



CABINET– 13TH DECEMBER 2023

**SUBJECT: CONSULTATION ON PROPOSALS TO IMPLEMENT
COUNCIL TAX PREMIUMS ON LONG-TERM EMPTY
PROPERTIES AND SECOND HOMES**

**REPORT BY: CORPORATE DIRECTOR FOR EDUCATION AND
CORPORATE SERVICES**



1. PURPOSE OF REPORT

- 1.1 To seek Cabinet approval to undertake a consultation process on the levels of council tax premiums to apply to long-term empty dwellings and second homes.

2. SUMMARY

- 2.1 On 8th March 2023 Cabinet approved in principle the recommendation in the 'Private Sector Empty Homes Strategy 2023-2028' report, to introduce an empty homes council tax premium to incentivise private sector empty property owners into action. It should be noted that the final determination to introduce council tax premiums, and the level of such premiums, must be made by full Council.
- 2.2 This report provides information concerning discretionary powers that the Council has to charge higher amounts of council tax (a premium) on certain dwellings provided for by the Housing (Wales) Act 2014.
- 2.3 Having regard to these powers, this report seeks approval to launch a formal period of consultation on what level of premiums to apply to both long-term empty dwellings and second homes. It would be a matter for full Council to set out the details of any premium and to make the necessary determination(s) required under the legislation.
- 2.4 The first determination to charge a premium on second homes must be made by the Council at least one year before the beginning of the financial year to which it relates (section 12B (3) of the Local Government Finance Act 1992). For long-term empty dwellings, Welsh Government's statutory guidance is that the first determination is made at least 6 months before such a premium becomes chargeable.
- 2.5 Providing the necessary determinations are made by full Council before 1st April 2024, council tax premiums within the county borough could be introduced from 1st April 2025.

3. RECOMMENDATIONS

- 3.1 Cabinet is asked to: -
 - 3.1.1 note the details of the discretionary powers relating to council tax premiums as outlined in this report;
 - 3.1.2 agree to a consultation exercise on the proposed levels of council tax premiums to apply to both long-term empty dwellings and second homes as set out in the report; and
 - 3.1.3 agree that a further report, including the results of the consultation exercise, be presented to Cabinet to consider and determine the level of council tax premiums that it would recommend to full Council.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 The discretion given to Councils to charge a premium is intended to be used as part of a wider strategy to help Councils to: -
 - a) bring long-term empty homes back into use to provide safe, secure, and affordable homes;
 - b) support Councils in increasing the supply of affordable housing and enhancing the sustainability of local communities; and
 - c) prevent properties from becoming long-term problematic properties in the first place.

5. THE REPORT

- 5.1 Currently, within the county borough, unoccupied and furnished dwellings (second homes) and unoccupied and unfurnished dwellings (long-term empty properties) are subject to 100% of the standard council tax amount being charged for each dwelling. These policies have been in place since 1st April 1998 for second homes and from 1st April 2005 for long-term empty properties; the determinations were reaffirmed by full Council at its meeting on 17th July 2018. In effect, the current policies disapply the default 50% discount that would otherwise apply to such dwellings. Had the Council not already done this, it would have needed to make a determination to this effect as part of any decision to introduce council tax premiums.
- 5.2 From 1st April 2017, Councils in Wales have been able to 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 properties. The legislative changes were made by the Housing (Wales) Act 2014 and the powers given to Councils are discretionary. Whether to charge a premium on second homes and or long-term empty properties is therefore a decision to be made by each Council.
- 5.3 The Housing (Wales) Act 2014 also provides regulations which make exceptions to the premiums. These are set out in the Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015 and amended by The Council Tax (Exceptions to Higher Amounts) (Wales) (Amendment) Regulations 2023. These exceptions are detailed in paragraph 5.14 below.

5.4 From 1st April 2023, the relevant regulations have been updated by The Council Tax (Long-Term Empty Dwellings and Dwellings Occupied Periodically) (Wales) Regulations 2022, following a Welsh Government consultation exercise to allow Councils to charge a maximum premium of up to 300% on top of the standard rate of council tax.

5.5 **HIGHER AMOUNTS (PREMIUMS) FOR LONG-TERM EMPTY DWELLINGS**

For the purposes of charging a premium, a long-term empty dwelling is defined as a dwelling, which is both unoccupied and substantially unfurnished for a continuous period of at least one year.

