

<b>MEETING:</b>	<b>Full Council</b>
<b>DATE:</b>	<b>7 December 2023</b>
<b>CABINET MEMBER:</b>	<b>Councillor Ioan Thomas Cabinet Member for Finance</b>
<b>TITLE:</b>	<b>COUNCIL TAX: DISCRETIONARY POWERS TO ALLOW DISCOUNTS AND/OR RAISE A PREMIUM</b>
<b>OBJECTIVE:</b>	<b>Formal ratification for 2024/25 of previous decisions not to allow any discounts for second homes and to disallow discount on empty properties, to raise a Premium of 150% on periodically occupied dwellings and a Premium of 100% on long-term empty dwellings.</b>
<b>CONTACT OFFICER:</b>	<b>Dewi Morgan, Head of Finance</b>

#### **DECISION SOUGHT**

**That the Council makes no change to the Council Tax Premium for 2024/25. That is, for the financial year 2024/25:**

- **Cyngor Gwynedd allows NO discount on class A second homes, under Section 12 of the Local Government Finance Act 1992.**
- **Cyngor Gwynedd allows NO discount and RAISES A PREMIUM OF 150% on class B second homes, under Section 12B of the Local Government Finance Act 1992.**
- **Cyngor Gwynedd allows NO discount on homes that have been empty for 6 months or more and RAISES A PREMIUM OF 100% on homes that have been empty for 12 months or more, under Section 12A of the Local Government Finance Act 1992.**

## 1. INTRODUCTION

- 1.1. 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 an additional Premium on the Council Tax of certain classes of second homes and long-term empty properties.
- 1.2. The Council has resolved annually since 1998 to allow NO discounts to second homes.
- 1.3. The Council has resolved annually since 2009 to allow NO discounts in respect of properties that have been empty for 6 months or more.
- 1.4. 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).
- 1.5. 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, to be implemented from 1 April 2018. On 4 March 2021, the Council resolved to increase the Premium to 100%, which was the maximum level allowed by legislation, for the 2021/22 financial year and on 2 December 2021 it resolved to keep the Premium level at 100% for 2022/23.
- 1.6. The *Council Tax (Long-term Empty Dwellings and Dwellings Occupied Periodically) (Wales) Regulations 2022 (SI 2022/370 W.90)* have amended Sections 12A and 12B of the 1992 Act giving billing authorities the power to raise a Premium of up to 300% on the Council Tax of second homes and long-term empty dwellings for the 2023/24 and subsequent financial years.
- 1.7. In response to this legislative change, on 1 December 2022 the Council decided to increase the Premium on second homes to 150% and to keep the Premium on long-term empty properties at 100% for the 2023/24 financial year. This followed a comprehensive public consultation in autumn 2023.

## 2. RELEVANT CONSIDERATIONS

### Context

- 2.1. The terminology used in Section 12B is not “second homes” or “holiday homes” but rather “dwellings occupied periodically”. The Act states that the conditions for a property to be subject to a “second home” Council Tax premium is, “***there is no resident of the dwelling, and the dwelling is substantially furnished***”. That is, the property is not anyone’s main home, but it has been furnished. The Act does not include any provision to be able to distinguish on the basis of where the owner lives, or if it is used for the purposes of holidays.
- 2.2. *The Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998 (SI 1998/105)* have categorised 'second homes' into two classes, namely classes A and B. Class C refers to empty properties:
  - **Class A** – Second homes which are unoccupied and furnished, with a restriction on occupancy for a period of at least 28 consecutive days in any 12-month period.
  - **Class B** – Second homes which are unoccupied and furnished.
  - **Class C** – empty and unfurnished properties, and have been such for a period of over 6 months.
- 2.3. A “resident” in relation to any dwelling means an individual who has attained the age of 18 years and has his sole or main residence in the dwelling (Section 6(5)) Local Government Finance Act 1992).
- 2.4. As a result of 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.
- 2.5. All background papers in relation to the first determination to raise a Premium are to be found on the Cyngor Gwynedd website:  
<https://democracy.cyngor.gwynedd.gov.uk/ielistdocuments.aspx?cid=130&mid=1656&ver=4>
- 2.6. On 4 March 2021 the Council decided that it would increase the level of premium to 100% on relevant properties. All background papers in relation to this decision can be found on Cyngor Gwynedd's website:  
<https://democracy.gwynedd.llyw.cymru/ielistdocuments.aspx?cid=130&mid=4215&ver=4>

2.7. Then on 1 December 2022 the Council decided it would respond to the legislative change and increase the Premium level on second homes to 150% but keep the premium at 100% on long-term empty properties. All background papers relating to this decision can be found on Cyngor Gwynedd's website:

[Agenda for The Council on Thursday, 1st December, 2022, 1.00 pm \(llyw.cymru\)](https://llyw.cymru)

2.8. 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.

