

<b>MEETING:</b>	<b>Full Council</b>
<b>DATE:</b>	<b>2 December 2021</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 2022/23 of previous decisions not to allow any discounts for second homes and to disallow discount on empty properties, and to raise a Premium of 100% on relevant properties.</b>
<b>CONTACT OFFICER:</b>	<b>Dewi Morgan, Assistant Head of Finance (Revenues and Risk)</b>

## **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, to be implemented from 1 April 2018. On 4 March 2021, the Council resolved to increase the Premium 100%, which is the maximum level allowed by legislation, for the 2021/22 financial year.

## **RECOMMENDATIONS**

6. It is recommended that the Council makes **no change** to the scheme for 2022/23. That is, for 2022/23:
  - 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 100% 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 100% 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. 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

12. 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.
13. 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.
14. 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>
15. At its meeting on 3 December 2020 the Council decided to defer a decision on the discounts and Council Tax premium for 2021/22 and asked Cabinet to consider the appropriateness of increasing the level of premium to up to 100%. The Cabinet was asked to undertake a consultation process on this basis, consider the relevant factors, and bring a further recommendation to the Council in March 2021 in accordance with Section 12, 12B and 12A of the Local Government Finance Act 1992.
16. Having considered the results of the public consultation and consideration of the relevant risks, 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 Gwynedd Council's website:  
<https://democracy.gwynedd.llyw.cymru/ielistdocuments.aspx?cid=130&mid=4215&ver=4>

17. 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.
18. 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.
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, and again in 2020/21 following a request by the full Council to review the rate. Since there is no intention to change the arrangements for 2022/23, 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 since 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 **2,405** 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
2021(to 30/9/2021)	212
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>2405</b>

27. Welsh Government are currently reviewing this situation and have undertaken a public consultation between August and November 2021. We await the results of this consultation and the Government's next steps.

### **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 "Access to a suitable home". This includes a programme within the Council's Plan 2018-23 to improve the provision of suitable and affordable housing.

### **EQUALITY IMPACT ASSESSMENT**

31. 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.
32. 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.
33. 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 Gwynedd Council. 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.
34. 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.
35. When resolving in February 2021 to recommend to the full Council that the Premium level should be increased to 100%, 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.
36. We believe, therefore, that the core aim of the Premium is to reduce the inequalities associated with socio-economic disadvantage.
37. We do not believe that there are further specific equality issues that need to be brought to the attention of the Council when considering this issue, and following the addition of the

appropriate socio-economic considerations, we are of the opinion that the EIA remains valid. The revised assessment is included in the Appendix.

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

38. 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.
39. In accordance with the requirement of the Act, Gwynedd Council (in collaboration with Isle of Anglesey County Council) 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
40. 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.
41. 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".
42. 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
43. The Housing Action Plan includes a number of projects that together set out to deliver these objectives.

## **USE OF THE PREMIUM YIELD**

44. Since the Premium was introduced on 1 April 2018 the product has been placed in a specific fund set up to fund schemes from the Housing Strategy. The Housing Action Plan was adopted by the Council's Cabinet on 15 December 2020 and this plan sets out the intended use of this product:

<https://democratiaeth.gwynedd.llyw.cymru//documents/s27957/Eitem%206%20-%20Atodiad%20A%20-%20Cynllun%20Gweithredu%20Tai.pdf?LLL=1>

45. Prudent estimates included in the 2021/22 budget (after taking account of property transfers from the Council Tax regime, second homes moving back into main homes etc) indicate the expectation that an additional £3.9m of Premium products per annum will be available to the fund as a result of increasing the level of premium from 50% to 100%.

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## **Local member's views**

Not relevant

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## **Opinion of the 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 100% for 2021/22, the statutory maximum. 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.