



Report of the Chief Finance and Section 151 Officer

24 October 2019

Council Tax Premiums in Wales

Purpose:	<p>To provide information and consider whether to continue to allow 50% Council Tax discounts on unoccupied and unfurnished properties after any statutory period of exemption expires.</p> <p>To provide information and to consider the discretionary powers to charge higher amounts of Council Tax (premiums) on certain properties provided for by the Housing (Wales) Act 2014.</p>
Policy Framework:	None.
Consultation:	Access to Services, Finance, Legal
Recommendation(s):	<p>It is recommended that:</p> <ol style="list-style-type: none">1) The details of the discretionary powers relating to Council Tax premiums, discretionary discounts for unoccupied and unfurnished dwellings and the related issues outlined in this report are noted.2) The outcome of the consultation exercise undertaken by the Council in July and August 2019 is noted.3) In accordance with S11 Local Government Finance Act 1992 that the Council considers whether to continue to exercise its discretion and allow a 50% Council Tax discount on dwellings that remain unoccupied and unfurnished after any statutory period of exemption has expired and from 1 April 2020 ceases to allow such discounts.4) In accordance with S139 Housing (Wales) Act 2014 (which amended the Local Government Finance Act 1992) that the Council considers exercising its discretion on whether to charge Council Tax premiums of up to 100% of the standard rate of Council Tax on long term empty dwellings and second homes and:<ol style="list-style-type: none">i) From 1 April 2020 for dwellings in its area that have been unoccupied and unfurnished for more than 12 months (long term empty properties) under Section

12A of the Local Government Finance Act 1992 determines to charge a premium of 100% on top of the standard rate of Council Tax.

- ii) From 1 April 2021 for dwellings in its area that are occupied periodically (commonly referred to as “second homes”) under Section 12B of the Local Government Finance Act 1992 determines to charge a premium of 100% on top of the standard rate of Council Tax.
- 5) Should the Council determine to charge Council Tax premiums, an additional full time Council Tax Property Inspector be employed on a permanent basis to support compliance measures and a new full time post of Council Tax Premiums Officer be created for a temporary period (up to 2 years) to manage the implementation of the premiums. Both posts to be funded from the additional revenue raised from charging Council Tax premiums.

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1.0 Background

- 1.1 The Local Government Finance Act 1992 gave local councils the discretion to allow a 50% Council Tax discount on properties that remain unoccupied and unfurnished after any statutory period of exemption expires. Swansea made a decision to allow such discounts in 2005 and continues to do so.

- A determination to vary or revoke the decision to allow this discount must be made before the start of the financial year to which the decision relates.

- 1.2 From 1 April 2017, S139 The Housing (Wales) Act 2014 (which amended the Local Government Finance Act 1992) gave local authorities in Wales the discretion to charge higher amounts (a premium), of up to an additional 100% on top of the standard rate of Council Tax, on second homes and long-term empty properties. Whether to charge a premium on second homes and/or long term empty homes is an individual decision to be made by each local authority and must be made by full Council.

- A decision to charge a premium on second homes must be made at least one full year before the beginning of the financial year to which the premium relates. In order to charge a premium from 1 April 2021, a billing authority must make a determination before 1 April 2020.
- A decision to charge a premium on long-term empty properties must be made before the start of the financial year to which the premium relates. In order to charge a premium from 1 April 2020, a billing authority must make a determination by 31 March 2020.

- 1.3 The Act also gave Welsh Ministers powers to make regulations setting out exceptions which prescribe certain classes of dwelling which may not be subject to a premium. These are set out in the Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015 (see section 5 below).
- 1.4 Local authorities are able to retain any additional funds generated by implementing the premia and amendments to the calculation of the tax base have been made to facilitate this. However, authorities are encouraged by WG to use any additional revenue generated to help meet local housing needs, in line with the policy intentions of the premiums. The measure is very specifically designed to nudge individual ownership behaviours, through the local taxation system, to encourage empty and second homes to be potentially brought back into mainstream occupation, thus helping to address local housing supply shortages, and at the same time provide a direct source of revenue to assist the local authority in facilitating further measures to better match local housing supply and demand.
- 1.5 Council Tax raises approximately 27% of our overall budget requirement, with 73% coming from block revenue support grant. Consideration of the removal of the existing discount, and the introduction of premia, offers the opportunity to levy more Council Tax on certain classes of property, and home ownership types, in a much more targeted fashion, in line with the principles of the legislation, than general decisions by Council on levels of Council Tax.

