

COUNCIL:

9 MARCH 2023

CABINET PROPOSAL

COUNCIL TAX PREMIUMS

Reason for this Report

1. On 15th December 2022 the Cabinet resolved to undertake a consultation exercise on a proposal to both introduce a premium for properties that are occupied periodically (including second homes) and to consider amending the current level of premium for long term empty dwellings.

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 with effect from 1st April 2019. The reason for introducing the premium was to encourage home owners 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 150% is currently made on these properties (a 50% premium plus the 100% standard charge).
4. 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.
5. The Housing (Wales) Act 2014 also amended the Local Government Finance Act 1992 by inserting Section 12B which gave the Council the discretion to apply a premium of up to 100% on top of the standard rate of council tax on properties occupied periodically (for example second homes and furnished dwellings that are not anyone's main home). So far, the Council has not decided to apply a premium on these types of dwellings.

6. If a determination is made under Section 12B then it must be made at least one year before the beginning of the year to which it relates.
7. Council Tax legislation provides for several 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). 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.
8. 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	

9. 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 property.
10. 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 property.

Long Term empty dwellings

11. 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. This year's figures show that there are 1232 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 Private Sector Empty Homes Policy. Priority is given to problematic empty homes and those vacant for more than 5 years.
12. 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 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, the 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.
13. The number of long-term empty properties that are charged a Council Tax premium has increased from 732 in April 2019 to 871 at the end of January 2023 which 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.
14. Long term empty dwellings have been charged 150% since 1st April 2019 which is made up of a 50% premium plus the 100% standard council tax charge.

Dwellings occupied periodically

15. A property that is occupied periodically is defined as a dwelling that is not a person's sole or main residence and is substantially furnished. These dwellings are referred to in the Local Government Finance Act (LGFA) 1992 as dwellings occupied periodically but they include "second homes".

16. The Council Tax records indicate that at the end of January 2023 out of 163,622 properties in the city there are nearly 3,000 that are considered to be dwellings that are not a person's sole or main residence and are furnished. Given the significant number of these type of dwellings they impact upon the available housing stock in the city.
17. These dwellings are currently charged at the rate of 100% which means that no premium is currently payable.

Options for level of premiums

18. With effect from 1st April 2023 the Council has the discretion to charge a premium of up to 300% on both long term empty and dwellings that are occupied periodically. If the Council decides to charge a premium on dwellings that are occupied periodically then it must give notice of at least one year before a premium can be charged therefore the earliest that this change could be made is 1st April 2024. The level of premium charged can be reviewed and varied for future years without the need for further consultation if it is deemed appropriate.

Proposal to increase the rate of premium for long term empty dwellings and to charge a premium on dwellings that are occupied periodically

19. The Council is committed to minimising the amount 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
20. To seek to achieve this it is proposed that the premium rate for long term empty dwellings is increased from 50% to 100% from 1st April 2023. This means that the charge on dwellings that are unoccupied and substantially unfurnished for more than 12 months will increase from 150% to 200% with effect from 1st April 2023.
21. It is also proposed that a premium of 100% is charged on dwellings that are occupied periodically (second homes and unoccupied furnished lets etc) with effect from 1st April 2024. To apply this premium the Council must give at least one year's notice. This means that the charge for dwellings that are occupied periodically will increase from 100% to 200% with effect from 1st April 2024.

Consultation

22. 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 stake holders, including the local electorate, before taking a decision as to whether or not to charge a premium.

23. Therefore, the Council has undertaken an on line consultation exercise from 23rd December 2022 to 29th January 2023.

Outcome of consultation

24. Responses were received from over 350 different stake holders including residents, businesses, landlords and second home owners.
25. The overwhelming majority of responders (78%) support the Council's proposal to increase the premium on long term empty property from 50 to 100% from 1st April 2023.
26. 73% of responders also agree with the Council's proposal to charge a 100% premium on second homes and furnished dwellings that are not anyone's main home from 1st April 2024. See appendix 2 for a summary of the survey results.

Other Councils

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

Potential additional income

28. The Welsh Government have 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.
29. Currently the existing premium of 50% on long term empty property is generating circa £400,000 per annum. Should this premium increase to 100% it is estimated that this will generate an additional £300,000 which will take the total to circa £700,000 per annum.
30. A premium charge on the 3,000 second homes and furnished dwellings that are not anyone's main home from 1st April 2024 is difficult to estimate. Unfortunately, we do not have the information to be able to accurately split this figure into dwellings that are second homes and other dwellings such as furnished dwellings that are empty between lets and service let properties etc.
31. From research that has been undertaken we have established that another Council which has charged a 100% premium on these properties has seen a reduction of around a third of the dwellings that were originally assessed and now are no longer charged a premium. It is likely that they have either been sold, rented long term, or are now rated as a business.
32. An analysis of potential income from the application of a premium has been undertaken. The 3,000 dwellings (see point 16 above) has been

reduced by a third to 2,000 dwellings in line with our research. It should also be noted that properties that are marketed for rent or sale do not have to pay a premium for up to 12 months therefore we have estimated that a further 500 dwellings could fall into this category at any one time. Based on 1,500 dwellings it is estimated that this is likely to raise circa £2.1 million. The Council's intention is to use any additional income for Housing purposes.

Reason for recommendations

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

Financial Implications

34. 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 and it is anticipated that an additional Collection Assistant post (£30k) and Council Tax Inspector post (£40k) will be required if a decision is made to increase the long term empty premium from 50% to 100% from 1st April 2023. A further review of additional resources will take place prior to the implementation of the new premium in April 2024. In addition to this the use of the revenue generated to provide additional resource to the Shared Regulatory Services 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 reactive and proactive policy work in this area and contribute to the wider aims of the Housing Strategy for Cardiff. Any increase in resource will be dependent on the additional income being collected.

Legal Implications

35. The relevant legislative references appear throughout the text of this Report.
36. The Council must consider the consultation responses and take them into account in its decision making.
37. 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 Page 6 of 6 Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances

Equalities & Welsh Language

38. 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.
39. 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.
40. An Equalities 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 Equalities Impact Assessment annexed at Appendix 1.
41. 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

42. 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 wellbeing objectives are set out in Cardiff's Corporate Plan 2020 -23.
43. When exercising its functions, the Council is required to take all reasonable steps to meet its wellbeing objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the wellbeing objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
44. The wellbeing duty also requires the Council to act in accordance with a '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

45. 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 on line using the link below:

<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

HR Implications

46. There are no HR implications in this report.

Property Implications

47. There are no further specific property implications in respect of the Council Tax Premium Report. Where the Council has any properties, property transactions or valuations affected by any proposals, they should be managed in accordance with the Council's Asset Management processes and in consultation with relevant service areas, such as Legal, with the relevant Council Tax regulations in place at the time considered as appropriate.

CABINET PROPOSAL

Council is recommended

- (1) to agree that with effect from 1st April 2023 the premium charge of 50% be increased to 100% on long term empty dwellings that have been unoccupied and substantially unfurnished for a period of 12 months or more.
- (2) To agree that with effect from 1st April 2024 that a premium charge of 100% be applied to second homes and furnished dwellings that are not anyone's main home.

**THE CABINET
2 MARCH 2023**

The following appendices are attached:
Appendix 1 Equalities Impact Assessment
Appendix 2 Summary of Survey Responses