2.9. The financial strategy for 2022/23, 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 2022/23.

2.10. The regulations for setting the tax base have been written so that a decision to raise a Premium does not affect the Council's grant settlement from the Welsh Government.

2.11. On 6 November 2023 there were:

- **4,027** dwellings subject to the Premium on second homes (Class B)
- **274** of further second homes in Class B but not paying the Premium as they were subject to one of the exemptions outlined in Part 8 below.
- **766** properties within Class A where occupation is prohibited for a consecutive period of at least 28 days in the relevant year.

2.12. At the same time, **1,064** properties were subject to the Premium on a long-term empty dwelling.

2.13. Changes over time can be seen in the table below:

	July 2016	November 2020	November 2022	November 2023
Class B Second Homes*	4,841	4,718	4,564	4,027
Annedd gwag hirdymor	1,115	1,130	1,099	1,064

\* exemption not applicable

2.14. It is seen from the above that there has been a significant decrease in the number of second Premium which are subject to the Premium during the period.

## Statutory Requirements

- 2.15. When giving councils powers to raise a Premium (originally up to 100% and then up to 300%) on the Council Tax of second homes and long-term empty dwellings, the Welsh Government published statutory guidance, *Guidance on the Implementation of the Council Tax Premiums on Long-Term Empty Homes and Second Homes in Wales*. A second version of the Statutory Guidance were published in March 2023 and a copy of these new Statutory Guidance is found in Appendix 1.
- 2.16. Both the previous and current versions of the Guidance outline what a local authority needs to consider when it intends to introduce a Premium. These were considered in detail in 2016 when Cyngor Gwynedd decided to introduce a 50% Premium on second homes and long-term empty dwellings, and then every year when coming to a decision on the Premium for the following year. The current version states:

There are a range of factors which could help inform local authorities in deciding whether to charge a premium. Whilst some factors will be specific to either longterm empty properties or second homes, others will be common to both.

A list of these factors is set out below to assist local authorities. It is not intended to be exhaustive.

- Numbers and percentages of long-term empty properties and/or second homes in the local area.
- Distribution of long-term empty properties and/or second homes and other housing throughout the authority and an assessment of their impact on property values in particular areas.
- Potential impact on local economies and the tourism industry.
- Patterns of demand for, and availability of, affordable homes.
- Potential impact on local public services.
- Potential impact on the local community.
- Potential impact on the Welsh language.
- Other measures that are available to authorities to increase housing supply and the availability of affordable housing.
- Other measures that are available to authorities to help bring empty properties back into use.

## Second Homes

2.17. In reaching a decision in December 2022 to increase the level of Premium several studies were addressed to gather evidence:

- Holiday Homes Research Work which provides a background of the current situation in Gwynedd in terms of "holiday homes", and the combined effect of second homes and self-catering holiday units on Gwynedd society (December 2020):

Cabinet Report:

<https://democracy.gwynedd.llyw.cymru/documents/s27960/Item%208%20-%20Report%20Holiday%20Homes.pdf>

Appendix – Research:

<https://democracy.gwynedd.llyw.cymru/documents/s27959/Item%208%20-%20Appendix%20-%20Holiday%20Homes%20Research%20Work.pdf>

- "Second Homes – Developing New Policies in Wales" (author Dr Simon Brooks) was published in response to a commission by the Coleg Cymraeg Cenedlaethol and the Minister for Mental Health, Wellbeing and the Welsh Language in the Welsh Government (March 2021):

[Second Homes: Developing new policies in Wales](#)

The Council's response to the report:

[Cyngor Gwynedd's Response to the report "Second Homes: Developing new policies in Wales"](#)

## Empty Dwellings

2.18. Between April 2018 and March 2023 Cyngor Gwynedd raised the same Premium rate on second homes and long-term empty properties. One of the reasons for this was the practicality of keeping an overview of the properties that are furnished and those that are not (which is the practical difference between the two types of properties).

2.19. However, the Council decided in December 2022 that it would keep the Premium level on long-term empty dwellings at 100% for the 2023/24 financial year.

2.20. It should also be noted that a total of 1,064 long-term empty properties, while relatively low compared to the number of second homes within Gwynedd, is a high figure when considering the demand for affordable homes within the county and this is recognised in the Housing Strategy.