2. 50% discretionary discount

- 2.1 The decision whether to allow a 50% Council Tax discount on unoccupied and unfurnished properties after any period of statutory exemption expires is a local one made by each authority. Swansea made a decision to allow this discount in 2005 and this decision has not been reviewed for some years. There is currently no time limit on this discount.

Other local authorities in Wales either allow the discount in the same way as Swansea, have never done so or have ceased doing so.

As the potential implementation of Council Tax premia is being considered, it is necessary to also consider whether to allow this discount to continue as the Council cannot decide to charge a Council Tax premium unless this discount has been removed.

Also, Welsh Government has now indicated that from April 2020, it will cease making allowances in the Revenue Support Grant (RSG) for Councils that allow this discount and any authorities continuing to do so would, in effect, be required to finance the discount themselves. This will be achieved by adjustments to the Council Tax Base calculation which in turn will result in the RSG being reduced.

- 2.2 In practice, if this discount was removed, once a statutory period of exemption expired, the standard 100% level of Council Tax would become payable immediately. This is a separate decision to the implementation of any premium although the outcomes would often be linked when determining a taxpayer's liability.
- 2.3 In Swansea we currently have 2,339 unfurnished and unoccupied dwellings liable for a 50% Council Tax charge. Although dis-applying this discount would appear to provide an opportunity to raise additional revenue, when Welsh Government changes how the Council Tax base is calculated, as it has confirmed it intends to do, then that will not be the case.

3. Dwellings Occupied Periodically (Second Homes)

- 3.1 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 at the standard amount.
- 3.2 In relation to the premiums that can be applied to second homes, 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".
- 3.3 In order for a premium to apply to a 'second home', a billing authority must make its first determination to charge a premium at least one year before the beginning of the financial year to which the premium will relate. In order to charge a premium for second homes from 1 April 2021, a determination, by full Council, would have to be made before 1 April 2020.
- 3.4 Swansea, like other authorities considering this decision, does not hold a definitive list of properties that would fall into the second home category. However, based on the details we currently hold, we estimate that there are 1884 properties that fall into the second home category within the Swansea area. Of these 1884 properties, around 676 have been in this category for under 12 months, 229 for between 12 and 24 months and 979 for more than 24 months.
- 3.5 When reviewing the distribution of second homes throughout Swansea, as expected, 65% 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. Our data also indicates that the majority of people (52%) owning such properties within Swansea have their normal home outside the city area.
- 3.6 The current amount of Council Tax charged for 1884 second homes is £3,340,967. 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. However the last census data revealed that there were 1100 second homes declared which indicates they would be “true” second homes. This would appear to broadly tie in with the 979 dwellings our records show as being second homes for over 2 years and some of the ‘holiday homes’ declared in the census will have transferred from Council Tax to Non Domestic rates since the census was taken.

Taking an estimated 1,100 second homes into account and an estimated average charge of £1,773 (by dividing the 1884 second homes currently on the Council Tax system into the current £3.3m yield), the table below shows the additional revenue that could potentially be generated from a

<u>Estimated</u> Additional Revenues That Could be Generated from Premiums on Second Homes					
Estimated Second Homes (i.e. not falling into an exception class) = 1,100					
Estimated Average charge = £1,773					
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
£1,950,300	£1,950,300	£2,437,875	£2,925,450	£3,413,025	£3,900,600
Estimated Difference in Additional Revenues					
Premium	0%	25%	50%	75%	100%
Gross estimated additional income	Nil	£487,575	£975,150	£1,462,725	£1,950,300
Less estimate reduction for excepted properties, moves into NDR and recovery rate say 20% (conservative estimate)	Nil	- £97,515	- £195,030	- £292,545	- £390,060
Net estimated additional income		£390,060	£780,120	£1,170,180	£1,560,240

higher amount over a range of percentages on this deliberately conservative estimate of 1,100 second homes.

