

# Empty properties

October 2019



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# Empty properties

October 2019



# About the Committee

The Committee was established on 28 June 2016. Its remit can be found at:  
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Welsh Labour  
Newport East

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**Dawn Bowden AM**  
Welsh Labour  
Merthyr Tydfil and Rhymney



**Huw Irranca-Davies AM**  
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## Chair's foreword

There are around 27,000 private sector homes in Wales that have been empty for more than six months. We are all aware of such properties within our communities and the nuisance and blight they may cause. They can be especially problematic and damaging for people and local authorities alike. Not only do they attract anti-social behaviour, pose environmental health problems and contribute to a general decline in their neighbourhoods, but they are also a wasted resource. This is particularly frustrating when housing in is short supply.

There are initiatives aimed at reducing the number of empty properties. These have brought some progress, but limitations and difficulties prevent them applying in all circumstances.

Many owners do not wish to see their properties lying idle and should be supported to bring them back into use. When attempts to tackle the problem informally fail, local authorities have powers to deal with empty properties; but this isn't straightforward. It is time consuming and there is no certainty of it being successful.

Enforcement action should be a viable option in a higher number of cases. We explore some of the barriers and suggest ways to improve the processes to make this possible.

Tackling the problem of empty properties can make a significant contribution to wider community regeneration; it can make an area more attractive and increase available housing stock. It is important though, to take account of individual communities' needs and to ensure action is tailored appropriately.

This report makes a series of recommendations, which I believe would make a significant contribution to reducing the number of empty properties in our communities.

John Griffiths AM  
Chair

## Recommendations

**Recommendation 1.** We recommend that the Welsh Government work with local authorities to develop a national action plan for tackling empty properties that sets priorities and targets to be taken forward, taking account of recommendations in this report. This should include specific objectives and targets for implementation. The action plan should be published by October 2020..... Page 19

**Recommendation 2.** We recommend that the Welsh Government, in its work with local authorities and other partners, should emphasise the importance of community based approaches to ensure this aspect is prioritised and plans for dealing with empty properties properly reflect the views of communities.  
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**Recommendation 3.** We recommend that the Welsh Government works with local authorities to understand the impact that having a specific officer with responsibility for empty properties can make. It should work with them to enable this specific role or function to be available to each authority across Wales. The Welsh Government should consider providing resources to support its implementation if necessary. Consideration should be given to whether a dedicated officer could be shared by more than one authority, if appropriate to the scale of the issue locally..... Page 28

**Recommendation 4.** We recommend that the Welsh Government works with the WLGA to update Public Accountability Measure/013 to measure the success of bringing back into use properties that have been empty for 12 months rather than the current 6 months..... Page 28

**Recommendation 5.** We recommend that the Welsh Government works with the WLGA and the Valuation Office Agency to develop a method of gathering data on empty properties which is not solely reliant on the council tax valuation list in order to include derelict and non-residential properties in PAM/013.  
..... Page 29

**Recommendation 6.** We recommend that the Welsh Government, Welsh Local Government Association and local authorities explore and identify the most effective way of establishing a regional or national source of legal expertise for empty property teams to access, and include a date for the implementation of this in the action plan on empty properties we have recommended..... Page 29



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- Recommendation 7.** We recommend that the Welsh Government works with the WLGA to undertake a review of the current statutory enforcement powers available to local authorities to tackle empty properties and assess how these could be used more effectively, consolidated, simplified or extended. The review should include an assessment of the proposal to introduce a Compulsory Sales Order process in Scotland, and whether such an approach would be suitable in Wales. The scope of the review should also include how the Welsh Government can indemnify the costs of enforcement action taken by local authorities.  
..... Page 41
- Recommendation 8.** We recommend that the Welsh Government presses ahead with its proposed training for local authority officers and members on the enforcement options available to assist them in tackling empty properties, and updates the Assembly on progress in delivering the sessions by Easter 2020.  
..... Page 41
- Recommendation 9.** We recommend that the Welsh Government and WLGA regularly reviews the support it provides for schemes that offer financial assistance to owners of empty properties. This should assess the effectiveness of existing schemes, with a view to developing flexible funding solutions that are sensitive to local needs in the future..... Page 50
- Recommendation 10.** We recommend that the Welsh Government works with the housing association sector to better understand the projects it has in place to return empty properties to use as affordable housing. The findings should be shared as examples of good practice with other social landlords. The Welsh Government should also consider the potential for similar schemes to be rolled-out across Wales and, where necessary, allocate resources to enable this to happen..... Page 51
- Recommendation 11.** We recommend that the Welsh Government clarifies the legal position around local authorities sharing information relating to empty properties and provide guidance. This should include viable alternatives if local authorities are restricted in what they can share due to the General Data Protection Regulations..... Page 54
- Recommendation 12.** We recommend that the Welsh Government explores the possibility of ring-fencing revenue collected by local authorities through the council tax premium on empty homes, to be used specifically for housing purposes. The Welsh Government should report back to the Assembly on its findings..... Page 63
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**Recommendation 13.** 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. ....Page 64

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## Background

1. As of 1 April 2018 there were around 27,000 long-term empty private sector residential properties in Wales, according to the most recent estimates.<sup>1</sup> The number of long-term empty properties in the social housing sector is around 1,400.
2. The Welsh Government has set a target of bringing 5,000 empty homes back into occupation during the Fifth Assembly. Local authorities have a broad suite of statutory and non-statutory tools at their disposal to deal with the problems associated with empty properties.
3. We agreed to undertake this inquiry to better understand the scale and impact of the issue and to assess the effectiveness of the measures to deal with the situation. The terms of reference were to consider:
  - The extent to which empty properties impact on the supply of affordable housing in Wales;
  - The impact of empty properties on communities in Wales and challenges faced by local authorities dealing with the problem;
  - The extent to which local authorities have the legislative powers they need to deal with empty properties;
  - Examples of best practice in turning empty properties into affordable, energy efficient homes;
  - The extent to which the changes introduced by the *Housing (Wales) Act 2014* giving local authorities discretion to charge council tax premiums on empty homes have been utilised, and the effectiveness of this policy.

### Engaging and gathering evidence

4. From 18 April to 31 May 2019, we ran a public consultation. We received 24 responses from a range of organisations. Details of those who provided oral evidence and who responded to our consultation are available as annexes to this report. We heard oral evidence from the Deputy Minister for Housing and Local Government (the Deputy Minister) on 17 July 2019.

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<sup>1</sup> [InfoBase Cymru](#) – Select “Show/Hide related data” tab for figures

**5.** In addition, we conducted a survey to gather the views of the general public. The aim was to hear from as diverse a range of Welsh citizens as possible, and included general questions alongside some specifically for owners of empty properties. The survey was promoted extensively through a variety of channels:

- Through the networks of key stakeholders;
- On the National Assembly for Wales' website and social media platforms;
- People taking part in Assembly Education and Youth Engagement visits, outreach sessions and visits to the Senedd and Pierhead.

**6.** A total of 403 responses were received.

# 1. Impact of empty properties on communities

Empty properties are a lost housing resource and can also blight their surrounding communities.

**7.** There was widespread agreement among those who responded to our consultation that empty properties have a detrimental impact on communities. Respondents told us that empty properties:

- were a wasted housing resource;
- attracted anti-social behaviour such as vandalism, fly tipping and arson;
- blighted the community causing environmental problems, vermin and pest infestations and statutory nuisances like damp affecting neighbouring properties;
- led to falls in adjacent property values;
- contributed to the general decline of areas; and
- were a cost to the economy- through costs to owners from lost income and potentially additional council tax, as well as costs to a range of public services (not just local authorities, but others including the emergency services) in reactively dealing with problems.

**8.** Such concerns were echoed by those who responded to our public survey. 60.9% of respondents said the physical appearance of empty properties was a “blight on the community” and 31.4% of respondents felt that the value of nearby properties had decreased because of empty properties.<sup>2</sup>

**9.** The Association of Residential Letting Agents (ARLA) noted:

“Empty homes are often seen as a blight on the community, resulting in a contribution to a general decline in the area, and sometimes going as far as decreasing the value of surrounding properties. A result of this is that empty homes make the surrounding area a less desirable place to live. This creates a cycle where people with the means to leave the

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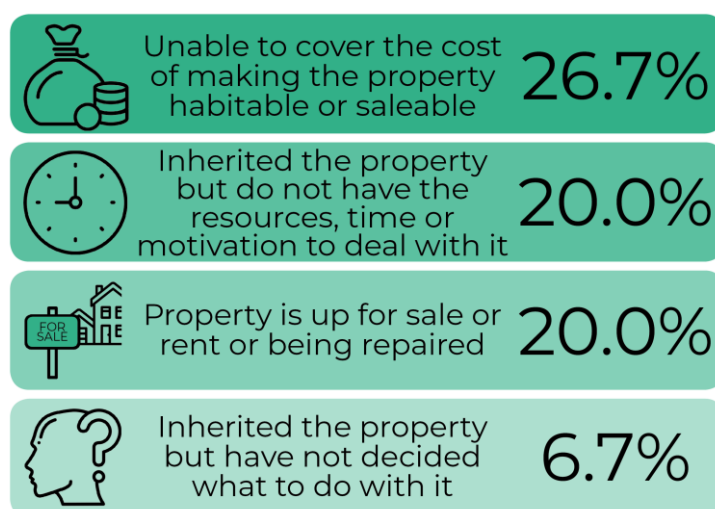
<sup>2</sup> [Inquiry into Empty Properties - survey analysis](#)

area do so, leaving those without 'stuck' in an area blighted by empty properties, and little appetite for new incomers to the area."<sup>3</sup>

**10.** We heard that properties can be empty for a variety of reasons:

- the owner may not be able to cover the cost of making the property habitable/saleable;
- the property might have been inherited and the new owners, who may not live locally, lack the resources, time or motivation to deal with the property;
- the property could be located above commercial premises, such as a shop, and the owner has chosen not to let the premises;
- the owner may want to sell the property, but be unable to find a buyer because of the condition of the property or other factors like a low demand housing market;
- in some cases, the owner may have unrealistic expectations about what the property is worth, so will be reluctant to sell at market value; and
- where a local authority has become involved, they may face uncooperative owners reluctant to engage with them, or struggle to trace the owner at all.

**11.** The empty property owners who responded to our survey noted the following reasons as to why their property was empty:<sup>4</sup>



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<sup>3</sup> Written evidence, EP 17, ARLA NAEA PropertyMark

<sup>4</sup> [Inquiry into Empty Properties - survey analysis](#)

## 1.1. Strategic approach

**12.** The All-Wales Private Sector Housing Expert Panel (the Expert Panel), is made up of senior housing officers from all Local Authorities with responsibility for empty properties. The Expert Panel told us that, as a minimum, each local authority should have a dedicated empty property officer, operating behind an effective Empty Property Strategy. They also noted that there is not always a corporate approach to tackling the problem. Statistics provided to us by the Deputy Minister demonstrated that most, but not all, local authorities have an empty property strategy in place.<sup>5</sup> Although local authorities respond well in terms of dealing with the short term impact of empty properties, such as environmental health issues, witnesses called for a strategic approach, primarily at a local authority level, to address the wider problem.

**13.** One response to our survey noted:

“local authorities don’t consider the issue of empty homes holistically and the cross service benefits. Often [ ] one empty homes officer is left to manage the issue as best they can with little strategic priority given to the issue.”<sup>6</sup>

**14.** The Scottish Empty Homes Partnership explained how a wider approach to tackling empty properties drives a greater commitment to finding longer term solutions to the problem, rather than a local authority simply reacting to the ad-hoc consequences:

“it’s really important for councils to take a strategic approach. A strategy will give consideration to councils to understand where their empty properties are, why they became empty and why they remain empty. If there’s an empty homes officer on the ground, it’ll give them a clear direction to work towards, and they will be able to establish priorities so they understand which parts will be more important and can identify policy solutions. Now, often, officers can identify policy solutions, but if there’s no strategy, then there is no commitment at decision-maker level, and they then come across barriers. So, if you’ve got a strategy in

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<sup>5</sup> ELGC(5)-24-19 paper 6, Letter from Deputy Minister for Housing and Local Government, 6 August 2019

<sup>6</sup> Inquiry into Empty Properties - survey analysis

place, then they have a clear direction and a clear commitment at that level.”<sup>7</sup>

**15.** We heard that there can be a fragmented approach by local authorities in dealing with empty properties, as different departments deal with specific problems rather than working strategically. Action on Empty Homes suggested that a strategic approach should be accompanied by a delivery plan, which:

“should include delivery protocols between the various bits of the council, [...]and there need to be agreed outcomes.”<sup>8</sup>

**16.** Action on Empty Homes went on to say that a corporate strategy can provide clarity to local authority officers on the issues they should prioritise:

“Which brings us back to the corporate strategic approach, because there are conflicting priorities. It’s only reasonable, I think, for a local authority to give clear guidance to legal departments, empty homes staff, enforcement teams, and so on, about what their priorities are. So, if you’re in the legal team and something around empty properties lands on your desk, it’s okay to prioritise it. That’s what the local authority wants you to prioritise.”<sup>9</sup>

**17.** We heard from local authority representatives that most would “aim to have a strategic approach to dealing with empties as part of their overall housing strategy”, but that each will have its local priorities.<sup>10</sup> The representative from Swansea Council told us of the need to strike a balance between:

“long-term, strategic type of work and approach as well as dealing with the ad hoc, reactive issues that are maybe more short term or that are quite pertinent at a given point in time—if a property’s been broken into or there’s something like a dangerous structure element to it that needs resolving straight away. But I think the overall approach would

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<sup>7</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 19