## Housing Strategy 2019-2024

2.21. The Council adopted its Housing Strategy 2019-2024, "Homes for People in Gwynedd" in July 2019:

<https://www.gwynedd.llyw.cymru/en/Council/Documents---Council/Strategies-and-policies/Housing/Strategaeth-Tai-v29-Terf-English.pdf>

2.22. The Strategy notes the vision of "Ensure that the people of Gwynedd have access to a suitable Home of a high standard that is affordable and improves their quality of life.". The Strategy notes the following on empty homes: "*We have identified approximately 1,300 empty houses across the County. These are houses that have been empty for some time and their condition can be very poor. This is a waste of a Resource when you consider that nearly 2,000 people are on the Council's waiting list. We believe that the list of empty houses is not complete, and efforts need to be increased to find them and return them into use as homes for our residents*".

### **3. HOUSING ACTION PLAN**

3.1. The Housing Action Plan translates the Strategy into specific projects to address the situation.

3.2. In 2019 the Council established the new Housing and Property Department as it had identified the need to achieve more in the field of housing. Gwynedd residents were facing a number of challenges at the time, which means that it was extremely challenging to gain access to suitable housing within our communities. The Council has clearly stated that this is not a sustainable situation, and that we need to respond in every way possible.

Cabinet Report:

<https://democracy.gwynedd.llyw.cymru/documents/s27956/Item%206%20-%20Housing%20Action%20Plan.pdf>

A link to the Housing Action Plan is here:

<https://democracy.gwynedd.llyw.cymru/documents/s27957/Item%206%20-%20Appendix%20A%20-%20Housing%20Action%20Plan.pdf>

3.3. When adopting the Plan, the Council knew that a number of measures would be needed, many of which were beyond the direct control of the Council, if we are to be able to achieve genuine fairness for local residents in the field of housing. This Housing Action Plan is one of these measures and allows us to aim to directly act to the best of our abilities in order to attempt to reconcile the current situation.

3.4. In order to ensure that the Council takes every opportunity within its direct control in the field of housing, the Housing Action Plan includes 33 various projects tailored in an attempt to respond to each of our objectives in this field, which are:

- No one is homeless in Gwynedd
- Social housing available to all who need one
- Everyone's home in Gwynedd is affordable to them
- Gwynedd Housing are environmentally friendly
- Homes having a positive influence on the health and well-being of the people of Gwynedd.

#### **4. TRANSFER OF SELF-CATERING HOLIDAY UNITS**

4.1. When the original decision to charge a Premium was made, the risk was identified of an increase in the number of properties transferring to being self-catering holiday units, which are subject to non-domestic rates. This would happen because the Valuation Office Agency had ruled that they met the threshold to be able to do so.

4.2. The Welsh Government has introduced a legislative change that has been in effect since April 1 2023 on self-catering holiday units. The effect of *The Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022 (W. 129)* is that Section 66 of the 1988 Act has been modified so that a dwelling will need to have been available for let for 252 days in the last year, that it is intended to be let for 252 days in the next year, and that property has been truly let for 182 days in the last year (compared to 70 days previously).

4.3. In reaching a decision on the Premium in previous years, consideration was given to the risk that increasing the Premium would incentivise more second home owners to let their property and transfer it to the non-domestic rate list. While this risk remains, the significant increase in the number of days in which properties must be let is likely to result in a significant slowdown in the rate of transfer.

4.4. The latest figures (to the end of October 2023) show that a total of 3,214 properties in Gwynedd have transferred from the Council Tax list to the Non-Domestic Rating list, after the Valuation Office Agency designated the property as self-catering holiday units, in accordance with Section 66(2BB) of the Local Government Finance Act 1988. Approximately 90% of the transferring properties receive full Small Business Rates Relief, which means that no local taxation is payable on them:

Financial Year	Number of transfers (gross)
2023-24 (to 31/10/2023)	100
2022-23	452
2021-22	469
2020-21	506
2019-20	397
2018-19	454
2017-18	282
2016-17	199
2015-16	167
2014-15	188
<b>Total</b>	<b>3,214</b>

4.5. However, evidence shows that the trend is starting to reverse. Comparing the period between April and October in 2022 and 2023 it can be seen that more net property has transferred back to Council Tax than has moved to Non-Domestic Rates.

**Trosglwyddiadau Rhwng Ardrethi Annomestig a Treth Cyngor, Ebrill i ddiwedd Hydref:**

	2022/23	2023/24
Council Tax to Non-domestic Rates	246	100
Non-domestic Rates to Council Tax	138	181
Net Effect	-108	81

4.6. The higher thresholds therefore appear to be having an impact on the situation, but data on a longer period of time will be needed to see the long-term trend.