4. Long term empty properties

- 4.1 The Housing (Wales) Act 2014 gives local authorities the discretion to charge a premium for dwellings that are considered to be long-term empty properties. The premium can be any percentage up to 100% and can be applied as soon as the property satisfies the definition of a ‘long

term empty property' (after a year of being unoccupied/unfurnished) or from a later date as decided by the Council.

4.2 At present, properties that remain unoccupied and unfurnished after any statutory period of exemption from Council Tax expires are awarded a discretionary 50% discount without any time limit as explained in paragraph 2. One of the decisions arising from this report will be whether to cease to allow that discount on all properties.

4.3 However, even if Swansea decides to continue allowing that 50% discount, to implement a premium, the legislation requires that it be removed before a premium can be charged. In practice, this means that once a dwelling is classed as long-term empty property (after one year), the current 50% discount would be dis-applied, bringing the maximum Council Tax to the standard 100% level. A premium of up to a further 100% may then be added, bringing the maximum charge to 200% of the standard charge.

However, if Swansea decides to cease to allow the 50% discount (as mentioned in 2), then the charge would already be at the standard 100% rate at the point the premium was added.

4.4 At the 2019/20 Band D annual charge of £1,602.21 (for wards without community councils), a long-term empty dwelling would currently receive a discount of 50%, leaving £810.11 to pay. A determination to apply a maximum 100% premium would result in an un-discounted Council Tax charge of £1,602.21 to which a maximum 100% premium could be applied, making a total of £3,204.42 to pay.

4.5 A long-term empty property is one which is both unoccupied and substantially unfurnished for a continuous period of one year. 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.

4.6 Where a local authority makes a determination to charge a premium on long-term empty properties, it has the discretion to charge whatever percentage rate of premium it determines is appropriate (up to a maximum of 100%) and also the date from which that premium will apply. This is intended to enable local authorities to take a stepped approach with incremental increases applying over time.

4.7 In Swansea we currently have 2,339 unfurnished and unoccupied dwellings liable for a 50% Council Tax charge. The length of time those properties have been charged at that rate are as follows:

- 1293 for less than 1 year
- 368 between 1 and 2 years
- 176 between 2 and 3 years
- 119 between 3 and 4 years
- 54 between 4 and 5 years
- 329 more than 5 years

- 4.8 The 2,339 dwellings generate an annual yield of £1,725,759 based on a 50% Council Tax charge. An average yield of £738 per empty dwelling. Based on a 100% charge they would yield an average of £1,476 per dwelling.
- 4.9 The table below provides estimated yields for premiums charged on long term empty properties with various options depending on when the premium is charged from and the amount of the premium charged. There are multiple potential combinations of when a premium could be charged from and how much that premium could be so only the most 'standard' options have been listed.

<u>Estimated Additional Revenues That Could be Generated from Premiums on Long Term Empty Properties (values have been rounded)</u>						
	Dwellings Affected	100% charge	100% + 25% premium	100%+ 50% premium	100%+ 75% premium	100%+ 100% premium
Average estimated yield		1,476	1,845	2,214	2,583	2,952
Charge premium after 1 year	1,046	£1,543,896	£1,929,870	£2,315,844	£2,701,818	£3,087,792
Potential maximum Revenue gained			£385,974	£771,948	£1,157,922	£1,543,896
Less 20% for exceptions, recovery rate, other variables = net actual additional estimated income			£308,779	£617,558	£926,338	£1,235,117
Charge premium after 2 years	678	£1,000,728	£1,250,910	£1,501,092	£1,751,274	£2,001,456
Potential maximum Revenue gained			£250,182	£500,364	£750,546	£1,000,728
Less 20% for exceptions, recovery rate, other variables = net actual additional estimated income			£200,146	£400,291	£600,437	£800,582
Charge premium after 3 years	502	£740,952	£926,190	£1,111,428	£1,296,666	£1,481,904
Potential maximum Revenue gained			£185,238	£370,476	£555,714	£740,952
Less 20% for exceptions, recovery rate, other variables = net actual additional estimated income			£148,190	£296,381	£444,571	£592,762
Charge premium after 4 years	383	565,308	£706,635	£847,962	£989,289	£1,130,616
Potential maximum Revenue gained			£141,327	£282,654	£423,981	£565,308
Less 20% for exceptions, recovery rate, other variables = net actual additional estimated income			£113,062	£226,123	£339,185	£452,246
Charge premium after 5 years	329	485,604	£607,005	£728,406	£849,807	£971,208
Potential maximum Revenue gained			£121,401	£242,802	£364,203	£485,604
Less 20% for exceptions, recovery rate, other variables = net actual additional estimated income			£97,121	£194,242	£291,362	£388,483