<sup>8</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 25

<sup>9</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 69

<sup>10</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 144

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be that local authorities would try to look at them strategically as far as their local priorities and their resources allow as well.”<sup>11</sup>

**18.** The representative from Ceredigion County Council, and Chair of the Expert Panel, elaborated on competing priorities faced by local authorities when balancing the need to deal with empty properties alongside other key services:

“from a strategic perspective, it does depend on the local authority, then, where an empty property sits within the strategic priorities of that local authority against competing resources as regards social care, education, regeneration—that’s a key deliverer—but that’s where we do sit, realistically.”<sup>12</sup>

**19.** Carmarthenshire County Council told us that it has an action plan in place which has enabled the dedication of resources for those purposes. We heard that part of the empty property officer role for the authority is to:

“co-ordinate the activity of the local authority across those departments to ensure that we have a unified approach to these empty properties.”<sup>13</sup>

**20.** The Deputy Minister felt that a strategic approach from local authorities could assist in achieving a “more co-ordinated and consistent approach” across Wales.<sup>14</sup>

**21.** The Welsh Government’s evidence paper stated that a dedicated team had recently been set up in the Welsh Government to “review bespoke support to each authority willing to work with it”.<sup>15</sup> We heard that the team will provide support to local authorities by reviewing whether funding streams can be synchronised, reviewing strategies, seeking opportunities for collaborative working and developing a Toolkit for use by local authorities and other partners.<sup>16</sup> A Welsh Government official accompanying the Deputy Minister told us:

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<sup>11</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 145

<sup>12</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 170

<sup>13</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 178

<sup>14</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 17

<sup>15</sup> [ELGC\(5\)-23-19 paper 1, Welsh Government](#)

<sup>16</sup> [ELGC\(5\)-23-19 paper 1, Welsh Government](#)

“we’re definitely looking to drive the momentum on this. We have got a lot of people involved and enthusiastic about this agenda at this time, and that’s definitely what we’re looking to do then—use that enthusiasm and drive this forward. We’ve got a lot of products that we can put behind this once we have the co-ordinated approach, and I think that that’s something that we are definitely looking at very closely, to make sure that we have got the support behind the training package that we are putting forward and the bespoke plan that we’re putting together.”<sup>17</sup>

## 1. 2. Wider community approaches

**22.** Links with wider community regeneration were a common thread through much of the evidence, Action on Empty Homes commented:

“the empty homes strategy should sit within a broader corporate strategy, and ideally within something like community regeneration, economic development, so that it’s seen not just as a housing issue or an empty homes issue but as a broader community development and economic regeneration issue, so that you truly have a corporate approach that has within it a clear empty homes strand, but not an isolated empty homes strand.”<sup>18</sup>

**23.** Action on Empty Homes suggested that local authorities could achieve a number of shared outcomes and objectives by taking this corporate approach. They cited a number of examples, including one where community regeneration had allowed young people to move out of residential care into formerly empty homes, which brought significant financial savings to the local authority.<sup>19</sup>

**24.** Using refurbishment work to provide training opportunities, apprenticeships and work experience was highlighted by Shelter Cymru as a direct benefit of bringing empty properties back into use. They also pointed to the evaluation of the Welsh Government’s Houses into Homes scheme which found that a large majority of redevelopments involved a local contractor – suggesting some of the economic benefit remained within the community.

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<sup>17</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 62

<sup>18</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 21

<sup>19</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 51

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**25.** The Wales Co-operative Centre pointed to its Toolkit for Developing Co-operative Housing Schemes, which outlines actions that housing associations can take to support community-led housing. It says that this will help schemes to develop resources and capacity to bring empty homes back into use.<sup>20</sup>

**26.** The evidence paper from the Welsh Government stated that it was:

“committed to finding delivery solutions that give control back to local people, giving them the responsibility to regenerate the communities they know so well.”<sup>21</sup>

### 1.3. Linking to the Well-being of Future Generations Act

**27.** Witnesses highlighted the importance of the *Well-being of Future Generations Act* and the contribution that bringing empty properties back into use makes to meeting the well-being goals. Shelter Cymru felt that having significant numbers of empty properties “significantly undermine a number of aims” of the Act, in several areas, particularly in achieving a prosperous Wales, a more equal Wales, a healthier Wales and a Wales of cohesive communities.

**28.** In written evidence, the Wales Co-operative Centre gave a number of examples of community regeneration projects founded on co-operative principles. It said co-operative and community led housing (CCLH) can:

“also help local authorities to maximise their contribution to the Well-being of Future Generations Act through creating additional social and economic value. In addition to creating cohesive communities, CCLH schemes can also contribute to building a more Prosperous Wales through providing training opportunities.”<sup>22</sup>

**29.** The representative from Ceredigion Council and Chair of the Expert Panel told us that although bringing empty properties back into use was a “key deliverer”, the Act was not the only focus:

“it is a major contributor, but that’s not to say that more couldn’t be done. I think we do struggle with competing resources within local authorities.”<sup>23</sup>

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<sup>20</sup> Written evidence, EP 09, Wales Co-operative Centre

<sup>21</sup> [ELGC\(5\)-23-19 paper 1, Welsh Government](#)

<sup>22</sup> Written evidence, EP 09, Wales Co-operative Centre

<sup>23</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 170

**30.** The Welsh Government's written evidence states that its interventions around empty properties will help to deliver on the *prosperous Wales and a resilient Wales* goals.

## Our view

**31.** We would like to see all local authorities in Wales prioritising work on empty properties so that as many as possible can be brought back into use. Local authority officers are working to address issues in their area, but making it a strategic priority in all areas will provide necessary recognition of its importance. We would like to see a joined-up, strategic, approach rather than simply reacting to specific complaints, for example environmental health issues and anti-social behaviour problems. Crucially, making empty properties a strategic priority makes it clear that it is an area where additional resources and time should be committed. This approach understands the potential contribution those properties can make to increasing available housing stock and furthering wider community regeneration. Whilst we appreciate that each local authority is responsible for identifying its own areas of priority, we believe that the wider benefits of reducing the number of empty properties are significant to warrant targeting resources at delivering an effective strategy.

**32.** Despite a number of good initiatives implemented by the Welsh Government in previous years, such as the [Empty homes good practice guidance](#) published in 2010 and the introduction of the Houses into Homes scheme, it would appear that progress in reducing the number of empty properties has since stalled, as demonstrated by the latest figures.

**33.** We therefore welcome the recent establishment of a dedicated team by the Welsh Government and the renewed focus it should bring by offering support to local authorities. We believe that the objectives of the team, as outlined by the Deputy Minister, could help to raise the profile of work to tackle empty properties within local authorities. However, we acknowledge that this team and its work, is still in its infancy.

**34.** The Welsh Government should use the opportunities brought by the establishment of this new team to take the lead in working with local authorities and emphasising the importance of identifying empty properties as a priority area. The team should quickly take necessary action, including engaging with local authorities and other partners to understand the support they need and how it can provide this effectively. We will continue to monitor the issue and the effectiveness of the approach in reducing the number of empty properties across Wales.

**35.** This area of work complements the goals of the *Well-being of Future Generations Act*, but there did not seem to be a clear understanding of that connection in local authorities' consideration. A clear corporate focus on empty properties within a wider housing strategy could include a link to achieving the well-being goals, thereby ensuring the goals are embedded in local authorities' actions.

**36.** Ensuring a fit with communities' wider regeneration priorities is key to developing an approach that meets the need of each community. We believe that working with community groups to understand their priorities and ensure their involvement is crucial to the success of regeneration projects. We are interested in the Toolkit for Developing Co-operative Housing developed by the Wales Co-operative Centre, and believe there is merit in the Welsh Government continuing to promote this.

**Recommendation 1.** We recommend that the Welsh Government work with local authorities to develop a national action plan for tackling empty properties that sets priorities and targets to be taken forward, taking account of recommendations in this report. This should include specific objectives and targets for implementation. The action plan should be published by October 2020.

**Recommendation 2.** We recommend that the Welsh Government, in its work with local authorities and other partners, should emphasise the importance of community based approaches to ensure this aspect is prioritised and plans for dealing with empty properties properly reflect the views of communities.

## 2. Bringing empty properties back into use

While there are some examples of good work by local authorities and housing associations on empty properties, many areas need an increased strategic focus on this work. More robust performance monitoring is needed to demonstrate that progress is being made.

### 2.1. Empty property officers

**37.** Not all local authorities have dedicated empty property officers. We heard that they have varying arrangements in place. The written response from the WLGA and the All-Wales Private Sector Housing Expert Panel noted:

“As a minimum, each LA should have a dedicated Empty Property Officer, operating behind an effective Empty Property Strategy.”<sup>24</sup>

**38.** The representative from Wrexham County Borough Council explained:

“All authorities won’t have a bespoke empty property officer, going by that job title, if you like. They’ll have officers who will have as their sole responsibility dealing with the wide breadth of empty property work, whether that’s from loan all the way through to enforcement action, or they’ll have officers, or maybe a team of officers, who will deal with empty properties as part of their remit.”<sup>25</sup>

**39.** He went on to say that although empty property officers had different areas of expertise, they all had:

“experience of dealing with the properties and knowing what kind of schemes do work, what kind of schemes don’t work, and how to try and find solutions for the issues.”<sup>26</sup>

**40.** We heard from the representative from Carmarthenshire Council that, as an empty property officer, his was “a very focused role”, he added:

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<sup>24</sup> Written evidence, EP 20, WLGA and the All-Wales Private Sector Housing Expert Panel

<sup>25</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 173

<sup>26</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 176

“We’re very fortunate to have a dedicated role in Carmarthenshire and we work behind an empty property action plan, which originated from a strategy. [ ] My role has developed quite significantly over the years, where we are actually providing some detailed advice, guidance and support to owners. We offer and administer financial assistance. We have an enforcement role. So, we enforce anything from Housing Act basic or statutory nuisances right the way through to Housing Act notices, to empty dwelling management orders. We also assist people with finding building contractors and agents to project manage these larger projects. [ ] So, it’s not just an enforcement role that we have; it is very much hand-holding and pointing people in the right direction. [ ] The responsibility lies across many departments: we’ve got building control responsibilities, planning, council tax; we’ve got public health services, housing. And part of my role is to take a co-ordinating role and co-ordinate the activity of the local authority across those departments to ensure that we have a unified approach to these empty properties.”<sup>27</sup>

**41.** Witnesses agreed that having a dedicated officer made a big difference to performance. The Scottish Empty Homes Partnership told us:

“you do need that empty homes officer post—that’s critical.”<sup>28</sup>

**42.** Andrew Lavender of the No Use Empty Project explained the benefits of having a dedicated officer:

“they should pay for themselves multiple times over in the regeneration value and the amount of investment in the area, job creation and also the visual amenity improvement of the property itself. So, for those authorities that actually have a dedicated officer and resource, then you will normally see a direct correlation in the number of properties that are brought back into use.”<sup>29</sup>

**43.** This view was shared by United Welsh Housing Association:

“they can be proactive with trying to actually engage with people [ ]. Most people don’t want their property to be empty, but there’s a reason

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<sup>27</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 178

<sup>28</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 28

<sup>29</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 41

why, and I think you need to drill down to that reason why in order to really address the problem. Whereas if you haven't got a dedicated officer, which lots of local authorities that we work with haven't, they end up reacting, basically, to somebody complaining about anti-social behaviour in a property. [ ]when we've got dedicated officers, they're out there trying to speak to the people and they've got access to the information about where they live and try and really get to the bottom of it."<sup>30</sup>

**44.** No Use Empty went on to tell us how some local authorities in England share the resource of an empty property officer:

"In England, where multiple authorities will appoint an officer between them to share the cost and the resources, [ ]. It's a matter, really, of having a resource that is targeted towards it, and that needs to be commensurate with the amount of problems within the area. So, the more resources you put into it, the more results you get, but I don't see any particular problem with, if it's not such a big problem or there are limited resources, pooling expertise and knowledge."<sup>31</sup>

## 2. 2. Local authority performance monitoring and data on empty homes

**45.** Council tax records provide the main source of data on empty homes. Currently, the performance of local authorities is reported against two Public Accountability Measures (PAM) related to empty properties: *PAM/013 Percentage of empty private properties brought back into use*; and *PAM/014 Number of new homes created as a result of bringing empty properties back into use*. PAM/013 is calculated using council tax data.<sup>32</sup>

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<sup>30</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 147

<sup>31</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 47

<sup>32</sup> The Public Accountability Measures (PAM) dataset was developed by a Welsh Local Government Association (WLGA) led Task and Finish group, in consultation with local authorities, and seeks to provide a clear and simple overview of local government performance. It's development followed a decision in 2016 by the Welsh Government to revoke the Local Government (Performance Indicators) (Wales) Order 2012, thereby removing the duty on local authorities to submit National Strategic Indicator (NSI) data. The PAM dataset is intended to enable local authorities to give account of their performance to the public, including comparing their performance with that of other authorities and to enable the public to hold the authority to account over issues that matter most to them.



**46.** The guidance<sup>33</sup> that accompanies the PAMs defines an empty property as a property liable for council tax, which has been unoccupied for a period of 6 months or more. This excludes a number of categories of property, including second/holiday homes, social housing, non-residential properties and properties that have been un-banded by the Valuation Office Agency.

**47.** Many stakeholders raised concerns on the current performance monitoring data and how useful, or not, that indicator is at judging the effectiveness of local authority interventions. Concerns related to:

- the robustness of the data which, as it is derived from council tax lists, will not include some of the most problematic empty properties as they are not listed for council tax if they are derelict;
- the usefulness of the specific measure that is reported by PAM/013; and
- Non-residential empty properties are not included.

