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.

Removal of 50% discount for unoccupied and unfurnished properties

4. Currently where dwellings are unoccupied and unfurnished a 50% discount is granted from the council tax charge after any statutory period of exemption has expired (dwellings that are unoccupied and unfurnished can receive a six months exemption and dwellings that are undergoing or requiring structural repair can receive a twelve month exemption).
5. Section 75 (subsection 2) of the Local Government Finance Act 2003 gives local authorities the power to vary or discontinue the discount applied to unoccupied properties. If this discretion is used then a resolution must be passed at full Council before the beginning of the financial year to which the determination applies. Where a determination is made to discontinue a discount, 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.

Council tax premiums

6. The Housing (Wales) Act 2014 has amended the Local Government Finance Act 1992 by inserting section 12A which gives 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.
7. 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.
8. Council Tax legislation provides for a number of specific exemptions from the charge including a number of exemptions where a dwelling is unoccupied 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).
9. 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.
10. A long-term empty dwelling is defined as a dwelling which is both unoccupied and substantially unfurnished for a continuous period of at least a year.

11. The furnishing or occupation of a dwelling for one or more periods of six weeks or less during the year will not affect its status as a long-term empty dwelling. In other words, a person cannot alter a dwelling's status as a long-term empty dwelling by taking up residence or installing furniture for a short period.
12. Where a billing authority makes a determination to charge a premium on long-term empty dwellings, it may specify different percentages (up to a maximum of 100 per cent) for different dwellings based on the length of time for which they have been empty. This gives the discretion to take a stepped approach with incremental increases applying over time.

Exceptions to Council Tax Premiums charged on Long Term Empty Properties.

13. A premium cannot be charged on a dwelling that falls within an exception class. The Council Tax (Exceptions to Higher Amounts Wales) Regulations 2015 sets out the following exceptions –

Classes of Dwellings	Definition	Application
Class 1	Dwellings being marketed for sale – time-limited for one year	Long-Term Empty Homes and Second Homes
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	

Welsh Government Aims and Objectives

14. Guidance has been provided by the Welsh Government for each exception class. The guidance provided states that these discretionary powers are intended to be a tool to help local authorities to bring long term empty homes back into use to provide safe, secure and affordable homes and support local authorities in increasing the supply of affordable housing and enhancing the sustainability of local communities.
15. In considering whether or not to charge a premium, regard should be given to these aims and taking other factors into account such as the numbers and percentages of long term empty homes and second homes in the area. The distribution of these dwellings and their impact on property values, demand for affordable homes and the effects on tourism and the local economy.

Numbers and percentages of long term empty dwellings in Cardiff

16. As at 31st July 2018 there were 155,801 dwellings on the Council Tax Valuation list and currently 3468 (2.2%) are recorded as being unoccupied and substantially unfurnished. Of this figure 1755 are exempt and out of the remaining dwellings 857 (24.7% of the vacant dwellings and 0.55% of the total number of dwellings) had been unoccupied and substantially unfurnished for more than 12 months.
17. The figures above give an indication of the numbers of properties that may be affected if a decision is made to charge a premium on long term empty dwellings although it should be noted that this is subject to the exceptions detailed in paragraph 13. The number of empty dwellings is also constantly changing so the figures are variable.
18. It is very difficult to estimate how many exceptions there will be. A review of the council tax file was undertaken on 50 of the long term empty dwellings and thirteen of these dwellings were found to be for sale which constitutes 26% and if the premium is applied this figure is likely to significantly increase. Therefore, at this stage and based on the little information we have, a reasonable estimate may be to reduce the potential additional income by 50% for long term empty dwellings.

Distribution of Long term Empty Homes throughout the city

19. The table below gives details of how the 857 long term empty properties are split over the parishes (subset of wards for council tax purposes) within the city and their bands.

Admin Unit Name	Properties	A	B	C	D	E	F	G	H	I
Adamsdown	38	1	9	13	10	2	0	1	1	1
Butetown	19	0	2	2	5	6	2	2	0	0
Caerau	11	2	3	4	1	0	1	0	0	0
Canton	44	1	8	10	12	8	4	1	0	0
Castle	18	0	2	4	4	5	1	0	0	2
Cathays	45	1	15	5	6	13	4	0	0	1
Cyncoed	26	0	2	1	2	7	4	7	1	2
Ely	17	0	11	5	0	0	1	0	0	0
Fairwater	23	1	4	6	11	1	0	0	0	0
Gabalfa	24	0	1	6	4	10	3	0	0	0
Grangetown	71	1	12	17	13	21	5	0	1	1
Heath	26	0	0	2	8	7	7	2	0	0
Lisvane	11	0	0	1	0	2	3	2	1	2
Llandaff	25	0	0	0	9	11	3	1	0	1
Llandaff North	12	0	1	1	7	3	0	0	0	0
Llanedeyrn	12	0	2	5	5	0	0	0	0	0
Llanishen	19	0	0	5	5	0	2	5	1	1
Llanrumney	17	4	4	6	1	2	0	0	0	0
Old St Mellons	9	1	1	3	0	0	0	2	1	1
Pentwyn	11	0	2	6	1	1	1	0	0	0

Pentyrch	6	0	1	1	2	0	0	1	0	1
Penylan	37	1	4	2	6	7	11	3	1	2
Pontcanna	31	0	3	3	8	8	5	3	1	0
Pontprennau	6	0	0	0	3	3	0	0	0	0
Radyr	13	0	0	3	6	3	1	0	0	0
Rhiwbina	27	0	0	3	4	8	10	2	0	0
Riverside	40	0	11	17	8	3	1	0	0	0
Roath	104	6	33	20	19	15	8	2	0	1
Rumney	17	1	3	4	6	3	0	0	0	0
Splott	30	2	6	8	14	0	0	0	0	0
St Fagans	8	0	0	0	0	4	0	1	2	1
Thornhill	6	1	0	0	4	1	0	0	0	0
Tongwynlais	4	0	0	1	1	1	0	1	0	0
Tremorfa	10	0	1	8	1	0	0	0	0	0
Trowbridge	10	1	0	4	2	2	1	0	0	0
Whitchurch	30	0	1	8	4	11	3	2	1	0
	857	24	142	184	192	168	81	38	11	17

20. The spread of long term empty property across the parishes seems to be fairly even given the size of each parish. Grangetown and Roath are larger parishes hence the higher volume of long term empty dwellings whereas St Fagans, Tongwynlais, Pontprennau, Thornhill, Pentrych and Old St Mellons are smaller parishes.