5.6 In determining the length of time a dwelling has been empty, no account can be taken of any period before 1st April 2016. In addition, 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. Use of a property for less than six weeks does not give rise to a new exemption period.

5.7 Where a Council makes a determination to charge a premium on long-term empty dwellings, it may specify different percentages (up to a maximum of 300%) for different dwellings based on the length of time for which they have been empty.

5.8 A Council may make a determination to charge a premium for a financial year, but only before the beginning of the year. In exercising its functions, the Council must also have regard to any guidance issued by the Welsh Ministers. The current statutory guidance is that Councils should provide at least 6 months' notice before implementing a premium for long-term empty dwellings. However, a longer notice period such as 12 months is preferred to allow taxpayers sufficient time to consider the impact of a higher premium on their own personal financial circumstances and make choices regarding their property, for example, to occupy, sell or let the property.

5.9 Where a Council makes a determination under this section, it must publish a notice of the determination in at least one newspaper circulating in its area. The notice must be published before the end of the period of 21 days beginning with the date of the determination. In addition, the following actions are recommended: -

- the publication of press notices;
- providing information on the Council's website; and
- direct communication with council taxpayers who are likely to be liable for a premium.

5.10 **HIGHER AMOUNTS (PREMIUMS) FOR SECOND HOMES**

A second home 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 are commonly referred to as 'second homes'.

5.11 Where a Council makes a determination to charge a premium on dwellings occupied periodically, it may specify a percentage of not more than 300%.

5.12 In order for a premium to apply to dwellings occupied periodically, a Council must make its first determination under section 12B of the LGFA 1992, 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 1st April 2025, a determination must be made before 1st April 2024.

5.13 Where a Council makes a determination in respect of dwellings occupied periodically, it must publish a notice of the determination in at least one newspaper circulating in its area. The notice must be published before the end of the period of 21 days beginning with the date of the determination. In addition, the following actions are recommended: -

- the publication of press notices;
- providing information on the Council's website; and
- direct communication with council taxpayers who are likely to be liable for a premium.

5.14 EXCEPTIONS TO THE COUNCIL TAX PREMIUMS

A premium cannot be charged on a dwelling that falls within one of the seven Classes of Dwellings listed in Table 1. The Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015, as amended by The Council Tax (Exceptions to Higher Amounts) (Wales) (Amendment) Regulations 2023, sets out the following exceptions: -

Table 1 - Classes of Exceptions to Higher Amounts

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	

5.15 The Welsh Government has provided guidance to assist Councils in the application of the exceptions.

5.16 HOUSING STRATEGY CONTEXT

Caerphilly CBC's 'No Use Empty' Private Sector Empty Homes Strategy has a two-pronged approach: -

- a) Preventing properties from becoming problematic empty homes; and
- b) Tackling problematic empty properties on a risk assessment basis.

5.17 The Council's Private Sector Empty Homes Strategy (2023 – 2028) was developed in recognition of the high number of private sector empty homes in the County Borough and the Council's commitment to address the problem. It is acknowledged that there is an ongoing national housing crisis, combined with continuing pressure to increase the supply of available good quality homes, and that empty homes are one of Welsh Government's priorities. Most new housing supply will be delivered through new build programmes; bringing empty homes back into use can offer an economically viable option, which can also contribute to increasing the affordable housing supply. At the same time, it will have a positive impact on existing communities by improving environmental and social conditions.

5.18 Although the Council's Empty Homes Strategy has only been formally in place since March 2023, work to bring empty properties back into use has been undertaken for many years; with the Empty Property Team successful in returning 104 properties into use during 2022/23. The average per annum prior to this was circa 36. There are still a high number of empty homes across the county borough despite the Council's progress and commitment to bringing them back into use. To continue to address the issue, the recently approved Private Sector Empty Homes Strategy (2023 – 2028) needs to be fully implemented. The proposal to introduce council tax premiums fully supports this new strategy.

5.19 A recent analysis of long-term empty dwellings and second homes in Caerphilly County Borough showed that a total of 1,008 homes have been empty for more than 1 year, with 131 empty for more than 10 years. Table 2 below contains information covering 3 different time periods. While the Council continues to target these empty homes, providing advice and assistance to the homeowners in order to support them to bring them back into use, it is recognised that additional measures are required to encourage homeowners not to leave these homes empty.