**48.** The figure that is currently used for performance monitoring purposes includes homes empty for six months or more. The WLGA and Expert Panel noted in its written submission that a significant number of these homes are considered to be “transitional” empty properties, being empty for less than two years. It notes that:

“These types of properties are likely stuck in a lengthy probate process or are in a stagnant property market for sale. These properties are not necessarily considered to be in poor condition, nor detrimental to a community, but form the basis of a denominator figure.”<sup>34</sup>

**49.** The representative from Ceredigion Council, and Chair of the Expert Panel, expanded on the work the Expert Panel has done to look at the performance indicators nationally:

“I think, as with all performance indicators, we do provide guidance in relation to how each local authority should be measuring it then, really. [ ] But as an expert panel, what we’re trying to do is look at consistency across the local authorities in terms of how each local authority does measure their numbers and their percentages brought back into use.”<sup>35</sup>

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<sup>33</sup> [Public Accountability Measures \(PAMs\) 2018-19 Guidance for Local Authorities](#)

<sup>34</sup> Written evidence, EP 20, WLGA and the All-Wales Private Sector Housing Expert Panel

<sup>35</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 148

**50.** Shared Regulatory Services, which covers Cardiff, the Vale of Glamorgan and Bridgend local authority regulatory services, including housing enforcement, also highlighted the six month cut-off used for performance monitoring. They contend that “properties that become vacant are not an immediate source of concern to the public [ ] what concerns the public, local councillors, etc. are properties that remain vacant over a more significant period of time; 12 months or more”. They call for the indicator to be changed:

“A change in the indicator to reflect a longer period of time has the potential to better recognise the efforts of the Council in managing vacant properties. These more “difficult” properties should be the focus of the indicator because it here that the actions of the Council can be more effectively assessed and as such the indicator becomes a better measure of performance by the Council and ultimately a way to demonstrate performance against a metric that matters to the public.”<sup>36</sup>

**51.** The Expert Panel also noted that the most problematic empty properties which are likely to “consume the greatest staff resources” may have been removed from the council tax valuation list because of their poor condition – and therefore no longer classed as a dwelling. Those properties, and the work involved in dealing with them, will not be reflected by the performance indicator at all.<sup>37</sup>

**52.** As the indicator counts the percentage of empty private properties brought back into use, it does not include remedial work undertaken by a local authority to deal with issues such as rat infestations or overgrown gardens. The representative from Carmarthenshire Council noted:

“the local authority will put resources to tackle those issues, but those issues will not bring that property back into use. And that’s the thing; that the activity of the local authority on a daily basis won’t get recognised in terms of empty properties to its full extent because the performance indicator only looks at how many have been brought back into use.”<sup>38</sup>

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<sup>36</sup> Written evidence, EP 19, Shared Regulatory Services

<sup>37</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 157

<sup>38</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 236

**53.** The Chartered Institute of Housing Cymru agreed that the current performance indicators did not portray the full extent of the work being done by local authorities:

“you might look at performance indicators annually and mistakenly think that nothing is happening, or that progress hasn’t been as quick as you might think, but, actually, progress and what’s happening in practice might be considerable.”<sup>39</sup>

**54.** The Welsh Government’s paper notes the limitations of using council tax data as a source of data on empty properties. In particular, it notes that the council tax data includes properties empty for 6 months or more, rather than the “preferred” definition of vacant for 12 months or more – the period used in relation to the council tax premium for empty properties.<sup>40</sup> The Deputy Minister confirmed that the Welsh Government shares some of the concerns around performance monitoring, adding:

“One of the biggest limitations that we have in this area is the lack of accurate data, and that data capture needs to be improved. One of the ways that we would welcome that being improved is actually that properties that have been empty for more than 12 months, rather than six months, are included in that, because I think six months can often be quite ambiguous. [ ] But, also, one of the other challenges we’ve got is that [ ] properties that have been marked as derelict aren’t included as part of that, and clearly properties that are marked as derelict are empty properties and create potential challenges, but opportunities too, particularly perhaps in more rural areas. So, I think to have the data for that would be advantageous as well.”<sup>41</sup>

## 2. 3. Legal expertise

**55.** We heard evidence that local authority officers dealing with empty properties cannot always access the legal expertise they need to progress cases. The representative from Carmarthenshire Council explained the difficulties when local authority lawyers deal with empty property legislation infrequently:

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<sup>39</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 150

<sup>40</sup> [ELGC\(5\)-23-19 paper 1, Welsh Government](#)

<sup>41</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 69

“Legal services are great, they’re very knowledgeable, but they have a breadth of knowledge across the entire council services. When it comes to specific, bespoke legislation in terms of housing or empty properties in general, they will know a little bit; they won’t know a massive amount. There’s certainly a lack of confidence about making decisions, especially when the local authority have to invest capital funding into projects. [ ] A lot of legal services, in my experience, take the advice from us, as empty property officers, because we deal with this legislation on a daily, weekly basis. To have a bespoke legal service, or perhaps a national bespoke legal service, where local authorities can tap into this and get that specialist advice, I think would be something of a benefit.”<sup>42</sup>

**56.** The representative from Ceredigion Council, and Chair of the Expert Panel, concurred:

“It is a specialist area at the end of the day. [ ] So, to have that even at a regional level, and I think it could work on a national basis as well, to have that specialist solicitor, almost, to draw on would be very beneficial.”<sup>43</sup>

**57.** The South East Wales Empty Property Working Group suggested that private sector legal support may provide a solution.<sup>44</sup>

**58.** The Scottish Empty Homes Partnership told us of efforts to educate empty property officers in Scotland:

“One of the things that Scottish Government have been doing, for compulsory purchase orders in particular, is quite complex legislation, but it is underpinned by quite a simple process, and what we’re trying to do is educate empty homes officers to actually get it to a process so that when it goes to legal services, it’s much easier and they don’t have to then do a lot of legwork. But we’re still finding barriers in terms of

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<sup>42</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 180

<sup>43</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 192

<sup>44</sup> Written evidence, EP 06, South East Wales Empty Property Working Group

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legal having so many conflicting priorities, and empty homes often aren't top of that list."<sup>45</sup>

**59.** The Deputy Minister told us that the Welsh Government was aware of the issues and “would be happy to be led by local authorities and what their needs are and what support they need”. She alluded to the new Welsh Government team being able to offer support:

“We're well aware of the gaps in expertise and confidence and knowledge across local authorities, and there are ways in which the team we've got here could offer support. [ ] My colleague the Minister for Housing and Local Government, is looking at, actually, better regional partnership working, and that could be a potential vehicle to deliver that additional legal support where it is perhaps not there, or where to pool that legal resource, as well.”<sup>46</sup>

## Our view

**60.** We note the clear evidence from stakeholders that having a dedicated empty property officer in post can make a significant difference to a local authority's capacity and ability to tackle the issues. Simply providing a reactive service that responds to complaints does not address the root cause of why a property is empty. Whilst not all local authorities would necessarily require this to be a full time role, we believe that such a post can bring more focus to the work and co-ordinate the various activities being undertaken across the authority. More proactive work can be undertaken, particularly working in communities where rates of empty properties are higher. The empty property officer will be able to focus on understanding the problems in the area and develop bespoke solutions to meet the needs of both communities and individual properties. The officer can also provide assistance to owners of empty properties who may require support.

**61.** We acknowledge that resources are limited for all local authorities, however empty properties can be found in communities across Wales so the issue must be effectively tackled. We believe that the long-term impact empty properties can have, both economically and socially, justifies identifying this as a priority area. We note the expert advice we received that a dedicated officer should pay for themselves multiple times over, and echo the sentiment that the initial cost of

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<sup>45</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 68

<sup>46</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 101

employment would demonstrate value for money in the long term. We believe that such an approach would also contribute to achieving some of the well-being goals. We note that witnesses highlighted examples in England where empty property officers are a shared resource across multiple local authorities. We see potential for this practice to be followed in Wales, including the possibility of local authorities working with other stakeholders, such as RSLs, to deliver this.

**Recommendation 3.** We recommend that the Welsh Government works with local authorities to understand the impact that having a specific officer with responsibility for empty properties can make. It should work with them to enable this specific role or function to be available to each authority across Wales. The Welsh Government should consider providing resources to support its implementation if necessary. Consideration should be given to whether a dedicated officer could be shared by more than one authority, if appropriate to the scale of the issue locally.

**62.** We share concerns raised regarding the usefulness of the performance indicators used to measure local authorities' progress in tackling empty properties. It is important that performance indicators provide an accurate reflection of the work being done, therefore limitations in their usefulness should be addressed.

**63.** There was consensus that using a twelve month timeframe for the definition of an empty property would be more valuable than the current six month definition. This would appear a relatively straightforward change to implement, and we believe that this should be explored by the Welsh Government, WLGA and local authorities.

**64.** It is also misleading not to include some of the most problematic properties in the performance indicator as this does not give an accurate indication as to the scale of the problem nor the work done in response. The current measures make it difficult to judge the effectiveness, and value for money, of local authorities' action. We believe that a more robust approach is needed in order to ensure that all empty properties, not just those liable for council tax are included in the data collected.

**Recommendation 4.** We recommend that the Welsh Government works with the WLGA to update Public Accountability Measure/013 to measure the success of bringing back into use properties that have been empty for 12 months rather than the current 6 months.

**Recommendation 5.** We recommend that the Welsh Government works with the WLGA and the Valuation Office Agency to develop a method of gathering data on empty properties which is not solely reliant on the council tax valuation list in order to include derelict and non-residential properties in PAM/013.

**65.** It is clear from the evidence we heard that officers who deal with empty properties feel that local authority lawyers are cautious about using the legislative powers available to them, perhaps due to their insufficient knowledge and experience of the various pieces of legislation. This is concerning as there is little use in having powers in place if they are not being used. We realise that, across councils' responsibilities, there is a breadth of legislation which lawyers need to be familiar with, and it is natural that expertise will be built in those which are used more frequently. It would therefore be unreasonable to expect all local authority lawyers to develop expertise in the specific area of empty properties. However, we believe there is merit in exploring ways for expert knowledge to be shared and accessible across all authorities, either at a regional or all-Wales level.

**Recommendation 6.** We recommend that the Welsh Government, Welsh Local Government Association and local authorities explore and identify the most effective way of establishing a regional or national source of legal expertise for empty property teams to access, and include a date for the implementation of this in the action plan on empty properties we have recommended.

## 3. Enforcement Powers

Local authorities have a wide range of enforcement powers, but taking action can be complex and costly. These powers need to be reviewed and support provided to local authorities that need it. It should be more straightforward for local authorities to take action to deal with empty properties.

### 3.1. Powers available to local authorities

**66.** Powers available to local authorities to bring empty properties back into use include Empty Dwelling Management Orders (EDMO), Compulsory Purchase Orders (CPO) and Enforced Sales.

**67.** EDMOs were introduced by the *Housing Act 2004* and allow local authorities to take over the management of empty dwellings for a period of time; they are the only statutory power specifically designed to be used to tackle empty properties.<sup>47</sup> The *Housing Act 1985* gives local authorities the power to purchase buildings and land on a compulsory basis so that it can be used for housing purposes. The *Law of Property Act 1925* makes provisions for local authorities to force the sale of a property where debt is owed to the local authority by the owner.

**68.** Some evidence suggested that current powers are underused, often because of resources, a lack of knowledge or as we have previously referred to, the absence of specialist legal support. In particular, the representative from Carmarthenshire Council felt that EDMOs were “a very complicated, protracted mechanism for dealing with empty properties”, and explained the full risks to local authorities:

“The local authority undertaking an empty dwelling management order also has to find capital funds in order to improve a property. That capital cost is then at massive risk because the legislation at the moment only allows us to fix that as a local charge and not as a land registry financial charge. So, we work our way around that by actually putting cautions, restrictions, on the land registry, and the restriction is quite simple: it is to prevent somebody from forming a leasehold on the property, but it acts like a trigger to allow other people to know,” Look, there’s

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<sup>47</sup> Written evidence, EP.20a, WLGA and the All-Wales Private Sector Housing Expert Panel (additional information)



something going on here, the local authority has an interest in the property.’ Before we even get to the empty dwelling management order, we have to exhaust all other avenues of assistance. We have to hand-hold, we have to offer all the advice, guidance and support that’s available to every owner of an empty property, including financial assistance. At that point then, the local authority has to serve an interim management order, for which we have to have permission from the Residential Property Tribunal. The application that I prepared was 481 pages long. The time frame that it took from us to start enforcement action to the property being tenanted was three years—a massive amount of my time went.”<sup>48</sup>

**69.** Despite noting the limitations of the process, he felt there was a place for EDMOs as an enforcement option:

“I think there is a place for them because it does enable local authorities to offer solutions to empty property owners without taking their properties away from them. It does demonstrate the local authority using enforcement action in a positive way and it increases the availability of housing in that area.”<sup>49</sup>

**70.** Additional written information submitted by the Expert Panel following their evidence session outlined in greater detail the limitations of the current enforcement options for local authorities.<sup>50</sup>

**71.** Other witnesses agreed there was a need for the process to be simplified rather than abolished, No Use Empty told us:

“they can be simplified and there are a lot of issues with them so they can be made effective. I think they provide a valuable role for particular properties and are part of the tool mix. So, I wouldn’t want to see them gone. But they could certainly be simplified to make them more effective on the ground.”<sup>51</sup>

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<sup>48</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 216

<sup>49</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 216

<sup>50</sup> Written evidence, EP.20a, WLGA and the All-Wales Private Sector Housing Expert Panel (additional information)

<sup>51</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 98

**72.** Local authority representatives highlighted the resource requirement to undertake enforcement action, particularly the significant financial risk to authorities where substantial work is required to an empty property with no guarantee of a positive outcome. The representative from Carmarthenshire Council explained:

“when local authorities take strong enforcement action it usually is followed up by investment, capital and costs, and sometimes—. I’ve administered enforcement action, some to about £40,000. That’s a massive risk to the local authority and I need to be very sure that the action that I’m taking is appropriate, that it’s correct, that it’s accurate. A simple thing like a mistyped date on a notice could invalidate that £40,000.”<sup>52</sup>

**73.** The Expert Panel suggested some options for reform:

“A more streamlined EDMO process, with some greater powers and a lower threshold for agreement would assist with tackling empty homes. Alongside this some capital funding is needed to be able to carry out necessary repairs. Bringing an empty property back into use is not always viable within the EDMO period. An ability to charge remaining costs to the property/ force sale for recovery should be introduced, covering such costs as carpeting, maintenance etc., which can’t be recovered under existing Housing Act powers.”<sup>53</sup>

**74.** In its recent report on CPOs, the Economy, Infrastructure and Skills Committee noted:

“In order to use CPOs effectively the evidence suggests a need for resources, experience and knowledge to be shared more widely, and for expertise to be available to all. Evidence from consultation responses largely suggested that the most significant barrier of regular use of CPOs is a lack of knowledge, resources, and recent experience of the process.”<sup>54</sup>

**75.** Consequently, that Committee recommended that a central unit should be established in Wales as soon as possible to act as a shared resource of expertise on

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<sup>52</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 193

<sup>53</sup> Written evidence, EP 20, WLG and the All-Wales Private Sector Housing Expert Panel

<sup>54</sup> Economy, Infrastructure and Skills Committee, Compulsory Purchase, June 2019, paragraphs 52-23

CPOs for Acquiring Authorities, in particular local authorities. It should provide advice, mentoring and support to Acquiring Authorities.<sup>55</sup> This recommendation was accepted in principle by the Welsh Government.