Options for level of premiums

21. The maximum level of premium that can be applied to long term empty dwellings is 100% which would result in the owner of these dwellings receiving a bill for 200% of the council tax charge. If the Council decides to adopt this the earliest that the premium could apply for long term empty property would be 1st April 2019 (a consultation exercise would also need to take place before any decision is made and then a determination would need to be made by 31st March 2019).
22. The legislation also permits that different percentage premiums can be applied, for example the options of the level of the premiums that could be considered could range from 25%, 50%, 75% or 100% on top of the standard level of council tax. The Council also has the discretion to extend the time period before applying a premium therefore although the legislation allows the Council to apply a premium after twelve months it can extend this time to allow owners further time to bring a property back into use. For example, the Council could decide to charge a premium after 24 months.

Potential additional income

23. This report recommends that the 50% discount for unoccupied and unfurnished dwellings is discontinued. There is no need for a public

consultation for this decision but the discount must be revoked before any council tax premiums may be applied.

24. With regard to premiums the Welsh Government have confirmed that local authorities 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, authorities are encouraged to use any additional revenue generated to help meet local housing needs in line with the policy intentions of the premiums.
25. An analysis of the potential income from the disapplication of the 50% discount and the application of a premium has been undertaken. For the purposes of the estimate we have used the 857 dwellings (see 16 above) that had been unoccupied for twelve months or more and calculated a full charge for these using the 2018/19 council tax charges assuming a Band D charge. NB these figures are calculated on the basis that the properties concerned will continue to remain unoccupied for whole of the financial year
26. It would mean that approximately a further £600,000 would need to be collected due to the disapplication of the 50% unoccupied discount on these dwellings. It is also anticipated that by applying a 50% premium for long term empty dwellings this would raise approximately £600,000 less 50% for excepted dwellings (see 18 above) = £300,000. This would mean that properties that have been unoccupied and unfurnished for between six and twelve months would see an increase in the charge from 50% to 100% and properties that have been empty for longer than a year would see an increase in charge from 50% to 150%. This should be seen in the context of a policy decision to encourage an increase in dwellings being brought back into use .As stated previously a local authority has the discretion to decide on the level of premium that is charged and apply different percentage premiums for different time periods.

Consultation

27. The determination by a local authority to charge a premium under section 12a of the Local Government Finance Act 1992 must be made by full Council. Prior to doing so a local authority 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 and to all other relevant considerations. The Welsh Government has also stated that a local authority should give consideration to engagement and consultation with key stake holders, including the local electorate, before taking a decision as to whether or not to charge a premium.
28. The consultation would be open to all stakeholders with appropriate coverage on both the website and Council buildings such as hubs, housing offices and libraries.

Additional Issues to consider before deciding to apply premiums

29. The various exemptions from the council tax premiums that have been prescribed by the Welsh Government (marketed for sale or marketed for rent) will further complicate the administration and collection of the premiums. Each claim will need to be verified and where difficulties arise more detailed checks will need to be undertaken increasing both the cost of administration and collection.
30. If a decision is made to apply the long term empty premium then additional resources will be necessary to manage the increase in workload and an additional Council tax Assistant post would be required. In addition to this provision of an additional officer resource to the SRS should also be considered. This team aim to target empty properties to bring them back into beneficial use. This would undoubtedly assist in driving forward further proactive policy work in this area and contribute to the wider aims of the Housing Strategy for Cardiff.

Reason for Recommendations

31. It is necessary for the Cabinet and Council to consider both the disapplication of the 50% discount for unoccupied and unfurnished dwellings and the discretionary powers that are available in relation to applying Council Tax premiums.

Financial Implications

32. 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 financial benefits of implementing a premium for long term empty dwellings. The additional staffing cost could be funded from the additional income collected.
33. The removal of the 50% discount will increase the council tax base for the Council. The removal of the discount creates an additional council tax charge of 50% to be collected. Welsh Government use the Council Tax Base for redistribution of Revenue Support Grant and any increase in tax base will result in an equivalent reduction in Revenue Support Grant.

Legal Implications

34. Legal Implications appear throughout the text of this Report.
35. If a decision is made to adopt a Council Tax premium then an Equality Impact Assessment will need to be carried out.
36. 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 eg. 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.

Cabinet Decision

37. Cabinet considered this report on 15 November and resolved that:

- it be noted that long term empty properties have a negative impact on communities.
- the undertaking of a consultation exercise on the application of a council tax premium for long term empty dwellings be approved
- the results of the consultation exercise be considered at a future Cabinet meeting in order to inform a final decision to be taken at Council early in 2019.

Cabinet Proposal

Council is recommended to agree that the 50% council tax discount that is currently granted to unoccupied and unfurnished dwellings be discontinued with effect from 31st March 2019. This means that from 1st April 2019 there will be no discount awarded to these dwellings.

THE CABINET
15 November 2018