

EP 20

Ymchwiliad i eiddo gwag

Inquiry into empty properties

Ymateb gan: Cymdeithas Llywodraeth Leol Cymru a'r Panel Arbenigol Cymru

Gyfan ar Dai yn y Sector Preifat

Response from: WLGA and the All-Wales Private Sector Housing Expert Panel

National Assembly for Wales' Equality, Local Government and Communities Committee - Inquiry into empty homes

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. The WLGA is a politically led cross-party organisation, with the leaders from all local authorities determining policy through the Executive Board and the wider WLGA Council. The WLGA also appoints senior members as Spokespersons and Deputy Spokespersons to provide a national lead on policy matters on behalf of local government.
3. The WLGA works closely with and is often advised by professional advisors and professional associations from local government, however, the WLGA is the representative body for local government and provides the collective, political voice of local government in Wales.
4. The All-Wales Private Sector Housing Expert Panel is made up of senior housing officers from all Local Authorities with responsibility for empty properties. A remit of the group is to act as an expert advisory group, acting as a source of advice to local authorities, WG, WLGA and to Housing Leadership Cymru and the Wales Heads of Environmental Health Group on all aspects of private sector housing (PSH).
5. This is a joint submission from the WLGA and the All-Wales Private Sector Housing Expert Panel to the National Assembly for Wales' Equality, Local Government and Communities Committee's inquiry into empty homes. The submission is framed around the questions highlighted within inquiry's terms of reference.

Is enough being done to tackle empty properties in Wales? If not, what needs to change?

6. Local authorities make considerable efforts to tackle problematic empty properties in Wales, however, it is important to understand the detail behind

some of the activity reported by authorities. Annually, the denominator figure for empty properties is rising, and LAs are possibly reaching a plateau, in terms of percentage returned to use, based on current resources.

7. Whilst it is noted that each LA in Wales has varying population figures and housing demand, there is a significant variation between the upper and lower range of the number of empties across Wales. The current denominator figures range from 3556 to 244.
8. With PAM/013 reflected as a percentage figure, this does not highlight the good work of some LAs where denominator figures are high, as the actual number of homes brought back into use maybe be amongst the highest in Wales.
9. Exploring current denominator figures, suggests that a large number (e.g. 55% in Carmarthenshire and 48% in Ceredigion, April 2019) are considered to be transitional empty properties, being empty for less than 2 years. 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.
10. Whilst this may be the case, LAs can provide extensive advice, guidance and support to all owners of empty properties, and good condition properties can draw on low resources, and increase the provision of housing across Wales, relatively efficiently.
11. Conversely, there will be empty properties which have been removed from Council Tax records based on a poor condition. It is these properties that are likely to consume the greatest staff resources, and will be problematic and protracted. These will not be reflected in the denominator figure.
12. LAs need to have a varied approach, to offer a wide variety of assistance to empty property owners. This requires significant investment and resources. As a minimum, each LA should have a dedicated Empty Property Officer, operating behind an effective Empty Property Strategy. Regional and National working is key, sharing good working practice.

13. Financial support to LAs to fund staffing posts, could greatly increase the activity on empty properties across Wales. Discussion has occurred at WG in the delivery of the Houses into Homes (HiH) and Home Improvement Loans (HiLs) schemes about also providing revenue funding to LAs to support empty property work and enable the delivery of this funding.
14. A lot of 'invisible' time is also spent on empty properties – work undertaken which doesn't immediately result in a property being brought back into use but may address issue(s) relating to the property which affects neighbours. This work is carried out by a range of officers and is good to keep goodwill with neighbours and elected members as they are also a good source of local intelligence on what's happening with the properties but mostly goes unreported.

What impact can empty properties have on a community?