**76.** The South East Wales Empty Property Working Group suggested that enforced sale is “the most common tool adopted” rather than EDMOs or CPOs, noting that there are fewer “hurdles and risks associated with it”. However, it also noted some constraints particularly that local authorities are required to take a property to auction to achieve market value, and this prevents “tying up” with housing associations to provide affordable housing.<sup>56</sup>

**77.** Shelter Cymru told us of research it had undertaken which demonstrated the underuse of EDMOs and CPOs:

“in the last three years, there have been no EDMOs used and one CPO across Wales.”<sup>57</sup>

**78.** The Welsh Government told us that it had conducted “a very basic survey” to understand the extent to which the powers available to local authorities are being used, stating that the results were “mixed”. The full findings were shared with us by the Deputy Minister as part of the additional information provided on 6 August, which can be found as an annex to this report. The results of that survey identified that four local authorities use EDMOs as an enforcement tool and three use CPOs.<sup>58</sup>

**79.** United Welsh felt that cost and familiarisation with the enforcement processes were the main factors preventing local authorities from taking action:

“in my experience working with local authorities, is they’ve got the knowledge, but, again, it’s the resource. If you haven’t got somebody dedicated dealing with that, they may have learnt it at university or they may have used it once or twice, but they know it’s there, they know they can use it, but they’re not using it. So, it’s the same as with anything—if you don’t use it very often and you don’t do something very often, it

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<sup>55</sup> [Economy, Infrastructure and Skills Committee, Compulsory Purchase, June 2019, Recommendation 7](#)

<sup>56</sup> Written evidence, EP 06, South East Wales Empty Property Working Group

<sup>57</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 169

<sup>58</sup> [ELGC\(5\)-24-19 paper 6, Letter from Deputy Minister for Housing and Local Government, 6 August 2019](#)

takes longer, then, to do it when it comes around. But the main thing, I think, is the cost—the cost involved in doing that.”<sup>59</sup>

**80.** The results of the Welsh Government’s survey demonstrated that most local authorities either specified financial constraints, staffing, expertise or a mixture of each as preventing the use of their enforcement powers:

- 16 local authorities specified financial constraints;
- 16 local authorities specified staffing constraints;
- 7 local authorities specified expertise.

**81.** 16 local authorities specified “priority of work” as a reason why they do not use the legislative powers available to them to deal with empty properties.<sup>60</sup>

**82.** Witnesses, including E.ON, Action on Empty Homes and No Use Empty told us that local authorities in England and Scotland face similar challenges, including a reluctance to use the powers due to legal and time constraints; limited resources, the absence of a strategic approach and staff expertise being a barriers to taking enforcement action.<sup>61</sup> Action on Empty Homes cited an example from Rochdale Borough Council who have sought to streamline their EDMO processes by using standardised letters and deal with them in a similar way to rent arrears.<sup>62</sup>

**83.** The Deputy Minister acknowledged that there are “a number of barriers and challenges” to local authorities in terms of how they use their available powers, re-affirming the message:

“We referred to the survey we’ve done [ ] The key message that came back [ ] is the lack of resources, knowledge, confidence—because if you’ve not done this before, not done it numerous times, there’s that

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<sup>59</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 160

<sup>60</sup> [ELGC\(5\)-24-19 paper 6, Letter from Deputy Minister for Housing and Local Government, 6 August 2019](#)

<sup>61</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraphs 75-79

<sup>62</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 99

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fear of failure and alongside that there's the risk and the financial risk as well."<sup>63</sup>

**84.** The Deputy Minister added:

"I think there are clear challenges around empty dwelling management orders. I think they've been—. The feedback we've got is that they're notoriously problematic, they're difficult, along with compulsory purchase orders. One of the things that we've been doing across the department as part of the affordable housing supply review—we've agreed to review these processes in terms of how we enable authorities to make better use of these powers, because we recognise that they are notoriously problematic at the moment."<sup>64</sup>

**85.** A Welsh Government official who accompanied the Deputy Minister acknowledged that very few CPOs had been undertaken by local authorities in recent years:

"There are many local authorities in Wales that haven't done a CPO for years, because they haven't had the resources and they haven't had the support or the help to help them get the confidence to do it, and that's political confidence and officials' confidence. It's an expensive process if you lose."<sup>65</sup>

**86.** In response to the *Independent Review of Affordable Housing Supply*, which recommended that both CPOs and EDMOs be reformed, the Welsh Government accepted that:

"improving the Empty Dwelling Management Orders process would help to make available a greater number of affordable homes. The Welsh Government will also look to provide bespoke training to assist Local Authorities in building up the skill set to deliver the Empty Dwelling Management Orders."<sup>66</sup>

**87.** The response also noted:

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<sup>63</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 108

<sup>64</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 124

<sup>65</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 35

<sup>66</sup> *Independent Review of Affordable Housing Supply – Welsh Government Response to Final Report*

“Subject to a procurement process, training on EDMOs and CPO process will begin October 2019. Expert advice to the Welsh Government on improvements to the EDMO process will be included in this package.”<sup>67</sup>

**88.** The Welsh Government’s paper expanded on this by setting out how its dedicated empty properties team intended to provide stronger enforcement support to local authorities by:

“providing procured expert training packages for officers and members highlighting the options at their disposal. Also to provide officers with an assessment of any skills and needs shortfalls on a one to one or group basis. We plan to create bespoke action plans and funding mechanisms to support any enforcement activities that may be required.”<sup>68</sup>

**89.** A Welsh Government official who accompanied the Deputy Minister expanded on the planned timescale for delivering the training:

“our hope would be that, on 1 October, we have been able to go through procurement and have an expert advice team who can deliver those training sessions.”<sup>69</sup>

**90.** The financial risks to local authorities were also acknowledged by the Welsh Government, with an official explaining that Minister had asked officials to look into how the Welsh Government could indemnify enforcement action, possibly through financial transaction capital funding.<sup>70</sup> Another official added that the Welsh Government wanted to work with local authorities to ensure the support it provides is appropriate:

“In terms of the financial package as well, we want to work with the local authority to make sure we get that right as well. We want to make sure that we’ve got the right support package, and that includes finances. So, we need to have the conversations with the local

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<sup>67</sup> [Independent Review of Affordable Housing Supply – Welsh Government Response to Final Report](#)

<sup>68</sup> [ELGC\(5\)-23-19 paper 1, Welsh Government](#)

<sup>69</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 25

<sup>70</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 76

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authorities first to see what that financial package will look like before we start.”<sup>71</sup>

### 3. 2. Are additional powers required?

**91.** While many stakeholders highlighted constraints preventing effective use of the powers available to local authorities, others felt they could, and should, be utilised more effectively. Shared Regulatory Services called for a review of relevant legislation that is used to support bringing empty properties back into use. It also called for a “fundamental assessment of the resources needed to deliver the ultimate goal; a goal where empty properties are an unusual feature in the housing landscape”.<sup>72</sup>

**92.** Shelter Cymru suggested that rather than needing additional powers, existing ones could be consolidated or simplified. It called for local authorities to be provided with the right powers to “accomplish the huge task of tackling the rise of homelessness and empty homes”.<sup>73</sup>

**93.** The survey we conducted asked whether respondents believed local authorities needed more powers, 70.5 per cent believed that they do. Some ideas suggested included:

“The powers rely on the empty property being a problem in some way such as rats or dangerous or very unsightly, and it is then a very slow process to intervene relying on debts building up as a charge on the property, but councils do not have the money to spend in the first place. The fact the home has been empty for over a year should be enough to justify intervention and CPO. There should be a central WG fund to support this.”

“To overturn decision of ‘not including’ properties under NHS, Crown Estate and Universities and colleges as candidates for reoccupying a property. For example, Trenewydd House on Fairwater Road, Llandaf, Cardiff is an old NHS building, very big and unused. Legislation needs to change.”<sup>74</sup>

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<sup>71</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 82

<sup>72</sup> Written evidence, EP 19, Shared Regulatory Services

<sup>73</sup> Written evidence, EP 04, Shelter Cymru

<sup>74</sup> [Inquiry into Empty Properties - survey analysis](#)

**94.** One respondent commented, that even if local authorities were given extra powers, they also need the resources to implement them:

“It’s not just about extra powers, it’s also to do with finances. Local authorities are already struggling to provide essential services to vulnerable people. So, until they are properly funded, I think giving extra powers will have minimal impact.”<sup>75</sup>

## Compulsory Sales Orders

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**95.** The Scottish Empty Homes Partnership told us of an additional enforcement power that has been proposed but not yet introduced, by the Scottish Government, the Compulsory Sale Order (CSO). It explained:

“This power would be a new legal mechanism available to local authorities to require an empty home that has been vacant or derelict, for an undue period of time (as yet undecided), to be sold by public auction to the highest bidder.”<sup>76</sup>

**96.** They added that, from its experience as part of an expert advisory group to explore the opportunities and challenges of this power, the main advantage compared with CPOs is that the local authority does not have to take ownership of the property. Therefore, the level of financial considerations involved in deciding whether to proceed are reduced accordingly. In its 2018 Annual Survey, it asked empty homes officers how many “no hope” cases they could identify where they believe the council would use a CSO power if available. Officers identified 102 cases considered appropriate for a CSO.

**97.** Shelter Cymru also referred to the potential of this approach, stating that the benefits would:

“enhance and encourage bringing empty homes in to use and the regeneration of communities. In contrast to the current system, there would be no need for the la or community to have a set plan in place for the land or property, something which is currently a barrier. [ ] The proposed CSO process would involve an auction, thus providing a mechanism for the true market price to be revealed. [ ] A CSO could provide a final opportunity when all other attempts to bring the property back into a productive use for the community have failed. It offers a way for las to increase the number of homes in their area

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<sup>75</sup> [Inquiry into Empty Properties - survey analysis](#)

<sup>76</sup> Written evidence EP 03, Scottish Empty Homes Partnership



without having to spend considerable amounts of time and resources doing so.”<sup>77</sup>

**98.** The Scottish Empty Homes Partnership told us that it was mindful of the human rights of the property owner and that a Compulsory Sales Order would not be appropriate for all cases, but could be an important tool when other avenues had failed:

“If the owner is genuinely making attempts to bring that property back into use, then we wouldn’t recommend a compulsory sale order. But, it is where you have come to a point where you have worked with the owner and they are not willing to bring that property back into use. You then say, “Well, the blight on the community is significantly greater than what your actual property rights are at this point.”<sup>78</sup>

**99.** No Use Empty concurred that it brings empty properties:

“to market without the additional cost to the local authority.”<sup>79</sup>

**100.** However the representative from Carmarthenshire Council, whilst noting that he was unfamiliar with this approach, raised concern that local authorities would still be required to undertake a considerable amount of work in advance of issuing an order:

“the compulsory sale order is very similar to the enforced sale but without having to generate the debt. [ ] Having read that, the build-up to a local authority making the decision that that is the appropriate action is very similar to the build-up before a local authority serves an empty dwelling management order. You have to offer all these owners all the advice, guidance and support. All these avenues of assistance have to be exhausted before that can be considered. And again, at the point of sale, you still have an empty property that needs improvement and cannot be lived in immediately. So, that engagement by the local

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<sup>77</sup> Written evidence, EP 04, Shelter Cymru

<sup>78</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 83

<sup>79</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 88

authority is still required at the tail end when there is a new owner and that property still needs that investment.”<sup>80</sup>

**101.** The Deputy Minister was aware of the proposal to introduce a Compulsory Sales Order process in Scotland:

“I know officials are working very closely with colleagues in Scotland to look at that and monitor the progress and what the potential positive impacts are of the new scheme, and I think, if it is successful, there’s no reason why we couldn’t, or wouldn’t, consider something similar here.”<sup>81</sup>

## Our view

**102.** Local authorities have a range of enforcement powers available to deal with the problem of empty properties. It is a concern to us that they are not being used to their full potential. The complexity of these powers is clearly a barrier which is preventing effective enforcement.

