

# Council tax and second homes

Y Pwyllgor Deisebau | 29 Medi 2020  
Petitions Committee | 29 September 2020

**Reference:** RS20/13682-9

**Petition Number:** P-05-1009

**Petition title:** Mandate Welsh Councils to apply a minimum 100% Council Tax surcharge on second homes.

**Text of petition:** Second homes and seasonal homes are destroying our rural communities, while pricing locals out of the housing market. Meanwhile many second home owners avoid paying any Council Tax by claiming small business relief. The Welsh Government should be actively discouraging this and applying penalties of 100% of value of second home for willful avoidance.



# 1 . Background

## Discretionary council tax premiums

The *Housing (Wales) Act 2014* amended the *Local Government Finance Act 1992* ('the 1992 Act') to give local authorities in Wales discretionary powers to charge higher rates of council tax in respect of long-term empty dwellings (that have been empty for at least a year) and dwellings occupied periodically, more commonly known as second homes.

This additional council tax is referred to as a premium. The maximum increase a local authority can charge is an additional 100% of the standard council tax charge, i.e. a 100% council tax premium. This means second home owners could be charged up to double the standard rate of council tax for that dwelling by the authority.

On the first occasion a local authority chooses to charge such a premium, it must make its determination at least one year before the beginning of the financial year in which the premium will be charged. Local authorities have had the ability to charge a premium since April 2017.

The Welsh Government has issued **guidance** to local authorities on use of these powers. The guidance notes:

The discretion given to local authorities to charge a premium is intended to be a tool to help local authorities to:

- bring long-term empty homes back into use to provide safe, secure and affordable homes; and
- support local authorities in increasing the supply of affordable housing and enhancing the sustainability of local communities.

In considering whether or not to charge a premium, regard should be given to these aims. Authorities should take into account the particular housing need and circumstances in their area.

## Exempt properties

A council tax premium cannot be charged on a property that is either not banded for council tax purposes, exempt from council tax entirely, or where Welsh Ministers have specifically said no premium may be charged.

The *Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015* prescribes seven classes of dwellings where no premium may be charged. These include exceptions for occupied caravan

pitches (where they are currently empty, but when occupied will be a person's sole or main residence) and also seasonal homes where year round occupation is not permitted. That exception is applicable to dwellings that are subject to planning conditions that prevent occupancy for a continuous period of at least 28 days in any 12-month period.

Providing certain conditions are met, some second home owners could be liable for non-domestic rates (business rates), rather than council tax. In those cases, the council tax premium for second homes could not be charged.

## Non-domestic rates

There has been considerable attention paid in the Senedd to the ability of second home/self-catering accommodation owners to have their property valued for non-domestic rates instead of council tax.

The Welsh Government has published *Guidance for Ratepayers: Non-Domestic Rates for Self-Catering Properties in Wales*. This guidance sets out the criteria that must be met for a property to be liable for non-domestic rates rather than council tax:

...from 1 April 2010 in Wales, property is non-domestic, and therefore liable for non-domestic rates, if the VOA [Valuation Office Agency] is satisfied that:

- it will be available for letting commercially as self-catering accommodation for short periods totalling 140 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 assessment it has been available for letting commercially as self-catering accommodation for short periods totalling 140 days or more; and
- the short periods it has actually been commercially let total at least 70 days during that period.

Ratepayers must continue to satisfy the non-domestic rates criteria for each property, for each 12-month period. Otherwise, unless the property falls within any other category of non-domestic property, the property is likely to be considered "domestic" and would be subject to an assessment of liability to council tax.

The criteria that must be met are statutory requirements and are set out in section 66(2BB) of the *Local Government Finance Act 1988* as amended by the *Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2010*.

The *Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2016* amended the above criteria from 1 April 2016 so that:

...businesses consisting of several self-catering properties at the same location or within very close proximity have the option to average the number of lettings days of the properties to meet the 70-day criterion where they are let by the same or connected businesses.

The Valuation Office Agency (VOA), determines whether a property is categorised as domestic or non-domestic in accordance with the statutory requirements.. The VOA is an executive agency sponsored by HM Revenue and Customs. The VOA is independent of the Welsh Government.

Where a property is listed as self-catering accommodation, but does not meet the statutory criteria, the owner could face a back-dated council tax demand.

## Small business rates relief

While owners of second homes may be liable for business rates, they may also be eligible for Small Business Rates Relief (SBRR) and may not face any charges after SBRR is applied.

In addition to specific reliefs targeted at certain types of business, eligible business premises with a rateable value of up to £6,000 receive 100% relief; and those with a rateable value between £6,001 and £12,000 receive relief on a tapered basis from 100% to zero. The number of properties eligible for SBRR is limited to two properties per business in each local authority.

Welsh Government guidance, [\*Permanent Small Business Rates Relief Scheme for Wales\*](#), provides further details of the scheme.

## 2. Welsh Government action

In the Minister for Finance and Trefnydd's response to this petition, she notes that local authorities already have discretionary powers to 'charge a premium of up to 100% of the standard rate of council tax on second homes, and long-term empty properties.' The Minister notes that the discretionary power:

Allows individual authorities to tailor their approaches to the particular needs and circumstances of their area, and to strike a balance between the interests of communities, homeowners and the local economy.

The response continues by noting that:

The Welsh Government has worked closely with local authorities and the VOA to identify any cases of properties which have been incorrectly listed as self-catering accommodation. Local authorities have been invited to provide information about properties they believe have been wrongly listed for examination by the VOA. No evidence has yet been identified of self-catering properties being inappropriately listed. The invitation to authorities to provide evidence for examination by the VOA remains open.

### 3. Welsh Parliament action

The Senedd's Petitions Committee has previously considered a number of petitions relating to council tax and second homes. The [Second Home Tax](#) petition was considered during 2019/20. That petition focused on what the petitioners described as a 'legal loophole' that allowed home owners to switch their property from council tax to non-domestic rates. In responding to that petition, the Minister for Finance and Trefnydd said in a [letter to the Committee](#) (PDF, 270KB) dated 5 June 2019 that "there is no legal loophole."

The Senedd's Equality, Local Government and Communities Committee conducted an [inquiry into empty properties](#) in Wales which, in part, addressed the issue of council tax premiums as they also cover empty properties. The committee's report was published in October 2019. It made the following recommendation which was accepted by the Welsh Government in principle, subject to further evidence gathering:

We recommend that the Welsh Government and WLGA undertake an exercise to assess whether people are taking action to avoid paying the council tax premium, including by changing a property to self-catering accommodation or by claiming that a family member has moved in to an empty property to receive a single person discount. Should the exercise demonstrate a significant increase in such practices, further steps should be taken to prevent the avoidance of council tax premiums.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.