15. Generally, empty properties can:
 - Attract anti-social activity, including crime, vandalism and arson, resulting in an increased fear of crime for neighbours
 - Blight the surroundings and create environmental problems
 - Decrease adjacent property values
 - Discourage further investment in the area, leading to neighbourhood decline
 - Cost the owner significant money (council tax, utility charges, loss of rental income and deterioration of the property).
16. There are many empties which are 'hidden' from the community which could be used to increase housing provision. These can be trickier to bring into use as there is no 'reason' for the LA to intervene and use its powers.
17. It is considered that empty properties represent a wasted resource. Some properties go unreported due to their isolated nature, due to neighbours giving up on reporting them or because they are maintained to a certain standard. Despite this these properties represent as much of a wasted resource as those in an 'obvious' state or location, in some cases they can be more of a wasted resource due to a greater shortage of suitable accommodation in the area (i.e. rural).
18. In instances such as these, the only course is an EDMO and this is lengthy, or compulsory purchase, and this is costly. In its current form the EDMO process isn't providing the right solution. They are too complicated, lengthy and prone to

fail so LAs will not use the powers. Work needs to be undertaken to streamline this process in favour of LAs and the communities where they are located.

How effectively are local authorities using the statutory and non-statutory tools at their disposal to deal with empty properties?

19. There is a wide variety of legislation that can be utilised for empty property work, a lot of which is not used by LAs to tackle problematic empty properties for various reasons such as powers of delegation, staff resources/capacity, protracted processes etc. Competing demands on resources can mean that empty property work is lower priority than for example poor condition housing.

20. The use of legislation can be resource intensive, and is very rarely the final step a LA would take to bring a property back into use. Enforcement action is usually taken, following unsuccessful informal action. Owners of empty properties can often be 'accidental owners', having inherited a property and do not have the means to address defects and property improvement. In circumstances such as this, enforcement action can result in the need for a LA to undertake works in default of a notice. This again, can be very labour intensive and requires staff and financial resources. To recover debt, LAs must then consider further enforcement action, either by creating charging orders through the County Courts, enforcing the sale of a property or by undertaking an EDMO. Examples of the use of enforcement action, and more informal action, are shown in **Appendix 1**.

Do local authorities need additional statutory powers to deal with empty properties? If yes, what powers do they need?

21. 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 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.

22. Members of the public often assume statutory powers such as EDMOs and CPOs are easy and therefore suggest this option as a default. This puts added pressure on LAs when action is not seen to be forthcoming due to it not being as straight forward as envisaged. Wrexham CBC is currently in the process of developing a procedure to take properties forward for enforcement action

including CPOs, however, the process to have the procedure adopted is complex due to the nature of the work and risks involved.

Are owners of empty properties given the support, information and advice that they need to bring empty properties back into occupation? If not, what additional help do they need?

23. Across Wales extensive advice, guidance and support is offered, and is responsible for the majority of properties brought back into use. However, this activity is time-consuming and resource intensive. Examples of such informal support include:
- Advice on property improvement works required to bring a property up to a habitable standard, with project management services being developed
 - Registered scheme of builders and agents, to assist owners with property improvement
 - Financial assistance through HILs & HIH
 - In-house social lettings agency, offering advice and support with minor property improvement works, tenant finder schemes and a full property management service for affordable homes
 - VAT concession letters
 - Advice on private sector letting and Rent Smart Wales obligations
 - Public auction referrals
 - Direct purchases, in line with Affordable Homes strategy.
24. LAs have different schemes available, and there is scope for greater consistency across Wales around the level and types of assistance provided to property owners. For example, Gwynedd currently has 5 schemes available to try and bring empty properties back into use. Schemes are advertised regularly on social media and local papers, and verbal advice is provided, however, this can be demanding on officers' time.
25. It is considered that HiH and HiLs loan schemes have been very successful in bringing properties back into use and have opened the door to further discussions about project management, VAT advice, letting / leasing empty properties as affordable housing, etc., but there are many more who do not engage and are unaware of the schemes. The loans can only be used for properties where the owners do engage and where the equity levels allow. There

is a significant core of properties where engagement is not currently working and these are often the properties that generate most complaints.

Is there sufficient awareness of the practical assistance that local authorities can offer owners of empty properties? If not, how could this be improved?

26. LAs can target empty property owners on an annual basis, offering a wide variety of advice, guidance and support by letter, with a facility for owners to respond and request detailed information or assistance. This is resource dependent. LAs can advertise such assistance on corporate websites and through working collaboratively with local landlords forums. There would be benefit from adopting a consistent approach across Wales, through a national scheme/ drive to offer the same service across Wales. This should be backed up with funding for LAs, both revenue and capital.

Are the skills and resources of housing associations and the private sector being fully utilised to tackle empty properties?

