

Report of the Section 151 Officer

Extraordinary Council – 10 March 2016

COUNCIL TAX PREMIUMS IN WALES

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| Purpose: | <ol style="list-style-type: none">1. To provide information and to consider the new discretionary powers to charge higher amounts of Council Tax on certain properties provided for by the Housing (Wales) Act 2014.2. To consider charging higher amounts (premiums) for second homes from 2017/18 as set out in section 5. |
| Policy Framework: | None. |
| Reason for Decision: | Legislative requirement |
| Consultation: | Legal, Finance, and Access to Services. |
| Recommendation(s): | It is recommended that: <ol style="list-style-type: none">1) The details of the new discretionary powers relating to Council Tax premiums outlined in this report are noted.2) The outcome of the consultation exercise undertaken by the Council is noted.3) In accordance with S139 Housing (Wales) Act 2014 that the Council exercises its discretion on whether to charge premiums of up to 100% of the standard rate of Council Tax, for dwellings occupied periodically, commonly referred to as “second homes” under Section 12B of the Local Government Finance Act 1992 from 1 April 2017 and if so, to determine the percentage of the premium to be applied, of no more than 100% of the standard charge payable.4) That the new discretionary powers relating to long term empty properties will be considered during 2016/17 once further guidance is received from Welsh Government in relation to the exceptions and impact to Council Tax base calculation. |
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1.0 Background

- 1.1 From 1 April 2017, local authorities in Wales will be able to decide and charge higher amounts (a premium) of up to 100% on top of the standard rate of council tax on second homes and long-term empty homes in their areas. The legislative changes were made by the Housing (Wales) Act 2014 and the powers given to local authorities are discretionary. Whether to charge a premium on second homes or long term empty homes (or both) is, therefore a decision to be made by each local authority.
- 1.2 The Act also gives Welsh Ministers powers to make regulations setting out exceptions to the premiums that are set out in the Council Tax (Exceptions from Higher Amount Regulations) 2015. (See section 2 below). Welsh Government (WG) has also issued guidance on implementing the premiums to ensure a fair and consistent implementation of the premiums and their exceptions across Wales.
- 1.3 At present this authority has determined under the Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998, that second homes (those that are furnished and no one's sole or main residence) are subject to a full council tax charge.
- 1.4 In relation to the premiums that apply to second homes from 1 April 2017, a second home is defined as a dwelling which is not a person's sole or main home and is substantially furnished. These dwellings are referred to in the Local Government Finance Act 1992 ("the 1992 Act") as inserted by the Housing (Wales) Act 2014, as dwellings occupied periodically and commonly referred to as "second homes".
- 1.5 In order for a premium to apply to dwellings occupied periodically, a billing authority must make its first determination at least one year before the beginning of the financial year to which the premium relates. This means that in order to charge a premium from 1 April 2017 for second homes, a billing authority must make a determination before 1 April 2016 and must be made by full Council.
- 1.6 In order for a premium to apply to long-term empty dwellings (unoccupied and unfurnished dwellings) from 1 April 2017, unlike for second homes as set out in 1.5 above, the determination to apply a premium, does not have to be made by the billing authority before 1 April 2016 and therefore further consideration and consultation, if required, can be undertaken during 2016/17 and a further report will be prepared at the appropriate time.

2.0 Exceptions to the Council Tax Premiums on Second Homes and Long Term Empty Properties.

- 2.1 A premium is not charged on a dwelling that falls within an exception. 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. | Second Homes and Long-Term Empty Properties |
| Class 2 | Dwellings being marketed for let – time limited for 1 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 | |

2.2 Further guidance has been provided by WG for each exception class, but following concerns raised by local authorities on the expected administrative difficulties when dealing with exceptions and the potential avenues for abuse, Welsh Ministers intend to issue additional guidance in the application of the exceptions for:

- Dwellings being marketed for sale;
- Dwellings being marketed for let; and
- Job-related dwellings

3.0 Current Information relating to Second Homes

3.1 As explained in 1.3 above, second homes are liable for a full council tax charge and not eligible for a discount. It is currently estimated that there are about 1800 properties that fall into the second home category within the Swansea area. Of these 1800 properties, around 1250 have been in this category for over 12 months, 1000 for over 24 months and 850 for over 36 months.

3.2 At present there are 111,467 domestic properties in Swansea. The table below shows the number of second homes, detailing periods of time

spent within each category and the percentage in relation to the total number of properties in Swansea.

| <12months | % | 12months+ | % | 24months+ | % | 36months+ | % | Total | % |
|-----------|-----|-----------|-----|-----------|-----|-----------|-----|-------|-----|
| 550 | 0.5 | 250 | 0.2 | 150 | 0.1 | 850 | 0.8 | 1800 | 1.6 |

3.3 When reviewing the distribution of second homes throughout Swansea, as expected 66% of second homes are based in the Gower, Swansea West and the Marina areas with the remaining properties being more evenly spread throughout the council area.

4.0 Welsh Government Aims

4.1 The guidance issued by Welsh Government on the implementation of Council Tax premiums states the discretion given to local authorities to charge a premium is intended as a tool 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.

4.2 When considering whether or not to charge a premium, regard should be given to these aims and also by taking certain factors into account. For example the circumstances of the area, numbers and distribution of second homes within an area, demand for affordable homes and effects on tourism and local economies.