NB: The 20% adjustment used in the above table is a conservative estimate

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

- 5.1 A premium cannot be charged on a dwelling that falls within an exception as detailed in The Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015. Broadly these are:-

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	

- 5.2 Some further guidance has been provided by WG for each exception class.

6. Potential issues arising from the application of Council Tax premiums in Swansea.

- 6.1 **Limited data** – the estimates of the potential revenue that might be raised by dis-applying the 50% discount for unoccupied and unfurnished properties and/or charging premiums are based on limited indicative data. Also, taking into account the 12 month lead-in time before a premium can be charged coupled with external economic factors, it is difficult to accurately predict the level of income that the premia might generate. Nevertheless the overall premia likely raised would be expected to be still very significant in all scenarios.
- 6.2 **Additional resources/costs** - As part of the implementation plan, there will be a need to consider additional safeguards to mitigate tax avoidance, tax evasion or incorrect application of a premium to a

property that should be excepted. Thus ensuring owners are required to pay the correct amount of Council Tax. Current inspection resources would not permit us to investigate/inspect dwellings where we suspect avoidance is occurring with sufficient frequency. We estimate that initially, at least one additional full time permanent property inspector would be needed and also a temporary post to manage the implementation of the premiums in Swansea. These posts could potentially be funded from the additional income raised from charging the premiums and are a modest cost compared to the potential revenue raised.

6.3 **Additional Council Tax burden to the authority** – a small number of the properties currently recorded as empty for a year or more are Council owned and so the authority would have to meet the cost of the increased Council Tax on these properties.

6.4 **Tax Base Considerations** - Currently, allowances are made in the Council Tax base calculation for dwellings on which we currently allow the discretionary 50% discount for empty and unoccupied properties. Welsh Government has now indicated that from April 2020, it will cease making allowances in the Revenue Support Grant (RSG) for Councils that allow this discount and any authorities continuing to do so would, in effect, be required to finance the discount themselves. This will be achieved by adjustments to the Council Tax Base calculation which in turn will result in the RSG being significantly reduced if the discount were to be retained beyond April 2020.

In terms of the income from the premia, Welsh Government currently excludes this from Tax Base calculations, since it may be earmarked for particular use in bringing dwellings back into use following the policy intention behind the premium regulations.

7. Equality and Engagement Implications

7.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

7.2 A consultation exercise was undertaken over the period Friday 12th July and Friday 9th August in respect of the application of a Council Tax premium to second homes and long term empty properties and also the proposed amounts of those premiums (100% in both cases). To seek

general responses, as is the council's normal process, an online response form was created and also paper copies of the consultation document (including background information) were made available in libraries and the contact centre in the Civic Centre. The Council also wrote to all Council Tax payers who could be identified as potentially being affected by Council Tax premiums, if implemented, inviting them to respond to the consultation using the online form or by contacting the Council to ask for a paper copy to be posted to them.

- 7.3 A total of 567 responses were received to the survey including one from a commercial holiday letting agency which deals with second home owners who let their second homes as holiday accommodation. In addition 29 people also decided to send in a response (or to add additional information to what they had given in the survey) by letter or email.
- 7.4 A numerical analysis of the survey responses is attached at Appendix 1.
- 7.5 Due to the large number of responses/comments received, a summary of those responses and comments is attached at Appendix 2. However, copies of the letters/emails received, the comments made by respondents to the survey and the numerical analysis of the responses have been made available to members so that full consideration of the points raised could be given prior to a decision being made.
- 7.6 From the responses to the consultation it is apparent that the majority of respondents agreed that the authority should seek to introduce measures to reduce the number of long term empty properties in the Swansea area and with the proposal to remove the 50% Council Tax discount currently granted for such properties. The majority were also in favour of charging a Council Tax premium on long term empty properties although the proposed premium of 100% was not supported by the majority.
- 7.7 In respect of the proposal to charge a Council Tax premium on 'second homes'. The majority of respondents did not agree that the Council should seek to reduce the number of second homes in Swansea or that a Council Tax premium should be charged for second homes. Neither did the majority agree with the amount proposed for such a premium at 100% or that the additional revenue raised be used to help bring long-term empty homes back into use and meet local housing needs.
- 7.8 Although the points raised by the respondents to the consultation have been fully considered, the Council's approach to this issue is to use an enabling local taxation measure made specifically available by Welsh Government to engender a change in the property demographic within its area so that the number of empty properties in the area is reduced and the availability of affordable accommodation in the area is increased.