**103.** The very low number of Empty Dwelling Management Orders pursued by local authorities is a clear demonstration that this approach is problematic. We are particularly concerned that the figures provided in response to the Welsh Government’s own survey demonstrate that only four local authorities use them as an enforcement option. We acknowledge the consensus view expressed by stakeholders that the process of preparing an application is bureaucratic, time consuming and risky for local authorities. We note the reference we heard to work done by Rochdale Borough Council to streamline its EDMO processes, and believe there is merit in the Welsh Government exploring this approach and promoting it if appropriate, following a full review of legislative powers in this area.

**104.** It is striking that evidence presented to the Economy, Infrastructure and Skills Committee as part of its inquiry into Compulsory Purchase Orders echoes the concerns we heard on EDMOs. Again, this causes concern as demonstrated by the responses to the Welsh Government survey, which states that only three local authorities use their CPO powers to tackle empty properties.

**105.** We are interested in the proposal by the Scottish Government to introduce a Compulsory Sales Order process, and believe there is merit in the Welsh Government investigating whether a similar approach could be effective in Wales.

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<sup>80</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 222

<sup>81</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 131

**106.** We would like to see a situation where it is assumed local authorities will use their enforcement powers to reduce the number of empty properties, whilst seeking to work with property owners and being mindful of their legal rights. It is therefore crucial that local authorities have the confidence to use their powers, including having the assurance that their action is not a risk financially. We welcome the commitment by the Welsh Government to consider how enforcement action can be indemnified in order to minimise the financial risk to them. We believe that the empty properties action plan we have recommended should include details of how the Welsh Government will indemnify enforcement action.

**Recommendation 7.** We recommend that the Welsh Government works with the WLGA to undertake a review of the current statutory enforcement powers available to local authorities to tackle empty properties and assess how these could be used more effectively, consolidated, simplified or extended. The review should include an assessment of the proposal to introduce a Compulsory Sales Order process in Scotland, and whether such an approach would be suitable in Wales. The scope of the review should also include how the Welsh Government can indemnify the costs of enforcement action taken by local authorities.

**107.** Although there is a general belief among stakeholders that the powers available to local authorities are the right ones, it is evident that the bureaucracy and complexity associated with them are hampering their use. Their infrequent use has resulted in further apprehension as local authority officers have not developed the expertise necessary to exercise the powers. This has been acknowledged and we welcome the recent commitment by the Welsh Government to arrange training packages for local authority members and officers on the enforcement options available to them.

**Recommendation 8.** We recommend that the Welsh Government presses ahead with its proposed training for local authority officers and members on the enforcement options available to assist them in tackling empty properties, and updates the Assembly on progress in delivering the sessions by Easter 2020.

## 4. Working with owners of empty properties

Local authorities regularly provide advice, guidance and financial assistance to owners of empty properties. This non-statutory work is key to tackling the problem and, if used effectively, can increase the supply of affordable housing.

**108.** The type of day-to-day assistance provided to owners of empty properties is wide and varied. It can include:

- advice on selling or letting the property;
- signposting to relevant local authority departments, e.g. Building Control, Planning;
- referring to local RSLs or social lettings agencies;
- advising on VAT concessions;
- advice on renovation and repairs; and
- providing details of local builders and tradespeople.

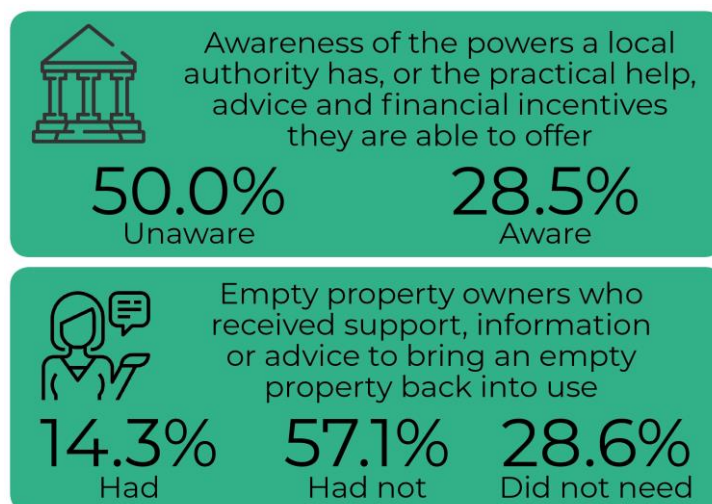
**109.** In oral evidence to the Committee, the Federation of Master Builders (FMB) told us that the practice of providing lists of builders etc. varied between local authorities. Some authorities are reluctant to give lists, some have approved lists and others just signpost to relevant sources of information, like the FMB website.

### 4. 1. Providing funding to renovate empty properties

**110.** A mix of loans, grants, public and private finance is currently used to bring empty properties back into use. Responses to our survey suggested that local authorities could do more to promote the schemes available to the owners of empty properties:<sup>82</sup>

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<sup>82</sup> [Inquiry into Empty Properties - survey analysis](#)



### “Houses into homes”

**111.** Many stakeholders mentioned the Welsh Government’s Houses into Homes scheme, which was launched in April 2012. It provides interest free loans to home owners to bring an empty property into use. While the loan is interest free, there is normally an administration fee. Swansea Council noted it has used the scheme since 2013 to bring empty properties back into use:

“Swansea Council has used the non-statutory Welsh Government Houses into Homes Loan funding (superseded by the Landlord Loan scheme) since 2013 to bring empty properties back into use. To date 60 empty premises have been brought back into use creating 123 units of accommodation. £2,403,445 has been invested locally.”<sup>83</sup>

**112.** However, Shelter Cymru noted a significant variation in its use across local authorities, with some areas not using the loans at all:

“Rhondda Cynon Taff gave 25 loans in the past 3 years whereas Monmouthshire failed to grant any loans despite having 728 empty homes.”<sup>84</sup>

**113.** Loans can also be made subject to conditions. ARLA called for loan conditions to be relaxed, noting in relation to Houses into Homes loans:

“This loan must be paid back within two or three years of when the property was sold or let. We believe that due to the limitations of the loan such as a strict time limit in which to pay it back and the requirement for it to be sold or let once work is finished, empty

<sup>83</sup> Written evidence, EP 11, Swansea Council

<sup>84</sup> Written evidence, EP 04, Shelter Cymru

homeowners are not being given enough incentive to bring the property back into use. Further, due to the property's sale value or rental yield being too low, empty homeowners may be further deterred from taking out a loan that they may struggle to recoup. To mitigate this, we believe that restrictive conditions of the loan should be removed and publicised to incentivise more owners of empty properties to take up the funding."<sup>85</sup>

**114.** The Residential Landlords Association (RLA) was also critical of the requirement to repay over 2 or 3 years, as being too short a period. It said that the scheme was "a starting point" when it was introduced, but it had not really progressed. It also said loan conditions meant the scheme was not viable in areas with low property values.<sup>86</sup>

**115.** United Welsh, whilst commending the scheme, also noted its limitations:

"it's had its success, but I think again it's for a criterion of people—it's somebody who is prepared to deal with contractors, who knows about refurbishes or is prepared to get involved in it, and maybe become a landlord themselves."<sup>87</sup>

**116.** CIH Cymru suggested that local authorities and the Welsh Government should use more creative funding solutions:

"Whilst current measures such as the Houses into Homes scheme offer a clear incentive for home owners who have the desire to bring the property back into use to gain the capital required to invest there is a need to consider how such support can be extended beyond home owners. Some of our members have had success in utilising a mix of social housing grant and private investment to add additional homes to the affordable housing supply locally, we believe this flexibility should be utilised elsewhere to realise similar gains."<sup>88</sup>

**117.** The Welsh Government's paper noted that in the third year of Houses into Homes, the number of empty dwellings brought back into use as a result of the direct actions of local authorities was 2,458. It also noted that 20 out of 22 local

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<sup>85</sup> Written evidence, EP 17, ARLA NAEA PropertyMark

<sup>86</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 271

<sup>87</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 181

<sup>88</sup> Written evidence, EP 14, CIH Cymru

authority empty property officers had reported that the scheme had resulted in an increase in the number of long-term empty properties brought back in to use.<sup>89</sup>

### Empty Home grant scheme

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**118.** Since 2016, Rhondda Cynon Taf Council has operated the "Empty Home" grant scheme which offers support to home buyers to bring an empty house they purchase back in to use. Properties must be empty for 12 months and the grant is capped at £20,000 per property. In a written statement on 18 July, the Deputy Minister for Economy and Transport announced that the Minister for Local Government and Housing had agreed to support the rolling out of the scheme to all local authorities within the south Wales valleys taskforce area and the Gwendraeth and Amman Valleys in the 2019-20 financial year. The statement said that the Welsh Government was:

"currently working with the local authorities to discuss the detail of this and propose setting aside around £10 million for this scheme over the next two years."<sup>90</sup>

### Empty Homes Wales

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**119.** United Welsh told us about its Empty Homes Wales project. United Welsh work with homeowners to refurbish their empty home by using its leasing project:

"This works by United Welsh taking a lease on the empty property, funding and arranging the refurbishment work and once complete renting the property. The rental income received during the term of the lease will be used to recover the cost of the work and the management costs. Once the work cost has been received, we can continue to rent the property on behalf of the owner and pay them the monthly rental income minus fees or the lease can be terminated and the owner can have the property back to do what they wish - rent, sell or live in themselves. The project means homeowners end up with a refurbished property which protects their asset - rather than risk their property deteriorating further and losing value."<sup>91</sup>

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<sup>89</sup> [ELGC\(5\)-23-19 paper 1, Welsh Government](#)

<sup>90</sup> [Welsh Government Cabinet Statement, Update on the Ministerial Taskforce for the south Wales Valleys, 18 July 2019](#)

<sup>91</sup> Written evidence, EP 05, United Welsh

**120.** However, we heard that scheme was not without its challenges as properties subject to a mortgage required the lender's permission before a lease could be granted, and the maximum duration of a lease permitted by lenders was three years. This meant United Welsh could struggle to recoup its refurbishment costs as there was no guarantee that the lender would agree to renew the lease for a further three years. It appears that there are limited other examples of housing associations undertaking this type of scheme, United Welsh told us:

“As far as I'm aware, United Welsh are the only housing association providing the leasing scheme.”<sup>92</sup>

**121.** United Welsh also told us that if an empty property owner has already arranged the refurbishment of their property themselves to an acceptable, habitable standard which is ready to let, it can provide them a Tenancy Management Package under a lease agreement to manage the tenant and property on their behalf. United Welsh explained the benefits:

“They may not have the experience, knowledge or the desire to be a landlord and this scheme takes away the stresses and worries from the owner that come with being a landlord. They can be assured that the tenant and property is managed and maintained properly using the expertise and resources of the housing association and its contractor.”<sup>93</sup>

**122.** The Deputy Minister told us that the Welsh Government was aware of some of the challenges around the loans and grants, and consequently it would consider how it could:

“better streamline both our loans and our grants, and I think, within that process, we will look at how we can make those loan credits more flexible to the needs of representative areas because it could vary from area to area as well, and I think, in terms of that, financial thresholds and repayment terms are something we look at as part of that because we are aware of the challenges in terms of the two-year period and things like that. It is challenging for some people in some areas.”<sup>94</sup>

**123.** The Welsh Government's written evidence highlights a range of regeneration initiatives that it supports, many of which are targeted at town centres. Its

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<sup>92</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 197

<sup>93</sup> Written evidence, EP 05, United Welsh

<sup>94</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 145

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Targeted Regeneration Investment programme includes a specific project delivered in partnership between the Isle of Anglesey and Gwynedd Councils to tackle empty homes. This project includes a first time buyers scheme and also a landlord grant scheme.

## 4. 2. Working with owners to deliver affordable and energy efficient housing

**124.** We heard about a number of initiatives aimed at bringing empty properties into use as affordable housing.

**125.** The Welsh Government’s evidence paper highlighted the valuable contribution that bringing empty homes back in to use can make to increasing the number of affordable homes.

“Tackling empty properties, could support the Welsh Government’s wider housing commitment to deliver 20,000 affordable homes during this government term.”<sup>95</sup>

**126.** A number of local authority areas link financial assistance (through grants or loans) to nomination rights for social landlords – this is where the local authority or social landlord effectively chooses the tenant. Schemes like this often saw the rent being limited to local housing allowance levels (therefore potentially covered by Housing Benefit or Universal Credit) or intermediate rents (which are below market rents).

**127.** The Vale of Glamorgan Council noted that while returning empty properties to occupation would not solve affordable housing supply issues in its area, it could “have a considerable impact”. It offers interest-free loans to owners of larger empty properties that can be subdivided into multiple units that are generally more affordable. It allows loans to be repaid over a period of 10 years where a landlord agrees to let the property via the Vale Assisted Tenancy Scheme. In other cases, the loan period is 5 years.<sup>96</sup>

**128.** United Welsh outlined some of the work it was carrying out in partnership with local authorities and owners of empty properties. It delivers Homestep Plus in Rhondda Cynon Taf in partnership with Welsh Government, which is a low-cost home ownership scheme that addresses two problems:

- The difficulty faced by first-time buyers in affording their first home;

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<sup>95</sup> [ELGC\(5\)-23-19 paper 1, Welsh Government](#)

<sup>96</sup> Written evidence, EP 07, Vale of Glamorgan Council

- The issue of empty homes.

**129.** We heard that Homestep Plus gives first-time buyers the chance to buy refurbished homes at less than market value that previously stood empty. United Welsh buys the empty properties then, if necessary, refurbishes the homes before listing them for sale at 70% of the Market Value. This means empty properties are given a new lease of life and first-time buyers can purchase an affordable home which meets national standards.<sup>97</sup>

**130.** Despite such initiatives we learnt that while housing associations may seem perfectly positioned to assist in bringing empty private sector homes into occupation, a number of obstacles were highlighted by stakeholders. For example, not all properties will be suitable, for example the wrong design or style, not accessible to disabled people or in the wrong location – away from other properties managed by a social landlord or isolated from public transport links.