5.0 Charging Higher Amounts of Council Tax for Dwellings Occupied Periodically (Second Homes)

5.1 At present approximately 1800 properties, currently recorded as second homes for council tax purposes are charged 100% council tax (i.e. the standard charge payable for a second home in Swansea), with an annual yield of approximately £2.3m. The new discretion allowing authorities to charge a higher amount, will allow the standard amount to be increased by a percentage of no more than 100%, thereby potentially doubling the current charge. In exercising this discretion each authority can determine and specify the percentage rate of the higher amount to be charged, for example the higher amount options that could be considered could range from charging 0%, 25%, 50%, 75%, and 100% on top of the standard rate of Council Tax.

5.2 It is likely however that any proposals to charge a premium will see the number of second homes potentially liable for the higher amount, reduce considerably due to the following factors:-

- A substantial number of properties will be for sale or rent and therefore excepted.
- Some properties may be genuine holiday lets and could transfer from council tax to the non-domestic rating list (providing that the property is available for a minimum period of 140 days per year and let for a minimum of 70 days).
- Increased charges may lead to avoidance measures and may be difficult to administer.

5.3 If the Council decides to adopt this premium in full (i.e. by specifying a percentage of 100%) from 1 April 2017 it would significantly increase the amount payable by owners of second homes subject to the premiums that did not fall into an exception class. For example the owner of a band G second home could see an increase in the council tax charge (2015/16 charge) from £2,219.47 to £4,438.94.

6.0 Consultation

6.1 A consultation exercise was undertaken in relation to the second homes premium, over the period 26 January 2016 to 22 February 2016. A letter outlining a proposal to introduce a Council Tax premium on second homes in Swansea, together with a consultation response document was sent to 1740 council taxpayers where Council Tax records indicate the property is currently classified as a second home. An on-line survey form was placed on the Council's website and consultation forms were also available from the Contact Centre, District Housing Offices and libraries. Information was also sent to various third sector organisations.

6.2 A total of 414 responses were received. As expected the vast majority of responses were received in paper format from current second homes owners. One response was received from a commercial holiday letting agency which deals with second home owners, who let their second homes as holiday accommodation.

6.3 A more detailed summary of the responses received is attached at Appendix 1.

7.0 Financial Implications

7.1 Local authorities will be able to retain any additional funds generated by implementing the premiums as advised in the recent WG guidance issued to local authorities.

7.2 The current amount of council tax charged for approximately 1800 second homes is £2.3m. The amount of additional revenue which could be generated from a premium is difficult to accurately predict due to the

uncertainty on whether properties would fall into an exception class from 1 April 2017. However the last census data revealed that there were 1100 second homes declared which indicates “true” second homes. Taking an estimated 1100 second homes into account and an estimated average charge of £1,278 (by dividing the 1800 second homes currently on the council tax system into the current £2.3m yield), the table below shows the additional revenue that could be generated from a higher amount over a range of percentages on a conservative estimate of 1100 second homes.

| Estimated Additional Revenues that could be generated from Premiums | | | | | |
|--|---|--|--|--|---|
| Estimated Second Homes (i.e. not falling into an exception class) = 1,100 | | | | | |
| Estimated Average charge = £1,278 | | | | | |
| Current Revenue for 1,100 Properties | Current Revenue for 1,100 properties + 0% Premium | Current Revenue for 1,100 properties + 25% Premium | Current Revenue for 1,100 properties + 50% Premium | Current Revenue for 1,100 properties + 75% Premium | Current Revenue for 1,100 properties + 100% Premium |
| £1,405,800 | £1,405,800 | £1,757,250 | £2,108,700 | £2,460,150 | £2,811,600 |
| Estimated Difference in Additional Revenues | | | | | |
| | 0% | 25% | 50% | 75% | 100% |
| N/A | Nil | £351,450 | £702,900 | £1,054,350 | £1,405,800 |

7.3 It should be noted that WG is encouraging authorities to use any additional revenue generated to help meet local housing needs in line with the policy intentions.

7.4 Some additional staff resource will probably be required to adequately check the validity of claims from second home owners claiming their property falls into an exception class to ensure revenue collection is maximised and abuse curtailed.

8.0 Legal Implications

8.1 There are no further legal implications to those set out in the report.

9.0 Equality and Engagement Implications

9.1 As stated in section 6 above, a consultation exercise has been undertaken and all second home owners, as indicated on council tax records, were sent a survey response document and a letter.

9.2 The proposal has been screened and does not require an equality impact assessment.

- 9.3 It should be noted that in terms of equality, the proposal is based on the classification of a property as a second home and not the owner or a person. Neither does it affect properties occupied as the taxpayer's sole or main residence. There is insufficient data available to accurately identify whether a group of people will be adversely affected, although it is expected a significant percentage of second homes will be owned by older people. A premium cannot be charged on a property that falls into an exception class and if a decision is made to charge premiums on second homes, further information will be sought from owners and other sources during 2016/17 to ensure exceptions are identified correctly.

Background Papers:

WG Guidance on the Implementation of the council Tax Premiums on long Term Empty homes and Second Homes in Wales

<http://gov.wales/docs/dsjlg/publications/localgov/160122-guidance-implementation-of-council-tax-premiums-en.pdf>

Appendices: Appendix 1 – Summary of Consultation Responses