5.20 Table 2 - Analysis of Second Homes and Long-Term Empty Dwellings

Empty over 10 years	131
Empty between 5 and 10 years	213
Empty between 1 and 4 years	664
Total	1,008

5.21 With 6,569 active applications currently on the Common Housing Register (01/10/23) the need for affordable housing in the county borough remains high. The 2018 based Local Housing Market Assessment showed an annual requirement for an additional 282 affordable homes per annum over a 5-year period once the turnover of the existing stock and the development of new homes had been taken into consideration. A new Local Housing Market Assessment is currently being produced and the emerging figures suggest that the requirement for additional affordable housing will remain high. By helping to increase the supply of accommodation throughout the county borough the proposal to introduce council tax premiums may help the Council towards meeting any backlog housing need.

6. ASSUMPTIONS

- 6.1 It is assumed that a proportion of the extra revenue raised would support the implementation of the Council's Empty Homes Strategy.
- 6.2 It is assumed that some of the additional revenue generated from council tax premiums will fund the additional staffing resources required within the Council Tax Team to implement and administer premiums.

7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT

- 7.1 The determination to charge a premium under these powers must be made by full Council. However, prior to doing so the Council must give due consideration to its statutory duties to carry out an integrated impact assessment under the Equality Act 2010 including socio-economic duties, the Welsh Public Sector Equality Duties 2011, incorporating its duties under the Well-being of Future Generations (Wales) Act 2015. The Council must also consider engagement and consultation with key stakeholders and the residents of the county borough.
- 7.2 These will be considered as part of the consultation exercise where the Council will seek to establish if there are any residents that have any protected characteristics or socio-economic disadvantages that prevent them dealing with a second home or long-term empty property.

8. FINANCIAL IMPLICATIONS

- 8.1 It is difficult to accurately forecast the additional revenue that may be raised by charging a premium on both long-term empty dwellings and second homes. This is because the Council Tax Team does not currently hold information regarding all of the circumstances that give rise to a dwelling being excepted (excluded) from a premium charge. In particular, dwellings up for sale or to let would be excepted from paying a premium for a period of 1 year which would reduce the estimated additional revenue accordingly. Currently, there is no requirement to record whether a home is up for sale or to let because it has no bearing on the level of council tax charged within this Authority's area where the legislation on premiums has not been introduced.
- 8.2 The table in paragraph 8.9 sets out the maximum additional revenue that could be raised by charging a premium on both long-term empty dwellings and second homes. The table provides a basic forecast based on a premium level of between 50% and 300%. This would be on top of the 100% standard rate of council tax charged on these dwellings. However, for reasons explained in paragraph 8.1, the table does not exclude any dwellings that may be excepted under the exceptions regulations and so Cabinet is advised the potential additional revenue will be overstated in this respect.
- 8.3 All dwellings that may be eligible to be excepted from a premium will need to be identified and reviewed by the Council Tax Team to establish whether the Council's council tax records are correct or need updating in line with the exceptions set out in 5.14 above. The largest category is likely to be dwellings up for sale or to let.
- 8.4 Another consideration is that, based on feedback from some councils in Wales that have implemented premiums in recent years, the percentage collection rate in

respect of dwellings liable for a premium tends to be lower than the percentage rate achieved in respect of standard council tax charges. This is partly due to the reluctance of some homeowners to pay a higher rate of council tax willingly but also the fact that some cases can be complex and require a lot of manual intervention by council tax officers which can involve recovery action taking more than one financial year to be concluded.

8.5 The Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022 changed the criteria for properties being commercially let for short periods as self-catering accommodation. Prior to April 2023 properties that were available to let for at least 140 days, and were actually let for at least 70 days, paid business rates rather than council tax. It was felt that these regulations provided a loophole for second homeowners to move their properties from the council tax banding list to the business rate rating list and avoid paying a premium. From April 2023 the change has increased the thresholds to being available to let for at least 252 days and actually let for at least 182 days in any 12-month period.

8.6 It is for the ratepayer to demonstrate to the satisfaction of the Valuation Office Agency (VOA) that a property has met the necessary criteria to be classed as non-domestic property. Consequently, a property used wholly for the purposes of living accommodation is considered domestic and liable for council tax until such time as the ratepayer provides sufficient evidence to the VOA that a particular property is being commercially let and meets the following criteria: -

- it will be available for letting commercially as self-catering accommodation for short periods totalling 252 days or more in the following 12-month period;
- the ratepayer's interest in the property enables them to let it for such periods;
- in the 12 months prior to the day being considered it has been available for letting commercially as self-catering accommodation for short periods totalling 252 days or more; and
- the short periods it has actually been commercially let for is a total of at least 182 days during that period.