## Research and Conclusions

- 4.7. For the first time, therefore, both the number of second homes and the number of self-contained holiday units has shown a decline in recent months.
- 4.8. This suggests that premium increases and/or tightening of regulations on holiday units for the purpose of business rates have significantly changed the pattern.
- 4.9. This recent pattern seems pretty consistent across the county, whether in communities with a high or a low proportion of second homes alike.
- 4.10. However, there are a number of factors that affect property owners' decisions, including changes in planning conditions through "Article 4".
- 4.11. Detailed research into these trends is being carried out by the Council's Information and Research Unit, but their conclusion is that there is currently insufficient data available to be able to arrive at a definitive view.
- 4.12. **In summary, the decision at the Premium level for 2023/24 was the result of detailed research and comprehensive public consultation. No evidence currently exists that would justify setting a different level for the Premium in 2024/25.**

## 5. EXEMPTIONS

- 5.1. The 1992 Act also contains a provision giving the Welsh Ministers the right to impose certain exceptions (in classes) where a Council Tax premium cannot be imposed. This was done through the [Council Tax \(Exceptions to Higher Amounts\) \(Wales\) Regulations 2015 \(SI 2015/2068\)](#) (as amended) which came into force on 31 January 2016. The table below outlines the exemptions where a Premium cannot be raised:

<b>Classes of Dwellings</b>	<b>Definition</b>	<b>Type of property that is eligible for an exemption from paying the premium</b>
Class 1	Dwellings being marketed for sale – time-limited for one year	Long-term Empty Properties and Second Homes
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	A dwelling the occupation of which is restricted by a planning condition— (a) preventing occupancy for a continuous period of at least 28 days in any one year period; (b) specifying that the dwelling may be used for holiday let only; or (c) preventing occupancy as a person's sole or main residence.	
Class 7	Job-related dwellings	

- 5.2. Section 13A of the 1992 Act would need to be used to introduce any local, discretionary exemptions. The use of Section 13A is a matter for the Cabinet, it is not a matter that requires the decision of a full Council.
- 5.3. Therefore, exceptions can be dealt with as in a separate Cabinet report before the end of March 2024.

## **6. USE OF THE PREMIUM**

- 6.1. Since the introduction of the Premium at the start of the 2018/19 financial year, the money collected through the Premium has been placed in a dedicated fund, to fund specific projects that have been outlined in the Housing Action Plan.
- 6.2. The Housing Action Plan clearly sets out which individual schemes are to be funded with Premium money.
- 6.3. This is consistent with the aspiration of Council members and the Welsh Government, who set out an expectation, but not enforcement, that the money be used in housing.
- 6.4. Many of the projects in the Housing Action Plan are scalable if more resources were available to them. On the other hand, inflation means that construction project costs have increased significantly since the adoption of the Housing Action Plan in 2020.
- 6.5. In recent years, following the Covid-19 pandemic, the end of the Welsh Government's Hardship Grant, the pressure on families as a result of the cost of living crisis and landlords' decision to end tenancies, the pressure on the Council's Homelessness Service has increased dramatically.
- 6.6. Every 50% premium increase would contribute around £3m to the Council Tax Premium Fund.
- 6.7. When setting the the level of the Premium for 2023/24 it was resolved that the additional Premium yield would be used to to assist in addressing the significant cost overruns in the homelessness area, or to divert some of the existing product to these purposes.
- 6.8. At the time of its adoption in 2020, the total estimated cost of all schemes in the Housing Action Plan (for the period 2020/21 – 2026/27) was £77.1m, with £22.9m of this funded out of the Council Tax Premium. Since the approval of the Plan, high inflation has increased the approximation of many of these projects.