**131.** The Welsh Government’s written evidence notes that some of its Social Housing Grant (SHG) programme, which is used to fund projects identified as priorities by local authorities, has been used specifically to bring empty properties back into use. It notes that in 2018-19, four local authorities brought 16 empty homes back into use using SHG.<sup>98</sup>

**132.** United Welsh told us that as housing associations receive SHG at a rate of 58% to build new properties, that route is more cost effective than renovating and bringing empty homes in existing communities back into use, adding that a similar grant for empty properties would be useful:

“As an RSL, if we were able to access grant or loan funding to be able to make it work for us, we could bring those properties and we would be over the moon to be able to do so.”<sup>99</sup>

**133.** We received evidence from energy company E.ON which has a project focused on empty properties. E.ON highlighted that, until October 2018, it had used the Energy Company Obligation (ECO) scheme to carry out energy efficiency improvements to empty homes. Changes to the ECO scheme in October 2018 mean the property now has to have an occupier to benefit from funding. E.ON now focuses on trying to prevent properties from becoming empty in the first place. E.ON works in partnership with local authorities on the project.

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<sup>97</sup> Written evidence, EP 05, United Welsh

<sup>98</sup> [ELGC\(5\)-23-19 paper 1, Welsh Government](#)

<sup>99</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 211

**134.** The RLA and National Landlords Association (NLA) both raised energy efficiency and fuel poverty as issues of concern. The RLA highlighted the benefits of improving energy efficiency when renovating empty properties so when they are brought back into use they are affordable to heat. They also highlighted new legal requirements relating to minimum energy efficiency requirements in the private rented sector which imposed costs on landlords but, in the view of the RLA, had minimal impact on the value of the property. The NLA highlighted particular issues with properties in rural areas that were off-grid – i.e. with no access to mains gas. Those properties face higher energy costs.

**135.** The RLA summarised its concerns about funding, and energy efficiency standards:

“when it comes to the fuel poverty agenda and the carbon agenda, we need to be working back from that perspective. But the problem is it’s a big piece of work, if you’re going to do it right, and I think it does come from the top, it comes from the leadership saying, ‘This is a priority, we want these empty homes brought back into use, and we want them brought back into a standard that’s suitable for people to live in them long term, whether they’re renting or whether they’re owner occupied.’ And if it’s not done right, the tendency will be to just bring them back into use for the lowest cost possible option, and actually those properties will probably become empty again soon, because they’re not fit for living in.”<sup>100</sup>

## Our view

**136.** The availability of financial support is integral to getting properties back into use. The schemes that are currently in place, including wider regeneration initiatives, continue to make a valuable contribution. However, we have also heard that they have their limitations. Going forward, it is important that schemes offering financial assistance are tailored to meet the varying needs of communities across Wales, including recognising the distinct housing markets and different types of properties within local areas. It is important that mortgage lenders are involved in the development of new schemes to ensure potential obstacles, such as leasing restrictions, can be addressed at an early stage. We also need to ensure the properties are as energy efficient and accessible as possible. The importance of maintaining existing communities should be at the forefront of

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<sup>100</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 375

aims to reduce the number of empty properties and to increase the supply of affordable housing.

**137.** We welcome the announcement made during our inquiry by the Welsh Government that the Empty Homes grant scheme will be rolled out across the South Wales Valleys Taskforce area and extended to the Gwendraeth and Amman Valleys. This has the potential to make a significant contribution to both reducing the number of empty properties and making homes more affordable. However, this scheme only applies to specific areas in Wales whereas all areas have a problem. If, since its introduction in 2016, the scheme has brought enough success to warrant being rolled out to other valley areas, we believe there could be merit to it being rolled out across Wales.

**Recommendation 9.** We recommend that the Welsh Government and WLGA regularly reviews the support it provides for schemes that offer financial assistance to owners of empty properties. This should assess the effectiveness of existing schemes, with a view to developing flexible funding solutions that are sensitive to local needs in the future.

**138.** The evidence we heard demonstrates that where partnership working between stakeholders, including local authorities, housing associations and the private sector, is happening it works well and provides an effective solution to both reducing the number of empty properties and increase the number of affordable homes in an area.

**139.** We welcome the proactive approach by United Welsh Housing Association in working with the owners of empty properties and believe there is potential for such schemes and initiatives to be rolled out in other areas too. The approach appears to work well and demonstrates what can be achieved through concerted commitment.

**140.** We were concerned to hear that RSLs often find that it is more cost effective to build new homes rather than purchasing and refurbishing empty properties, resulting in new housing developments being built, often away from existing infrastructure, rather than contributing to the regeneration of communities. We heard there have been examples of local authorities using a proportion of their Social Housing Grant to bring empty properties back into use, and believe there is merit in the Welsh Government exploring whether it would be viable to specifically make a proportion of the grant available for purchasing and refurbishing empty properties.

**Recommendation 10.** We recommend that the Welsh Government works with the housing association sector to better understand the projects it has in place to return empty properties to use as affordable housing. The findings should be shared as examples of good practice with other social landlords. The Welsh Government should also consider the potential for similar schemes to be rolled-out across Wales and, where necessary, allocate resources to enable this to happen.

### 4. 3. Data protection

**141.** We received evidence that data protection is a concern for local authorities who are cautious in sharing information they have obtained from other sources, including colleagues dealing with council tax. In particular, we heard that local authorities are concerned that providing details of empty properties to third parties, much of which will have been obtained from council tax records, could breach data protection legislation, in particular the General Data Protection Regulations (the GDPR). This included local authorities being unable to share the lists of owners of the empty properties with local housing associations or local developers. Potentially, this could be an obstacle to those properties being purchased, renovated and placed back on the market for sale or rent.

**142.** This issue was highlighted to us by United Welsh:

“If Local Authorities were able to release basic information for empty properties to RSLs, it could assist greatly in raising numbers of empties brought back into use. It is frustrating they cannot share this information due to Data Protection and it makes it all the more difficult to identify empties and achieve the desired targets.”<sup>101</sup>

**143.** The representative from Wrexham explained the restrictions faced by local authorities:

“with data protection, it limits, obviously, what we can tell complainants about the properties [ ]. We can’t be giving out details to the public, whoever the public is, well meaning or otherwise, about who the owner of the property is. We’re able to access information ourselves and utilise it ourselves within the legislation. If we were looking at working with the housing association or even a private developer on a property, certainly the approach I would take would be, if the owner was willing to engage with us, to get their consent for me to pass the details on,

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<sup>101</sup> Written evidence, EP 05, United Welsh

and we'd work on that basis. If they're not in the mood to engage with us, then I would play a co-ordinating role, so any communication that other parties want to make with that party would come through me, and I would take it back the other way as well. So, it can make the process maybe slightly more convoluted, but I think it's right to do that as well."<sup>102</sup>

**144.** The Residential Landlords Association agreed that the restrictions were frustrating:

“there used to be situations where you could access the list of empty properties, so, some of our members used to contact, via the local authority, people who had empty properties to try and bring them back—to see if there was a deal that could be done to bring those properties back into use, and it was reasonably successful. That is now no longer an option.”<sup>103</sup>

**145.** It suggested local authorities' interpretation of GDPR legislation varied and in some cases was overly cautious, and called for clarity to be provided on what information can be shared.<sup>104</sup>

**146.** Private companies often make *Freedom of Information Act* requests for lists of empty properties, but these are turned down because of “exclusions” under that legislation coupled with concerns over breaching the GDPR. No Use Empty provided evidence detailing a number of information tribunals whereby local authorities had been held to be in breach of data protection legislation. Although these decisions are from first-tier tribunals and do not create legal precedents, they have nevertheless led understandably to local authorities approaching the issue of sharing data cautiously.<sup>105</sup>

## Legislative background

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**147.** The *Local Government Act 2003* made it possible for local authorities to share information about empty properties internally, usually between their council tax billing teams (billing authorities) and their empty property officers.

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<sup>102</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 258

<sup>103</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 322

<sup>104</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 327

<sup>105</sup> Written evidence, EP 24a, No Use Empty (additional information)

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**148.** The billing authorities will collect information about the numbers of empty homes in their area which can be exempt dwellings for council tax purposes (or a discount applied).

**149.** The *Local Government Finance Act 1992* (the LGFA 1992) did not contain clear provision allowing information collected pursuant to council tax powers under that Act, to be used for other purposes. In fact, the Information Commissioner issued guidance advising authorities that they could not use council tax data for other purposes.

**150.** As a result of these restraints, section 85 of the Local Government Act 2003 inserted a new paragraph 18A into Schedule 2 to the LGFA 1992 to allow a billing authority to use information it has obtained for the purpose of carrying out its council tax functions for the purpose of identifying vacant dwellings or taking steps to bring vacant dwellings back into use. New subparagraph 18A(2) limits the extent of personal information which may be shared to an individual's name or an address or number (e.g. telephone number) for communicating with him. The data will be used only by the billing authority which collected it and it will be used only for public functions in the public interest. However, section 85 does not permit disclosure to third parties such as commercial investors or housing associations.

**151.** Currently, there is no legislation that specifically makes provision for local authorities to share data on empty properties with third parties. However, the GDPR does make provision for information to be shared in specified circumstances (exceptions from the general rule). For example, article 6(1)(a) of the GDPR allows information and data to be shared if the property owner has given their consent. It would therefore be possible for local authorities to write to owners and ask their permission for their details to be passed on to a specified third party.

**152.** Article 6(1)(c) of the GDPR allows data to be shared if it was necessary for a legal obligation. So, although this would require a change in the law, if new legislation was introduced imposing a duty for local authorities to share the information with third parties for specified reasons then this would be possible.

**153.** Finally, article 6(1)(f) of the GDPR allows data to be shared for a legitimate interest. For example, if the sharing of information was necessary to fulfil legitimate interests for data controllers and third parties. This exception would have to be looked at carefully but there are clear instances when the GDPR allows data to be shared.

## Our view

**154.** We acknowledge that local authorities are right to be cautious and to take their legal duties as data processors and controllers seriously under the GDPR. However, we believe it would be beneficial if the Welsh Government could provide guidance and clarify the legal position on how details of empty properties could be shared with potential purchasers within the parameters of the GDPR. The Welsh Government could collaborate with the Information Commissioner to provide such guidance.

**Recommendation 11.** We recommend that the Welsh Government clarifies the legal position around local authorities sharing information relating to empty properties and provide guidance. This should include viable alternatives if local authorities are restricted in what they can share due to the General Data Protection Regulations.



## 5. Council tax premiums

Local authorities have powers to charge a council tax premium on long-term empty homes. This is a useful tool, but its effectiveness needs to be monitored carefully and additional revenue raised should be directed towards bringing more empty homes back into use.

**155.** The premium can be up to 100 per cent of the standard rate of council tax for that property. The Welsh Government has issued guidance to local authorities on using these powers.

**156.** The Deputy Minister's letter of 6 August explained that:

“The provisions were introduced to assist authorities in managing issues relating to local housing supply.”<sup>106</sup>

**157.** A premium can only be applied if a dwelling is banded for council tax purposes, therefore an unoccupied dwelling in a derelict state may not be classed as a dwelling and may be removed from the valuation list as it is uninhabitable.

**158.** An official who accompanied the Minister told us that the Welsh Government had been encouraging local authorities to charge a premium:

“as a signal that empty properties aren't an acceptable part of society when we have so many people needing homes.”<sup>107</sup>

**159.** We heard how the approach to using discretionary council tax premiums on long-term empty homes varies across Wales. We also heard that, rather than charging a premium, some local authorities still provide discounts on empty homes. The WLGA told us that generally, a local authority's approach tended to stem from:

“whether or not there is an issue with the long-term empty properties in that area, or is there a shortage of reasonably priced accommodation, whether they feel that the additional revenue that,

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<sup>106</sup> [ELGC\(5\)-24-19, paper 6, Letter from Deputy Minister for Housing and Local Government, 6 August 2019](#)

<sup>107</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 197

possibly, the premium could generate would be enough to combat the problems.”<sup>108</sup>

**160.** The WLGA noted that those authorities who had introduced a premium tended to be rural and coastal areas rather than in the south Wales Valleys.<sup>109</sup> We heard that Gwynedd Council introduced a premium in April 2018, having previously abolished the discount on empty properties in 2009, as a result of its housing strategy which aimed to:

“decrease the number of vacant properties in the county and bring those properties back into use.”<sup>110</sup>

**161.** Torfaen County Borough Council told us it had cancelled the discount it had previously offered on empty properties with a view to monitoring the impact of that change on the number of empty properties. The local authority did not believe that introducing a premium would be beneficial to its particular circumstances as many of the empty properties were in hard to let areas or already exempt from the charge.<sup>111</sup>

**162.** The WLGA added that some authorities believe that moving from a system where a 50 per cent discount is applied to imposing a premium would be too big a step, and therefore some have decided to remove the discount as a first step.<sup>112</sup> We heard that it was important to maintain local discretion as each area is different and should be able to implement an approach suitable to their own needs and priorities, with the WLGA noting:

“the overwhelming feedback [from local authorities] is that the discretionary element works as it is at the moment.”<sup>113</sup>

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<sup>108</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 270

<sup>109</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 270

<sup>110</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 272

<sup>111</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 274

<sup>112</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 276

<sup>113</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 279

## 5. 1. Impact of introducing a premium

**163.** We heard that, so far, the council tax premium had not made a significant impact on reducing the number of empty properties in the areas where it had been implemented.<sup>114</sup> One empty property owner, in responding to our survey, commented on the negative impact of the premium on their circumstances:

“I have only been penalised financially (in terms of paying two lots of council tax) for being unable to sell which is due to no fault of my own. I am desperate to sell the house – I’ve been trying for 2 years but the chain keeps falling through for various reasons all of which are unrelated to my property.”<sup>115</sup>

### Avoidance

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**164.** Concerns were raised by local authorities that some property owners were trying to avoid paying the premium by either claiming the property is occupied (and claiming a single person discount), or claiming the property is self-catering accommodation and subsequently having the property listed for non-domestic rates. If a self-catering property is listed for non-domestic rates the owner may then be able to claim small business rates relief and consequently pay no local taxation.