Offering the property at excessively high rents may indicate that the operator is not seriously making the property available commercially.

8.7 This change is intended to provide a clearer demonstration that the properties concerned are being let regularly as part of genuine holiday accommodation businesses making a substantial contribution to the local economy. Both changes followed a consultation process including businesses, the tourism industry, and local communities.

8.8 There will be a need for additional staffing resources within the Council Tax Team to deal with the additional administration, including valuation tribunal appeals, and new property inspection requirements in respect of dwellings that may fall into one of the exceptions listed in paragraph 5.14.

8.9 It is proposed that the extra revenue raised would also partly be used to support the implementation of the Council's Empty Homes Strategy, and therefore be in line with the stated policy intentions of Welsh Government.

Table 3 – Potential additional revenue (not adjusted for exceptions) based on charging a premium on Second Homes and Long-term empties after 1 year

	Additional Revenue			
	50% Premium	100% Premium	200% Premium	300% Premium
2nd Homes	£172,967.78	£345,935.55	£691,871.10	£1,037,806.65
Long-term Empties	£533,283.92	£1,066,567.84	£2,133,135.68	£3,199,703.52
Total	£706,251.70	£1,412,503.39	£2,825,006.78	£4,237,510.17

- 8.10 The additional revenue raised from the charging of a premium on long-term empty dwellings and second homes, would need to additionally support the financing of the Empty Property Team (currently employed on a fixed term basis until March 2026) to ensure the continuation of the implementation of the Council's Empty Homes Strategy, and therefore be in line with the stated policy intention of Welsh Government.
- 8.11 Cabinet is advised that the Welsh Government expects local authorities to annually publish a summary of the additional revenue generated by implementing premiums and in broad terms how that revenue has been spent. Councils already charging premiums have placed this information their websites.

9. PERSONNEL IMPLICATIONS

- 9.1 There will be a need for additional staffing resources within the Council Tax Team to deal with the additional administration, including valuation tribunal appeals, and new property inspection requirements in respect of dwellings that may fall into one of the exceptions listed in paragraph 5.14. These are being considered by the Head of Financial Services & Section 151 Officer.
- 9.2 The ongoing funding requirement for the Empty Property Team (currently funded on a fixed-term basis until March 2026) will also need to be considered.

10. CONSULTATIONS

- 10.1 It is proposed that a 4-week consultation process be undertaken on the proposed implementation of council tax premiums. This will include the Council writing directly to the owners of every empty property that could be subject to a premium to invite their feedback. In addition, the Council will publicise the consultation via its usual channels to seek to engage with all other stakeholders.

10.2 Consultation Questions

Long-Term empty properties

Do you agree or disagree that the Council should put measures in place to reduce the number of long-term empty properties in Caerphilly?

Do you agree or disagree with our proposal to introduce a council tax premium on properties that have been empty for over 12 months?

Do you agree that the Council should charge higher premiums based on the length of time a property has been empty (up to a maximum of 300%).

For example:

- If a property has been empty over 1 year charge a premium of 100%
- If a property has been empty over 4 years charge a premium of 200%
- If a property has been empty over 10 years charge a premium of 300%

Are there any alternatives that you think the Council should consider?

Second Homes

Do you agree or disagree that the Council should put measures in place to reduce the number of second homes in Caerphilly?

Do you agree or disagree with our proposals to introduce a Council Tax premium on second homes?

What level of premium do you think that the Council should introduce (up to a maximum of 300%)

Are there any alternatives that the Council should consider?

General

Do you own a long-term empty property or second home and would you like help and guidance on how to dispose of it or bring it back in to use?

What impact do you think that an additional council tax premium on long-term empty homes and second homes could have on the supply of affordable housing in Caerphilly?

If it is agreed that premiums are charged on long-term empties and second homes, we would use a proportion of the revenue raised to help bring long-term empty homes back into use and meet local housing needs. Do you agree with this?

Please give your views on the effects that these proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Would you like to make any comments to support your responses?