## **7. EQUALITY IMPACT ASSESSMENT**

- 7.1. As with all far-reaching decisions, the 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 and to all other relevant considerations.
- 7.2. The initial decision to introduce a Premium was made in December 2016, following consideration of an Equality Impact Assessment that had been carried out in accordance with the statutory requirements on the Council.
- 7.3. A comprehensive Equality Impact Assessment was completed when considering the increase of the Premium in March 2021. Since then, the Public sector duty regarding socio-economic inequalities came into force in Wales on 31 March 2021, which is relevant to Cyngor Gwynedd. The means that the Council, when making “strategic decisions” such as deciding priorities and setting objectives, must consider how its decisions might help to reduce the inequalities associated with socio-economic disadvantage. It would appear that the Premium rate on second homes and long-term empty dwellings is a “strategic decision” in accordance with these duties.
- 7.4. As noted in “Legislative Background” above, the powers to raise a premium was introduced by the Housing Act, with the fundamental expectation that those who can afford more than one property should assist local authorities financially to deal with housing problems in their areas, in particular the most vulnerable in society who cannot find a home.
- 7.5. When resolving in February 2021 to recommend to the full Council that the Premium level should be increased to 100%, and the to increase the Premium on second homes to 150% in December 2022, members of the Cabinet noted that there was a housing crisis within the county. The principle that the Council was eager for residents to have homes in their own communities was emphasised, in order to ensure thriving communities. It was added that housing was a priority and that it was a requirement to ensure additional resources in order to implement the Housing Strategy.
- 7.6. We believe, therefore, that the core aim of the Premium is to reduce the inequalities associated with socio-economic disadvantage.
- 7.7. The Equality Impact Assessment has been updated to reflect recent requirements and developments, changing circumstances and the results of the comprehensive consultation that was undertaken in 2022.

- 7.8. The result of the Equality Impact Assessment undertaken in 2022 when setting the current level of Premium is that there is some evidence that increasing the premium on second homes would be discriminate against a protected group, with data suggesting that second home owners tend to be older people and identify themselves as English. The policy in relation to Council Tax Premium is intended to recognise that long-term empty properties and second homes increase some of Gwynedd's social problems, and the owners should make a financial contribution to alleviate some of the disadvantages they cause.
- 7.9. There is a claim that the policy of raising the Premium is racist because of where second home owners live, but a number of those who have answered the consultation note that Welsh people own a property in Gwynedd while their main home is outside Wales. The Premium will be charged based on the characteristics of the property, not the characteristics of the owner and there is a positive impact if local families can afford to buy a property in their local area rather than having to move away to get a home. There is recognition that there is a negative financial impact on people living outside Gwynedd, with a large number of them identifying themselves as English. In line with the requirements of the Equality Act 2010, increasing the level of the Premium is a proportionate means of achieving a legitimate aim, which is to fund a Housing Action Plan that addresses some of the damage that second homes and empty dwellings cause to the communities of Gwynedd.
- 7.10. The 2022 assessment also concluded that there will be a positive impact on the balance of communities as the premium yield funds the Housing Action Plan which supports local families to buy an affordable home. However, it is noted that this is the result of a number of positive and negative factors which affect the Language, which receive attention in several places in the report and appendices.

## **8. WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015**

- 8.1. There is a duty to act in accordance with the sustainable development principle, which is to try to ensure that the needs of the present are met without compromising the ability of future generations to meet their needs. When acting in accordance with this general duty the Council needs to consider the importance of the long-term impact, being integrated and inclusive, collaboration and prevention in developing and implementing the proposal.
- 8.2. In accordance with the requirement of the Act, Cyngor Gwynedd has developed well-being objectives. These are:
  - Communities which thrive and are prosperous in the long-term
  - Healthy and independent residents with a good quality of life
- 8.3. The current Premium funds the Council's Housing Action Plan, which is a proactive attempt to strengthen the sustainability of those communities within Gwynedd with a high number of second and long-term empty homes.
- 8.4. The Council's Housing Strategy sets out the vision of “Ensuring that the people of Gwynedd have access to a suitable Home of a high standard that is affordable and improves their quality of life”.
- 8.5. The Strategy identifies five objectives that had to be sought if the Council was to achieve this vision:
  1. No one is homeless in Gwynedd
  2. Social housing available to all who need one
  3. Everyone's home in Gwynedd is affordable to them
  4. Gwynedd Housing are environmentally friendly
  5. Homes having a positive influence on the health and well-being of the people of Gwynedd
- 8.6. The Housing Action Plan includes a number of projects that together set out to deliver these objectives.

## **BACKGROUND DOCUMENTS**

1. Holiday Homes Research Work (December 2020)
2. Housing Strategy
3. Housing Action Plan
4. Second Homes – Developing New Policies in Wales (Dr Simon Brooks)
5. Council's response to the Brooks report.

## **OPINION OF STATUTORY OFFICERS**

### **Monitoring Officer:**

As noted in the report the Council needs to take a determination for the forthcoming financial year. It's appropriate that the decision in relation to Council Tax Discounts and Premiums are considered by the full Council. The report notes that a consultation process was undertaken in relation to the increase of the level of the Premium to 150% for 2022/23. As the recommendation does not deviate from this decision it is appropriate to conclude that there is no need to consult again.

### **Head of Finance:**

I have collaborated with the Cabinet Member in the preparation of this report and I confirm the content.