**165.** The WLGA told us that the feedback it had received from local authorities who had implemented the premium was that there had not been “any major collection issues”, however:

“there have been some other issues with, perhaps, taxpayers taking potential avoidance measures and then applying for the property to be moved into the rating list for business rates by saying it’s a holiday let and it’s used for business purposes.”<sup>116</sup>

**166.** Gwynedd Council explained that it has presented cases to the Valuation Office Agency where it had concerns with the evidence to support changing the category of a property to self catering accommodation:

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<sup>114</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 344

<sup>115</sup> [Inquiry into Empty Properties - survey analysis](#)

<sup>116</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 305

“We do have concerns with regard to every case that the evidence is there to satisfy us as a local authority as to how much evidence there is for the transfer. We’ve got some 10 exemplar cases where we are of the opinion that they shouldn’t have made the transfer, but they have been transferred.”<sup>117</sup>

**167.** Torfaen County Borough Council told us that, since it had removed the discount for empty properties, it had seen an increase in the number of people alleging that a family member had moved into the property and claiming a single person discount on the charge.<sup>118</sup>

**168.** The Minister for Finance and Trefnydd told the Assembly in Plenary on 22 May 2019 that Welsh Government officials were working with local authorities to “review the use of their discretionary powers to apply council tax premiums and ensure the legislation is operating as intended”.<sup>119</sup>

**169.** The Minister was aware of concerns relating to individuals changing the status of their property and said that a working group of local authority practitioners has been set up to discuss the issue of council tax premiums and discounts and to consider the current position across Wales. She told the Assembly:

“This is an issue that we are very alive to, and we’re very keen to ensure that those who are able to pay council tax and who should be paying council tax certainly do so because, as I’ve outlined, it’s extremely important in being able to support our local authorities to undertake all the work that we require them to do.”<sup>120</sup>

**170.** In response to a Written Assembly Question, the Minister for Finance and Trefnydd stated:

“The working group first met on 8 May and was attended by representatives from the Welsh Local Government Association, local authority practitioners and Welsh Government officials. The group provides local authority practitioners with an opportunity to provide

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<sup>117</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 321

<sup>118</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 336

<sup>119</sup> [Plenary, Record of Proceedings, 22 May 2019, paragraph 17](#)

<sup>120</sup> [Plenary, Record of Proceedings, 22 May 2019, paragraphs 19-20](#)

feedback and raise any matters regarding their implementation of council tax premiums and discounts.”<sup>121</sup>

## Resources

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**171.** We were told that investigating claims of change in circumstances was resulting in additional work for local authorities, Torfaen told us that when they are told that a family member has moved in to an empty property, they have to investigate the claim which:

“can end up in tribunal, and it does take a lot of work.”<sup>122</sup>

**172.** The WLGA noted that of the local authorities who had implemented a premium, only one had found that the impact on resources had been small, with others stating that it had more of an impact:

“You need the resources to do property inspections, to actually track down the right person. The customer inquiries are significant, because again there’s a reluctance to pay. [ ] It’s not merely a case of you issue the bill and it’s paid, there’s a lot more involved, unfortunately, and it is a cost that in some authorities may have added to their decision to not go down that route because of already dwindling staff resources.”<sup>123</sup>

**173.** The WLGA concluded that whilst the premium was raising revenue, it was important “to bear in mind the cost” of its implementation.<sup>124</sup> It was suggested by the WLGA that they, along with the Welsh revenues and benefits managers group, could possibly undertake a benchmarking exercise to assess the cost to local authorities.<sup>125</sup>

## 5. 2. Revenue collected by the premium

**174.** Regarding the revenue collected by implementing the council tax premium, the Explanatory Memorandum to the then *Housing (Wales) Bill 2014* notes:

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<sup>121</sup> Written Assembly Question 78295. Answered by the Minister for Finance and Trefnydd, 31 May 2019

<sup>122</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 336

<sup>123</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 332

<sup>124</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 343

<sup>125</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 339

“It is hoped that local authorities would use additional revenue to help meet local housing needs by providing more homes and/or by improving existing homes.”<sup>126</sup>

**175.** Our predecessor Committee, in its Stage 1 report on that legislation concluded:

“We believe that there should be an expectation on local authorities to publish figures on revenue raised as a result of increased council tax payments on empty properties, and to set out how this has been spent.”<sup>127</sup>

**176.** Guidance issued by the Welsh Government to local authorities notes that:

“A local authority will be able to retain any additional funds generated by implementing the premiums and amendments to the calculation of the tax base will be made to facilitate this.”

**177.** The guidance specifies that authorities are encouraged to help meet local housing needs, in line with the policy intentions of the premiums, however this is not a requirement. The Expert Panel told us that so far, there were “limited examples” of the revenue collected being directed specifically towards dealing with empty properties.<sup>128</sup>

**178.** There was a general sense among witnesses that the revenue collected by local authorities should be available to use for housing related purposes.

**179.** Gwynedd Council told us:

“we created a fund, and, in our financial strategy, we’ve said that the premium that’s being collected is to be put towards our housing strategy.”<sup>129</sup>

**180.** We heard from the WLGA that it had received feedback from two local authorities that one had directed the revenue into core budgets and the other had divided theirs between affordable housing and community led projects.<sup>130</sup>

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<sup>126</sup> Housing (Wales) Act 2014, Explanatory Memorandum, paragraph 3.116

<sup>127</sup> Communities, Equality and Local Government Committee, Stage 1 report on the Housing (Wales) Act, paragraph 437

<sup>128</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 262

<sup>129</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 351

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**181.** In its evidence paper, the Welsh Government states that it would like to:

“research options on how we can ring fence all or part of the council tax premiums so they can be kept by empty property teams to support this work.”<sup>131</sup>

**182.** The Deputy Minister reiterated this message to us.<sup>132</sup> An accompanying official believed that using the revenue collected for housing purposes would make the charging of a premium more acceptable as its use could be demonstrated.<sup>133</sup>

### 5. 3. Increasing the premium

**183.** The *Independent Review of Affordable Housing Supply* recommended that there should be more power for local authorities to increase empty property charges and the rate should be increased. The Welsh Government provided its response to the report on 9 July 2019 and accepted this recommendation in principle. It noted:

“Welsh authorities have full discretion to apply premiums of up to 100% to the standard council tax charges for long-term empty properties in their areas. The provisions were introduced to enable authorities to tackle issues in local housing supply. Each authority needs to consider local circumstances and assess the potential impacts in deciding whether to introduce a premium and, if so, at what level. These provisions have been in effect since April 2016 and their initial usage is being monitored. The impact of this needs to be assessed before further legislative change is considered.”<sup>134</sup>

**184.** The Welsh Government’s paper<sup>135</sup> highlights recent changes to council tax premiums in England; from 1 April 2019, property owners can be charged double council tax if it has been empty for 2 years or more (subject to some exemptions).

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<sup>130</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 350

<sup>131</sup> [ELGC\(5\)-23-19 paper 1. Welsh Government](#)

<sup>132</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 196

<sup>133</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 17 July 2019, paragraph 201

<sup>134</sup> [Independent Review of Affordable Housing Supply – Welsh Government Response to Final Report](#)

<sup>135</sup> [ELGC\(5\)-23-19 paper 1. Welsh Government](#)

Two further changes will be implemented in England; from 2020, property owners will face a bill of up to three times the standard bill where a property has been empty for 5 years or more; and from 2021, property owners face a bill of up to four times the standard bill where a property has been empty for 10 years or more.

**185.** No Use Empty was unsure as to the effectiveness of further increasing the rate of the premium, noting:

“The effectiveness of increasing it any further—I don’t know how effective that will be at bringing empty homes; what it will do is just accrue debt against the property. [ ] It gives a clear message, but whether in the longer term it actually brings a significant amount of empty properties back into use is questionable.”<sup>136</sup>

**186.** The WLGA was concerned about more avoidance tactics:

“there is a concern that, if you do take it too high, you run the risk of further escalation tactics on avoiding actually paying. So, whereas 100 per cent has caused an issue, if we made it 150 to 200, well, we’d then just be creating even more avoidance or evasion issues for taxpayers.”<sup>137</sup>

**187.** The Welsh Government’s paper states that it will review whether it should follow England’s example and provide local authorities “the opportunities to increase council tax to 300 per cent if the property has been empty for more than 10 years”.<sup>138</sup>

## Our view

**188.** We welcome the ability afforded to local authorities to charge a council tax premium on long term empty homes. We acknowledge that the effectiveness of this approach is still being assessed given it is a relatively recent measure, however we support the principle of sending a clear message that it is not acceptable for properties to remain empty for a prolonged period.

**189.** We are aware that Gwynedd Council has decided to allocate the additional revenue for housing purposes, however we are concerned that there is little

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<sup>136</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 11 July 2019, paragraph 120

<sup>137</sup> Equality, Local Government and Communities Committee, Record of Proceedings, 3 July 2019, paragraph 370

<sup>138</sup> [ELGC\(5\)-23-19 paper 1. Welsh Government](#)



evidence elsewhere of the funds being directed towards meeting local housing needs. We realise that resources are tight across all local authority services, however we believe that this revenue should specifically be used to fund actions to get empty properties back into use. To do otherwise would go against the aims of the original legislation.

**190.** We welcome the desire expressed by the Welsh Government to explore whether it would be possible to ring-fence the revenue collected by local authorities to be used for housing purposes. We believe that it should include looking at the practicalities of how this could work, including any obstacles, and report back to the Assembly.

**Recommendation 12.** We recommend that the Welsh Government explores the possibility of ring-fencing revenue collected by local authorities through the council tax premium on empty homes, to be used specifically for housing purposes. The Welsh Government should report back to the Assembly on its findings.

**191.** We recognise that local discretion is important as local authorities are best placed to decide the approach which is most appropriate for their areas. Whilst many local authorities have decided that implementing a premium would not currently be appropriate, some have opted to remove the discount previously awarded to empty properties once a time-limited exemption has ended. We believe that local authorities should have the flexibility to determine which approach is most suitable for local needs, whether that is a premium or discount. We do not believe that a uniform approach across all local authorities would be appropriate at this time.

**192.** A particular issue raised with us was the number of people applying to change the category of their empty property, either by claiming it is being used as self-catering accommodation or that a family member has moved in, seemingly for the purpose of avoiding paying the premium. Whilst the current evidence of this is largely anecdotal, we are concerned that this practice could continue and believe the Welsh Government should gather robust data to determine whether this is a significant issue. We are interested in the suggestion given in oral evidence of benchmarking the cost to authorities of preventing avoidance of the premium. This would identify the resources needed to investigate claims where there is a purported change of circumstances and revenue lost as a result of being unable to charge the premium. We are aware that a working group has been established to explore the impact of local authorities implementing council tax premiums, and believe that such a benchmarking exercise could be undertaken by this group.

**Recommendation 13.** 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.

## Annex A: Consultation responses

The following responses were submitted and are [published on the website](#).

Reference	Organisation
EP01	Harlech in Action
EP02	Residential Landlords Association
EP03	Scottish Empty Homes Partnership
EP03a	Scottish Empty Homes Partnership (additional information)
EP04	Shelter Cymru
EP05	United Welsh
EP06	South East Wales Empty Property Working Group
EP07	Vale of Glamorgan Council
EP08	Country Land and Business Association
EP09	Wales Co-operative Centre
EP10	Action on Empty Homes
EP11	Swansea Council
EP12	Community Housing Cymru
EP13	TPAS Cymru
EP14	CIH Cymru
EP15	E.ON
EP15a	E.ON (additional information)
EP16	Safeagent Wales
EP17	ARLA NAEA PropertyMark
EP18	Tai Pawb
EP19	Shared Regulatory Services
EP20	WLGA and the All-Wales Private Sector Housing Expert Panel
EP20a	WLGA and the All-Wales Private Sector Housing Expert Panel (additional information)
EP21	National Landlords Association
EP22	Federation of Master Builders Cymru
EP23	Newport City Council
EP24	No Use Empty: Kent Empty Property Initiative
EP24a	No Use Empty: Kent Empty Property Initiative (additional information)

## Annex B: Schedule of oral evidence

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions are available.

Date	Name and organisation
3 July 2019	Paula Livingstone, Swansea Council Sion Wynne, Wrexham County Borough Council Gaynor Toft, Ceredigion County Council Leighton Evans, Carmarthenshire County Council Lisa Hayward, Welsh Local Government Association Dewi Morgan, Gwynedd Council Deb Smith, Torfaen County Borough Council
11 July 2019	Shaheena Din, Scottish Empty Homes Partnership Andrew Lavender, No Use Empty Scheme Brigid Carey, Action on Empty Homes Nigel Dewbery, E.ON Rebecca Jackson, Shelter Cymru Matthew Kennedy, Chartered Institute of Housing Cymru Michelle Collins, United Welsh Douglas Haig, Residential Landlords Association Gavin Dick, National Landlords Association Ifan Glyn, Federation of Master Builders
17 July 2019	Hannah Blythyn AM, Deputy Minister for Housing and Local Government Ian Williams, Welsh Government Vivienne Lewis, Welsh Government

## Annex C: Letter from the Deputy Minister for Housing and Local Government

Eich cyf/Your ref  
Ein cyf/Our ref MA- P-JJ-2078-19

John Griffiths, AM  
Chair, Equalities, Local Government  
And Communities Committee



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Llywodraeth Cymru  
Welsh Government

6 August 2019

Dear Chair,

Thank you for the opportunity to highlight importance of the empty property agenda through the Committee's inquiry into this topic.