11. STATUTORY POWER

- The Housing (Wales) Act 2014 (Commencement No. 5) Order 2015.
- Sections 12A and 12B of The Local Government Finance Act 1992 as inserted by Section 139 of The Housing (Wales) Act 2014.
- The Council Tax (Exceptions from Higher Amount) (Wales) Regulations 2015 No. 2068.
- The Council Tax (Long-term Empty Dwellings and Dwellings Occupied

- Periodically) (Wales) Regulations 2022 No. 370.
- The Council Tax (Exceptions to Higher Amounts) (Wales) (Amendment) Regulations 2023 No. 253.
- The Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

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Appendices:

Appendix A - Long-Term Empty Properties and Second Homes by Community

Appendix B - Table of Council Tax Exemptions

APPENDIX A

Long-Term Empty Properties and Second Homes by Community

Community	2nd Homes	% of total Properties	Long-term empties	% of total Properties	Total Properties
Aber Valley	8	0.27%	37	1.27%	2910
Abercarn	10	0.39%	32	1.26%	2547
Argoed	3	0.25%	14	1.16%	1211
Bargoed	13	0.23%	55	0.99%	5571
Bedwas, Trethomas & Machen	14	0.29%	26	0.54%	4810
Blackwood	13	0.35%	23	0.62%	3696
Caerphilly	25	0.34%	59	0.81%	7276
Cefn Fforest	2	0.12%	15	0.87%	1724
Crosskeys	8	0.50%	77	4.78%	1611
Crumlin	8	0.31%	44	1.70%	2586
Darran Valley	3	0.27%	15	1.35%	1109
Draethen, Waterloo & Rudry	4	0.86%	11	2.37%	465
Gelligaer	23	0.28%	55	0.67%	8172
Llanbradach & Pwllypant	8	0.40%	15	0.75%	1995
Maesycwmmmer	3	0.26%	7	0.60%	1168
Nelson	12	0.57%	18	0.86%	2105
New Tredegar	10	0.44%	47	2.09%	2254
Newbridge	12	0.41%	27	0.92%	2921
Pengam	7	0.42%	5	0.30%	1650
Penmaen	6	0.25%	18	0.74%	2445
Penyrheol, Trecenydd & Energlyn	10	0.19%	29	0.55%	5249
Pontllanfraith	11	0.29%	29	0.77%	3758
Rhymney	10	0.24%	53	1.28%	4147
Risca East	2	0.07%	16	0.57%	2823
Risca West	13	0.52%	47	1.88%	2497
Van	1	0.04%	13	0.58%	2230
Ynysddu	6	0.34%	24	1.35%	1775
Totals	245	0.30%	811	1.00%	80705

APPENDIX B

Table of Council Tax Exemptions

Class A	Dwellings requiring or undergoing major repair or structural alteration to render it habitable	Available for a maximum period of 12 months, following which council tax payable at 100%
Class B	Unoccupied dwellings owned by a charity	
Class C	New Properties – unoccupied and substantially unfurnished	Available for a maximum period of 6 months, following which council tax payable at 100%
Class C	Dwellings that have become unoccupied and substantially unfurnished	Available for a maximum period of 6 months, following which council tax payable at 100%
Class D	Dwelling left unoccupied by persons detained elsewhere. e.g., prison	
Class E	Dwelling left unoccupied by persons living in a care home or a hospital	
Class F	Unoccupied dwelling where the liable person is deceased. and waiting for probate or letters of administration to be granted (exemption continues for up to six months after being granted)	
Class G	Dwelling left unoccupied where occupation is prohibited by law	
Class H	Unoccupied dwelling held available for a Minister of Religion	
Class I	Dwelling left unoccupied by a person requiring personal care	
Class J	Dwelling left unoccupied by a person providing care	
Class K	Dwelling left unoccupied by a student	
Class L	Unoccupied dwelling where there is a mortgagee in possession	
Class M	Halls of residence	
Class N	Dwellings occupied solely by students, school or college leavers or by certain spouses or dependents of students	
Class O	Armed Forces Accommodation (UK Forces)	
Class P	Dwellings occupied by Members and Dependents of Visiting Forces	
Class Q	A dwelling left empty by a bankrupt	
Class R	Unoccupied Caravan Pitches and Moorings for Boats	
Class S	Properties occupied solely by persons under 18	
Class T	An unoccupied annexe to an occupied dwelling	
Class U	Properties occupied solely by severely mentally impaired persons (SMI)	
Class V	Dwellings occupied by Diplomats	
Class W	Occupied Annexes	
Class X	Dwellings occupied by Care Leavers	