

CABINET

Date of Meeting	Tuesday, 16 th November 2021
Report Subject	Welsh Government Consultation on Local Taxes for Second Homes and Self-catering Accommodation
Cabinet Member	Deputy Leader of the Council (Governance) and Cabinet Member for Corporate Management and Assets
Report Author	Chief Officer (Governance)
Type of Report	Operational

EXECUTIVE SUMMARY

Welsh Government (WG) are now consulting on potential changes to the local tax system, with the aim of supporting local authorities to manage the impact of second homes and self-catering accommodation on the communities in which they are located. As part of this consultation, WG are also seeking views on:

- How effective has the use of the premium scheme been in addressing housing issues
- How could local authorities' best use the premium to help bring empty or underused properties back into use?
- How funds raised from the premium should be used and whether local authorities should be more transparent about how funds raised from the premium have been spent
- Is the current maximum premium of 100% appropriate? If not, what would be considered to be appropriate and fair?
- What are the positive and negative impacts of self-catering accommodation
- The current criteria and thresholds for defining property as self-catering accommodation and liable for Business Rates instead of Council Tax
- The eligibility of self-catering accommodation for 100% Small Business Rates Relief once owners are subject to Business Rates.

RECOMMENDATIONS

1	Support the responses to the consultation as set out in this report.
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REPORT DETAILS

1.00	EXPLAINING THE PREMIUM SCHEME AND THE WELSH GOVERNMENT CONSULTATION
1.01	<p>Welsh Government (WG) are now consulting on potential changes to the local tax system, with the aim of supporting local authorities to manage the impact of second homes and self-catering accommodation on the communities in which they are located. As part of this consultation, WG are also seeking views on a number of areas, including:</p> <ul style="list-style-type: none">• How effective has the use of the premium scheme been in addressing housing issues• How could local authorities' best use the premium to help bring empty or underused properties back into use?• How funds raised from the premium should be used and whether local authorities should be more transparent about how funds raised from the premium have been spent• Is the current maximum premium of 100% appropriate? If not, what would be considered to be appropriate and fair?• What are the positive and negative impacts of self-catering accommodation• The current criteria and thresholds for defining property as self-catering accommodation and liable for Business Rates instead of Council Tax <p>The eligibility of self-catering accommodation for 100% Small Business Rates Relief once owners are subject to Business Rates.</p>
1.02	<p>In response to the consultation, officers have reviewed the consultation paper and set out the following responses for cabinet endorsement and approval:</p> <p><i>How effective has the use of the premium scheme been in addressing housing issues?</i></p> <p>Anecdotal evidence suggests the premium of 50% set locally has encouraged many home owners to bring long-term empty properties back into use, but not in every case. Solving housing problems and meeting demand is a complex strategy involving national and local government and increasing the level of the Council Tax premium will not be the 'silver bullet' to resolving local demand for affordable housing which is showing a demand of 2,120 applications in SARTH register for social/affordable housing.</p> <p>Using the local taxation system is an important mechanism though and in many cases levying a premium has discouraged owners from leaving properties empty and unused. For this reason, we believe the scheme has been of benefit in addressing housing issues.</p>

How could local authorities' best use the premium to help bring empty or underused properties back into use?

The current 50% premium provides incentive for homeowners to bring empty properties back into use.

There may be occasions when there are barriers to this happening with a common obstacle being the lack of funding to carry out the repairs or renovations required.

If funds are sufficient to deliver core Council services, a proportion of the premium could, in future, be allocated to provide grants and funding to further enhance and extend the provisions currently available through the Empty Home Scheme to provide owners of empty properties access to funding or advice if required to undertake works to turn long-term empty properties into quality housing stock.

How funds raised from the premium should be used and whether local authorities should be more transparent about how funds raised from the premium have been spent

Funds raised to date through the scheme have been clearly identifiable and have been put to significant use to protect Council services, especially at a time of reduced funding for local government services.

Without the additional funds raised through the premium scheme, all residents of Flintshire would have been faced with an additional increase in Council Tax or a reduction in services.

Whilst we believe that revenue from the premium should support initiatives to increase the supply of affordable quality housing in Flintshire, we feel that the additional funds should not be ring-fenced to only addressing housing problems. They should instead provide flexibility and scope to support changing priorities across the Council to ensure continuous improvement, deal with unexpected challenges and future-proof service delivery.

Is the current maximum premium of 100% appropriate? If not, what would be considered to be appropriate and fair?

Flintshire currently has 772 properties that are subject to a 50% premium charge and could be affected by the outcome of this consultation. This equates to 1.1% of all domestic properties in the county.

There is already scope within the scheme to increase the premium to 100% should members elect to use their discretionary powers.

The current legislation to allow a premium of up to 100% is therefore considered appropriate and fair and the anecdotal evidence in Flintshire indicates is achieving the objectives of the scheme.

What are the positive and negative impacts of self-catering accommodation?

Having an abundance of quality self-catering accommodation in the county, attracts many visitors to Flintshire and provides opportunity for these tourists to extend their stay to more than just a day.

Most self-catering accommodation are operated by local small businesses or individuals and the tourists they accommodate also bring additional income to our local retail, hospitality and leisure sector.

Some, but not all self-catering accommodation are former residential dwellings. Converting former homes to holiday lets therefore takes further vital housing out of a market that is already in short supply. This can be particularly acute in rural areas.