- 7.9 There are options available to mitigate the effects of Council Tax premiums in some circumstances. These are outlined in Appendix 3.
- 7.10 An Equality Impact Assessment screening for this proposal has been completed (see Appendix 4) taking into account the points raised by the consultation. This has confirmed that a full Equality Impact Assessment is not required. The premiums would be based on the classification of a property as a second home/long term empty property and not the owner or other person. There is insufficient data available to accurately identify whether a particular group of people will be adversely affected. The profile of those who took part in the consultation demonstrates that the majority of respondents were those over 50 and it is expected a significant percentage of second homes will be owned by older people and those with higher incomes. If a decision is made to charge premiums on second homes, further information will be sought from owners and other sources to ensure both liability for premiums and eligibility for exceptions are identified correctly.
- 7.11 Where a determination to charge a premium is made, 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. The Well-being of Future Generations (Wales) Act 2015

- 8.1 The Well-being of Future Generations Act requires public bodies in Wales to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems such as poverty, health inequalities and climate change.
- 8.2 Using information from the Assessment of Local Well-being and by listening to people, Swansea Council has identified four objectives and a cross-cutting action where working together will make the biggest difference to improve Swansea's well-being.
- **Early Years** - Children have the best start in life to be the best they can be.
 - **Live Well, Age Well** - To make Swansea a great place to live and age well.
 - **Working with Nature** - To improve health, supporting biodiversity and reduce our carbon footprint.
 - **Strong Communities** - To build strong communities with a sense of pride and belonging.

'Sharing for Swansea' - Our Cross Cutting Action is to make sure all services work together more in Swansea by sharing resources, assets and knowledge.

- 8.3 With more than 1,000 long term empty properties in the City area, although the Council has started to build new homes for its citizens, there are still approximately 3,900 people on the waiting list for a Council property. The Swansea Local Development Plan indicates that the City needs around 15,600 new dwellings over the period 2010-2025. Also, there is a requirement for affordable housing across all areas of Swansea, and it will be important to maximise affordable housing delivery wherever possible. One of the ways to address this problem is for the Council to introduce premiums on Council Tax, the proceeds of which can be used to help bring empty properties back into use and meet local housing needs. The application of premiums to long term empty properties will also incentivise owners into ensuring the properties are brought back into occupation without delay.
- 8.4 The existence of large numbers of long-term empty dwellings is a drain on the Council's resources, for example, in dealing with complaints and carrying out emergency repairs in default (when owners fail to maintain them properly). The Council Tax premiums could provide funds for assistance in dealing with these issues and, if the overall aim of bringing properties back into use is achieved, the burden on the public purse would be reduced.
- 8.5 In addition, the revenue raised from implementing Council Tax premiums would support the Council's wider work towards achieving the four objectives identified from the Assessment of Local Well-being . In particular, with the building of strong communities as the aspiration is that long-term empty homes are brought back into use to meet local housing needs.

9. Financial Implications

- 9.1 There are no financial implications other than those already set out in the report.

10. Legal Implications

- 10.1 There are no legal implications associated other than those already set out in the report.

Background Papers:

WG Guidance on the Implementation of the Council Tax Premiums on long Term Empty homes and Second Homes in Wales – issued in 2016.

<https://gov.wales/council-tax-empty-and-second-homes>

Appendices:

- Appendix 1 Responses to the consultation survey
Appendix 2 Summary of the responses/comments to the consultation survey
Appendix 3 Possible mitigation measures available in respect of Council Tax premiums
Appendix 4 EIA screening form