

MEETING:	Full Council
DATE:	6 December 2018
CABINET MEMBER:	Councillor Dafydd Meurig Deputy Council Leader
TITLE:	COUNCIL TAX: DISCRETIONARY POWERS TO ALLOW DISCOUNTS AND/OR RAISE A PREMIUM
OBJECTIVE:	Formal ratification for 2019/20 of previous decisions not to allow any discounts for second homes and to disallow discount on empty properties, and to raise a Premium of 50% on relevant properties.
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EXECUTIVE SUMMARY

1. The Local Government Finance Act 1992 provides the Council with the discretion to charge full Council Tax, allow a discount of up to 50%, or to charge a premium of up to an additional 100% on the Council Tax of certain classes of **second homes** and **long-term empty properties**.
2. The Council has resolved annually since 1998 to allow NO discounts to second homes.
3. The Council has resolved annually since 2009 to allow NO discounts in respect of properties that have been empty for 6 months or more.
4. Section 139 of the Housing (Wales) Act 2014 added Sections 12A and 12B to the Local Government Finance Act 1992 to include a discretionary right for Councils to raise an additional "premium" of no more than 100% on dwellings that have been empty for 12 months or more (Section 12A) and relevant second homes (Section 12B).
5. On 8 December 2016, the Council resolved to raise a Premium of 50% on the Council Tax of relevant second homes and long-term empty dwellings for the 2018/19 financial year. The Council had to make its first determination to raise a "second homes premium" at least one year before the start of the financial year to which it relates, but any subsequent determination only needs to be made before the start of the relevant financial year.

RECOMMENDATIONS

6. It is recommended that the Council makes no change to the scheme for 2019/20. That is, for 2019/20:
 - That Gwynedd Council allows NO discount on class A second homes, under Section 12 of the Local Government Finance Act 1992.
 - That Gwynedd Council allows NO discount and RAISES A PREMIUM OF 50% on class B second homes, under Section 12B of the Local Government Finance Act 1992.
 - That Gwynedd Council allows NO discount on homes that have been empty for 6 months or more and RAISES A PREMIUM OF 50% on homes that have been empty for 12 months or more, under Section 12A of the Local Government Finance Act 1992.

LEGISLATIVE BACKGROUND

7. Councils have a discretion under Section 12 of the Local Government Finance Act 1992 to grant discount, or not, to two classes of second homes (classes A and B) and to long term empty dwellings (class C). The discount can be 50%, a reduced percentage or no discount.
8. Section 139 of the Housing (Wales) Act added Sections 12A and 12B to the 1992 Act to include a discretionary right for Councils to raise an additional “premium” of no more than 100% on dwellings that have been empty for 12 months or more (Section 12A) and second homes (Section 12B).
9. In the Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998 (SI 1998/105), 'second homes' have been categorised into two classes, A and B, while class C refers to empty properties:
 - ❑ **Class A** – A dwelling of which there is no resident, which is substantially furnished and the occupation of which is prohibited by law for a continuous period of at least 28 days in the relevant year;
 - ❑ **Class B** – A dwelling of which there is no resident, which is substantially furnished, and there is no limit on occupation by law.
 - ❑ **Class C** – A dwelling which is unoccupied and which is substantially unfurnished.
10. A “resident” in relation to any dwelling means an individual who has attained the age of 18 years and has their sole or main residence in the dwelling (Section 6(5) of the Local Government Finance Act 1992).
11. These regulations the amended by the Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2017 (SI 2017/42) which came into force on 18 February 2017.
12. The Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015/2068 (SI 2015/2068) exempts Class A second homes from paying the premium.

CURRENT POLICY AND INTENTION

13. The Council had resolved to allow NO discounts to second homes (classes A and B) in every year since receiving discretionary powers for these classes under the 1998 Regulations, and had also resolved to allow NO discounts for class C (empty properties) in every year since those regulations were amended for 2009/10.
14. Due to the changes that came into force as a result of the Housing (Wales) Act 2014, the matter was considered by the Full Council on 8 December 2016, which resolved to raise a premium of 50% on class B second homes and on class C long-term empty properties (empty for 12 months or more) in 2018/19.
15. All background papers in relation to the first determination to raise a premium are to be found on the Gwynedd Council website:

<https://democracy.cyngor.gwynedd.gov.uk/ielistdocuments.aspx?cid=130&mid=1656&ver=4>

16. The Local Government Finance Act 1992 states that any determination with regards to Section 12, 12A and 12B must be made annually, by the full Council.
17. The Council had to make its first determination to raise a "second homes premium" (class B) at least one year before the start of the financial year to which it relates. The “year’s notice” clause does not relate to long-term empty dwellings, nor to any determination on the second home premium after the first determination.