The current criteria and thresholds for defining property as self-catering accommodation and liable for Business Rates instead of Council Tax

One of the key aspects of the consultation is considering the circumstances in which properties may be transferred between the Council Tax Valuation List and the Business Rating List, especially as owners benefit from 100% Business Rates Relief when properties transfer into the commercial rating list.

Owners of second homes may currently apply to the Valuation Office Agency to have their property removed from Council Tax listing and added to the Business Rating List if they meet the following qualifying criteria:

- The property has been available to let for at least 140 days in the previous 12 months and will continue to be so for the following 12 months;
- In the previous 12 months, the property has been commercially let for at least 70 days within this period

Properties that qualify and are transferred to the Business Rating List, no longer have liability for Council Tax and are typically eligible to pay no business rates under the provisions of the Small Business Rates Relief Scheme.

There are currently 78 self-catering properties in Flintshire that are currently on the non-domestic rating list with nearly all qualifying for full Small Business Rate Relief or Retail Relief meaning they have no local tax to pay. A proportion, but not all, of these properties would have transitioned from originally having a Council Tax liability and having previously been designated as residential type property.

Within the UK tax system, HMRC applies special tax rules and reliefs for properties that qualify as furnished holiday lets but these rules currently differ significantly from the criteria and thresholds used to determine whether properties should be liable for Council Tax or business rates

To be eligible for these HMRC reliefs, a property must be:

- available for letting for at least 210 days in the financial year, and
- Commercially let for a minimum of 105 days in that year.

	<p>Increasing local taxation thresholds and aligning the thresholds with those of HMRC would ensure a more joined-up and consistent approach, ensuring only those self-catering properties which are available for letting for the majority of the year are able to be transferred into the Business Rating List.</p> <p>This would reduce the number of properties transferring from the Council Tax Valuation List, reducing the risk of a loss of Council Tax income for the Council.</p> <p><i>The eligibility of self-catering accommodation for 100% Small Business Rates Relief once owners are subject to Business Rates.</i></p> <p>We welcome a comprehensive review and further research being undertaken by Welsh Government around the pros and cons of awarding 100% rate relief to businesses that typically trade from properties that have previously been, or could in the future, be treated as residential type property, particularly when converting former residential homes to holiday lets could take vital residential housing out of a market that is already in short supply.</p> <p>We believe there could be merit in limiting the amount of rate relief that could be awarded to self-catering accommodation, as exceptional cases, notwithstanding that businesses with small rateable values usually qualify for 100% rate relief.</p>
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2.00	RESOURCE IMPLICATIONS
2.01	If the criteria of HMRC is adopted to determine whether properties should be treated as Council Tax or business rates, there is a possibility of increasing the Council Tax yield and to use any additional revenue generated to help meet local housing needs, in line with the policy intentions of the premium.
2.02	Should Welsh Government choose to legislate to increase the maximum level of premium from the current 100%, and the Council used their discretionary powers to increase the premium in Flintshire from the existing level of 50%, this also would potentially increase the Council Tax yield.
2.03	However, there is already provision within existing legislation to increase the premium up to 100% should cabinet and full Council decide this is appropriate. In other words, this latest consultation will not impact on the decision by cabinet on 21 September 2021 to review the existing level of the premium charged.

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	None as a direct result of the consultation paper.

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	<p>Welsh Government have published an open consultation on the discretionary powers which allow local authorities to levy a higher rate of Council Tax on second homes and long-term empty properties.</p> <p>They are also asking for views and evidence on the criteria used to define a property as self-catering accommodation for local tax purposes.</p> <p>The closing date for response to the consultation is 17th November 2021.</p>
4.02	As the Council undertakes the statutory function by acting as the billing authority for the assessment and collection of Council Tax and non-domestic rates, Cabinet is asked to endorse and support the consultation response as set out in this report.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<ul style="list-style-type: none"> • Housing (Wales) Act 2014 • Local Government Finance Act 1992, sections 12A and 12B • Section 66 (2bb) of the Local Government Finance Act 1988 • Non-Domestic Rating (Definition of Domestic property)(Wales) Order 2010 • Non-Domestic Rating (Definition of Domestic property)(Wales) Order 2016 • Welsh Government Consultation - Local Taxes for Second Homes and Self-catering Accommodation https://gov.wales/local-taxes-second-homes-and-self-catering-accommodation • HMRC HS253 Furnished Holiday Letting Guidance 2020 https://www.gov.uk/government/publications/furnished-holiday-lettings-hs253-self-assessment-helpsheet/hs253-furnished-holiday-lettings-2020

7.00	CONTACT OFFICER DETAILS
7.01	<p>Contact Officer: David Barnes, Revenues Manager Telephone: 01352 703652 E-mail: david.barnes@flintshire.gov.uk</p>

8.00	GLOSSARY OF TERMS
8.01	<p>Council Tax Premium: an additional amount of Council Tax of up to 100% (a premium) can be charged by local authorities in Wales for property defined as either being second homes or long term empty property. There are some exceptions from the Council Tax premium for a period of up to 12 months. For example, if the property is being actively marketed for rent or sale.</p> <p>Long Term Empty property: is defined as a property which is both unoccupied and substantially unfurnished for a period of six months or more, but to be liable for a premium, it would be unoccupied and unfurnished for a continuous period of one year or longer.</p> <p>A second home: is defined as a property which is not a person's sole or main residence and is substantially furnished.</p>