During my evidence session, I agreed to write to you with the results of the short survey undertaken with local authorities and further information on Council Tax premiums. This information is attached for your consideration

Yours sincerely,

A handwritten signature in black ink, which appears to read 'Hannah Blythyn'.

**Hannah Blythyn AC/AM**  
Y Dirprwy Weinidog Tai a Llywodraeth Leol  
Deputy Minister for Housing and Local Government

## **Equality, Local Government and Communities Committee, 17 July 2019: Contribution to follow-up – second homes, empty dwellings and council tax**

I undertook to provide further information on liability for council tax and council tax premiums. It may help first to clarify the definitions used for council tax purposes and the circumstances in which exemptions, discounts and premiums may apply. A list of exemptions and discounts is given at **Annex 1**.

It is important to understand the distinctions between second homes, empty homes and long-term empty homes for the purposes of council tax. Liability for council tax is primarily determined by whether a dwelling is someone's sole or main residence. Where this is the case, the occupier (owner or tenant) is liable for council tax unless the dwelling falls into one of the classes which is exempt or the occupier qualifies for a full reduction.

Where the dwelling is not someone's sole or main residence, its classification as an empty or second home is determined by whether it is occupied and whether it is furnished. An empty dwelling is one which is both unoccupied and substantially unfurnished. A 'long-term empty property' is one which has been empty for 12 months or more.

A second home is a dwelling which is not a person's sole or main home and is substantially furnished – council tax law refers to such properties as 'dwellings occupied periodically' but they are commonly referred to as 'second homes'.

In this context, the term 'second home' refers to a variety of dwellings. It is not confined to dwellings being used as private holiday or weekend homes. For example, the definition includes properties being marketed for sale or let, properties owned by people whose job requires them to work elsewhere, purpose-built seasonal homes, and caravans. Many of these would not be available or suitable for year-round occupation.

Under the Local Government Finance Act 1992, a discount may be applied to the council tax bills for empty (including long-term empty) dwellings and second homes. Authorities have discretionary powers to vary or remove the discount.

The Housing Act (Wales) 2014 provides discretionary powers for local authorities to apply premiums of up to 100% to the council tax bills for long-term empty properties and second homes. Authorities can set the premium at any level up to 100% and can apply the premium to long-term empty dwellings or second homes or both and can apply different premiums to the different types of dwelling.

The provisions were introduced to assist authorities in managing issues relating to local housing supply. They were not introduced as a revenue-raising measure. The powers are discretionary, enabling authorities to tailor their approach to premiums to the needs of local communities. The provisions allowed authorities to introduce premiums from 1 April 2017 (after allowing the necessary period for properties to meet the relevant conditions).

There are a number of exceptions where the premium cannot be charged:

- Dwellings being marketed for sale – this exception is time-limited for one year
- Dwellings being marketed for let – this exception is time-limited for one year

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- Annexes forming part of, or treated as part of, the main dwelling
  - Dwellings which would be someone's sole or main residence if they were not residing in armed forces accommodation
  - Occupied caravan pitches and boat moorings
  - Seasonal homes where year-round occupation is prohibited
  - Job-related dwellings

The decision to apply a premium is a matter for individual local authorities. Each authority needs to consider all the possible effects in deciding whether to apply a premium. This includes taking account of the effect of introducing premiums on the local economy and on the local tax-base. More information is provided in the *Guidance on the Implementation of the Council Tax Premiums on Long-Term Empty Homes and Second Homes in Wales* which was issued by the Welsh Government to accompany the introduction of the powers:

<https://gov.wales/sites/default/files/publications/2019-06/council-tax-on-empty-and-second-homes.pdf>

The Welsh Government recognises that some dwellings could be used either as second homes (as defined above) or as commercially let self-catering accommodation for holiday-makers and has legislated to make the distinction clear.

To qualify as self-catering accommodation, a dwelling must be available to let for at least 140 days in a 12-month period and actually let for at least 70 days. The definition was set out in *The Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2010*. The Order was revised and strengthened in 2016. The qualification periods were retained, reflecting the replies to the public consultations.

The criteria for self-catering accommodation strike a balance between supporting the tourism industry in Wales and ensuring that underused second homes do not limit the availability of affordable housing, particularly in some smaller communities.

Dwellings which meet the criteria may be recorded on the non-domestic rating list rather than the council tax list. Dwellings which do not meet the criteria, including second homes kept mainly for private use, are liable for council tax. Valuation lists for council tax and non-domestic rating purposes are compiled and maintained by the Valuation Office Agency. The Agency is independent of the Welsh Government.

For a property to be defined as self-catering accommodation and moved to the rating list, the owner must provide evidence to the Valuation Office Agency that the property meets the criteria. Owners are required to complete a return and provide documents, for example accounts and receipts, to demonstrate that they comply. The Agency scrutinises this information before any changes are made to the lists. If a local authority believes a property should be listed for council tax and has evidence of this, it is obliged to share such information with the Agency and the Agency will consider the evidence. Officials continue to monitor the effect of introducing the discretionary powers to charge premiums.

Self-catering accommodation which falls below a specified rateable value may be eligible for Small Business Rates Relief (SBRR). The Welsh Government introduced its permanent SBRR scheme on 1 April 2018. The proposals, including whether there should be any additional exceptions, were also subject to public consultation. SBRR is fully funded by the Welsh Government.

## ANNEX 1: COUNCIL TAX EXEMPTIONS, DISCOUNTS, AND DISREGARDS

Within the council tax system, certain types of dwelling are exempt (Table 1). No council tax is due on exempt dwellings.

In occupied dwellings, certain people are disregarded (not counted) for council tax purposes (Table 2). Where there is only one liable adult occupant of a dwelling (who is not in a disregarded class), a discount of 25% will be applied to the bill. Where all the occupants are in a disregarded class, a discount of 50% applies (unless all the occupants fall into class, eg. students, which qualifies the dwelling for an exemption).

In addition, households on low incomes may be entitled to a reduction under the council tax reduction scheme (CTRS).

**Table 1: Council Tax Exemptions**

Class	Summary
<b>A</b>	Unoccupied – uninhabitable or empty and unfurnished property undergoing structural alteration or repairs. Time-limited: max of 12 months.
<b>B</b>	Unoccupied – owned by a charity. Time-limited: max of six months since last occupied.
<b>C</b>	Unoccupied – empty and unfurnished. Time-limited: max six months since becoming vacant.
<b>D</b>	Unoccupied – liable person in detention.
<b>E</b>	Unoccupied – liable person in hospital or care home.
<b>F</b>	Unoccupied – liable person has died. Time limited: for period before probate or letters of administration are granted and for up to six months after probate or letters are granted.
<b>G</b>	Unoccupied – occupation prohibited by law.
<b>H</b>	Unoccupied – held available for use of ministers of religion.
<b>I</b>	Unoccupied – liable person receiving care elsewhere.
<b>J</b>	Unoccupied – liable person providing care elsewhere.
<b>K</b>	Unoccupied – liable person is a student.
<b>L</b>	Unoccupied – repossession.
<b>M</b>	Occupied – halls of residence predominantly for students.
<b>N</b>	Occupied – only by students.
<b>O</b>	MoD Armed forces accommodation.
<b>P</b>	Visiting forces accommodation.
<b>Q</b>	Unoccupied – left empty by a person declared bankrupt.
<b>R</b>	Unoccupied – caravan pitch or boat mooring.
<b>S</b>	Occupied – only by a person or persons under the age of 18.
<b>T</b>	Unoccupied – annexe or part of dwelling which may not be let separately
<b>U</b>	Occupied – only by a person or persons who is severely mentally impaired.
<b>V</b>	Occupied – where at least one person is a diplomat.
<b>W</b>	Occupied – annexe occupied by a dependent relative.
<b>X</b>	Occupied – only by care leavers under the age of 25.



**Table 2: Council Tax Disregards**

When working out the number of people living in a property for the purposes of calculating a council tax bill, the following people are disregarded (not counted).

<b>People disregarded for council tax purposes</b>
Anyone aged 17 or under.
A prisoner or someone in detention awaiting deportation or under mental health legislation.
Someone who is severely mentally impaired.
A full-time student on a qualifying course of education (including correspondence or online courses); student nurses; Foreign Language Assistants on the official British Council programme. If a property is occupied only by students, it is exempt from council tax.
A spouse, civil partner or dependant of a student who is a non-British citizen and who, under immigration rules, is not allowed either to work in the UK or claim benefit
A young person on a government training scheme or certain types of apprenticeship.
A long-term hospital patient or care home resident.
Someone living in a hostel which provides care or treatment because of old age, physical or mental disability, past or present alcohol or drug dependence, or past or present mental illness.
Someone living in a bail or probation hostel.
A live-in care worker.
Someone staying in a hostel or night shelter, for example a Salvation Army or Church Army hostel.
A school or college leaver under the age of 20 who left school or college after 30 April. School leavers are disregarded until 1 November of the same year whether or not they take up employment.
Someone aged 18 and still entitled to Child Benefit.
A member of a religious community.
A member of a visiting armed force (their dependants are also disregarded).
A care leaver under the age of 25.

The Welsh Government is currently reviewing its policy on empty homes and buildings with a view to streamline some of its current loan/grant programmes to make them more effective for Local Authorities to use. In addition we are looking at the use of enforcement powers and how we can potentially help Local Authorities in using these powers.

We would be grateful if you could take a few minutes to fill out our survey as your views are important. If you would be interested in taking part in a face to face discussion with our officials please let us know at the end of the survey. Please answer all the questions if possible

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1. Do you have an empty homes/properties strategy?

YES		NO	
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2. Where does responsibility for empty properties lie within your authority:

Regeneration team	
Environmental team	
Planning team	
Housing team	
A mixture of the above	
Other – please specify	

3. Do you use any Welsh Government loan or grant schemes to tackle empty properties?

YES		NO	
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4. If yes, which of following do you use (please tick all that apply):

Housing Loans (HIH/HIL)	
Town Centre Loans	
Targeted Regeneration Investment	
Other schemes – please list below	

5. Do you regularly take enforcement action to bring empty properties back into use?

YES		NO	
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6. If yes, which of following do you use (please tick all that apply):

Section 215 notices – Town & Country Planning Act 1990	
Section 79 – Building Act 1984	
Improvement notices and EDMO's – Housing Act 2004	
Compulsory Purchase Orders	
Other powers – please list below	

7. If not, which of the following are currently preventing you from using your enforcement powers?

Financial resources	
Staffing resources	
Expertise within your authority	
Priority of other work	
Other reasons – please list below	

8. If you would like to discuss this questionnaire face to face with the Welsh Government could you please provide your contact details below?

Results of the Enforcement Questionnaire

Authority	Blaenau Gwent	Bridgend	Caerphilly	Cardiff	Carmarthenshire	Ceredigion	Conwy	Denbighshire	Flintshire	Gwynedd	Merthyr Tydfil
Empty Strategy	Yes	Yes	No	No	Q1 Yes	Q2 No	Yes	Yes	Yes	Yes	Yes
<b>Responsibility</b>											
Regeneration	✓			✓		✓			✓		✓
Environmental						✓			✓		✓
Planning											
Housing					Lead	✓	✓				
Mixture		✓			✓			✓	✓		✓
<b>WG Schemes used</b>											
Property Loans	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Town Centre Loans				✓	✓	✓	✓	✓	✓	✓	✓
TRI Regen			✓		✓	✓		✓		✓	✓
Other											
<b>Enforcement Action</b>											
Section 215		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Section 79	✓			✓		✓	✓	✓		✓	
Improvement Notice			✓		✓	✓		✓		✓	
EDMO's								✓			
CPO's							✓	✓			
Other	✓	✓			✓	✓	✓			✓	
<b>Barriers to using Enforcement</b>											
Financial			✓	✓		✓	✓	✓	✓	✓	✓
Staffing			✓		✓	✓	✓	✓	✓	✓	✓
Expertise					✓		✓		✓	✓	✓
Priority of work			✓			✓	✓	✓	✓	✓	✓
Other					✓				✓	✓	✓

Authority	Monmouthshire	Neath Port Talbot	Newport	Pembrokeshire	Powys	Rhondda Cynon Taff	Swansea			Tortfaen	Vale of Glamorgan			Wrexham	Ynys Mon
							Q1	Q2	Q3		Q1	Q2	Q3		
Empties Strategy	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Responsibility</b>															
Regeneration			✓							✓			Lead	✓	
Environmental		✓				✓				✓					
Planning															
Housing	✓		Lead		✓	✓			✓			✓			✓
Mixture			✓	✓				Public health/housing	✓			✓			
<b>Schemes used</b>															
Property Loans	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
Town Centre Loans			✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
TRIRegen			✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
Other			✓		✓			EU Fund (BFF)			✓				✓
<b>Enforcement Action</b>															
Section 215		✓	✓			✓	✓		✓	✓	✓	✓	✓	✓	✓
Section 79		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Improvement Notice		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
EDMO's			✓				✓	✓			✓	✓			✓
CPO's													✓		
Other		✓	✓		✓	✓	✓		✓	✓	✓	✓			
Barriers to using															
Enforcement															
Financial		✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
Staffing			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Expertise		✓							✓	✓	✓	✓	✓	✓	✓
Priority of work	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Other	✓														✓