18. The financial strategy for 2019/20, and the Council's grant settlement from the Welsh Government, is based on continuation of the policy to allow NO discounts, and any change to that policy would need to be funded by the Council in 2019/20.
19. The regulations for setting the tax base have been written so that a decision to raise a premium does not effect the Council's grant settlement from the Welsh Government.
20. A public consultation was undertaken in 2016 before making the first determination to raise a premium. Since there is no intention to change the arrangements for 2019/20, a further consultation at this stage is not necessary.

SECOND HOMES

21. When resolving in December 2016 to raise a premium of the Council Tax of second homes in 2018/19, attention was given to detailed studies that had been undertaken on the effect of second homes on Gwynedd's communities. The result of that work was that second homes were having an adverse effect on communities. There is no evidence that the situation has changed since then.
22. The Gwynedd and Anglesey Joint Local Development Plan 2011-2026 notes (in part 6.4.96) that "*affordability is an issue across the Plan area*" and that "*evidence suggests that affordable need is greater in coastal villages particularly within the AONBs and along the Meirionnydd coast*". These are the areas with the greatest concentration of second homes.
23. There is no evidence either that raising the Premium has had any effect on the tourist industry in 2018.
24. When the initial determination to raise the premium was made, the risk was identified of an acceleration in the number of properties transferring to being self-catering units, that are subject to non-domestic rates, because the Valuation Office Agency has judged that they reached the necessary criteria. The transfer has accelerated, and the majority of properties that are transferring receive full Small Business Rates Relief, meaning that no tax is payable on them.
25. Since 1 April 2014, a total of **1,033** Gwynedd properties have been transferred from the Council Tax list to Non-Domestic Rates by virtue of being classified by the Valuation Office Agency as being Self-Catering Accommodation pursuant to Section 66(2BB) of the Local Government Finance Act 1988.
26. The number of these transfers has increased year-on-year:

Financial Year	Number of transfers
2018-19 (to 30/9/2018)	197
2017-18	282
2016-17	199
2015-16	167
2014-15	188
Total	1033

27. Council members and officers have corresponded regularly with ministers and officials at Welsh Government to press the case for acting to change to arrangements, since this is eroding the public purse substantially. Since these properties have already transferred, abolishing the premium would not bring them back into the Council Tax base since no rates are being paid on them, which means that there is an incentive for owners to endeavour to keep them on the non-domestic list.

EMPTY PROPERTY

28. In terms of empty houses, the Council states "*Houses that stand empty can cause nuisance and damage to neighbouring houses. They are also a waste because they could be used as homes*".
29. Since April 2009, long term empty dwellings have been charged 100% council tax, following either an exempt period of 6 months, or an extended 12 month period of exemption if undergoing major renovation. Since April 2018, this has increased to 150% council tax for properties that have been empty for 12 months or more. Revoking the premium, or allowing a discount, would provide an unfortunate incentive for owners to keep dwellings empty. The Empty Property Strategy includes the Council exercising its discretion to charge at least 100% council tax on long term empty dwellings, as an incentive for these dwellings to be reoccupied.
30. One of the Council's main priorities (Improvement Priority 4) is to "Ensure a greater supply of suitable housing is available to our residents". This includes a programme within the Council's Plan 2018-23 to improve the provision of suitable and affordable housing.

USE OF THE PREMIUM YIELD

31. The Budget for 2018/19 was approved by the full Council on 8 March 2018. This included two 'first demands' on the yield of the premium (in the areas of Housing and Council Tax collection). It was estimated that there would be around £2m of additional income to be prioritised. The Council resolved that the total sum remaining of the 2018/19 Council Tax Premium would be earmarked in a specific fund to be used on the Council's priorities, including providing housing for young people.
32. It was decided to wait in order to identify the true tax yield from the Premium, and the threat of financial cuts for services by 2019/20, before attributing the tax yield from the Premium in 2019/20 and following years. It was agreed that it would be prudent for members to retain flexibility for the future, in case the Council needs to make difficult financial choices in 12 months.
33. The full Council will consider the 2019/20 Budget on 7 March 2019, which will include further information on the use of this Council Tax Premium Fund.