27. LAs can work closely with private sector landlords, offering a wide range of advice guidance and support with housing standards, financial assistance, VAT concession assistance, tenant finder schemes etc. LAs can also work collaboratively with local landlords forums, offering and receiving training and good practice sharing. It may be argued that more could be done to fully utilise the skills and resources of RSLs in particular, but this requires LA resource/capacity to manage the partnerships and use legal and financial resources. In some areas there has been limited interest from RSLs due to the prohibitive costs and requirements for adapting these properties to WHQS standards making the financial payback options unviable.

Is enough being done to ensure empty properties can be brought back into use as affordable homes? Are there examples of good practice in this area?

28. The option to administer an In-house social lettings agency, offering advice and support with minor property improvement works, tenant finder schemes and a full property management services for affordable homes, can be beneficial, but again is heavily reliant on staff resources.

29. Examples of good practice include:

- Carmarthenshire - Long term empty property acquired by a landlord from an auction, following LA enforcement action and subsequently enforced sale. As landlord was living away, a full project management service was offered, in tandem with Houses into Homes, to fully renovate the property to a good lettable standard. The property was then offered to the in-house letting agency and successfully managed and offered as an affordable home, to prospective tenants on the Housing Choice Register.

- Swansea – a long-term empty property above a commercial unit in a prominent location in the city centre. The landlord had funding from both the Vibrant and Viable Places programme and an interest free HiHL to help develop the site as part of the City Centre regeneration. A good example of joint working between Environmental Health, Housing and Regeneration colleagues within the LA and Welsh Government in supporting a private landlord to bring life back in to a very run-down building and providing new flats in the private rented sector.
- Ceredigion - The most effective to increase affordable housing supply in this area is by direct purchase, however the Council has very limited resources to support this activity. A 'fee free' loan (saving of £1,500 - £2,200) is available if the owner offers the property as affordable, but the owner usually would rather pay the fee and not be tied in to restrictions.
- All of Gwynedd's 'Grant' aided schemes have conditions attached where owners agree to rent out property at affordable LHA rates for a period of 5 years.
- Wrexham has recently successfully enabled a row of derelict unfinished properties to be bought by Wales and West Housing Association. They have subsequently been demolished and will be replaced by affordable housing. The Council is also working on a project to buy back some ex-council properties sold under Right to Buy legislation when they come back on the market. This is dependent on there being demand for that type of property.

Is the power to charge a council tax premium on long-term empty homes a useful tool and is it being effectively used? If not, how could this tool be made more effective?

30. Currently council tax legislation states that a 50% discount will be applied to an empty property (Section 11 of the Local Government Finance Act 1992) after an exemption period has ended. Section 12, inserted in 2003, makes provision for the Council to vary the discount for empty properties or give none at all. The Housing (Wales) Act 2014 introduced the discretionary power to charge an additional council tax premium on long term empty homes. In making these discretionary decisions to vary the discount and/or premium a local authority would have regard to local policy objectives. Many local authorities do not apply a premium . For those that do not apply a premium there is a potential disincentive in the funding system in that RSG is assessed on 100% base regardless of any local decision to keep or remove discount. . For those that do implement a premium there remains a difficulty in collecting the higher charge. The Distribution Sub Group is currently looking at this issue and a recommendation will be in its next report.

APPENDIX 1

Examples of the use of enforcement action are shown below:

- Property empty for 5 years following damage caused by previous tenants. Landlord in negative equity following a purchase during the housing market peak and unable to re-finance the property. Houses into Homes considered initially, but loan to value ratio outside of the scheme parameters. Owner on-board, wishing to work with LA. To secure funding, Improvement Notice served by agreement, as a mechanism of covering improvement works required to bring the property up to a habitable standard. Owner in agreement and conceded that LA would have to undertake works in default, by agreement. Improvement works project managed by LA, through to completion. Financial charge secured, which takes the form of a priority charge and moves ahead of the existing mortgage. EDMO applied for, as a mechanism of recovering debt incurred through improvement works. Property handed to in-house letting agency and rental income offset against debt by agreement. Property currently offered as an affordable home, to prospective tenants on the Housing Choice Register and will be debt free within 5 years. Property improved and restored as an asset to the landlord. Landlord continues to pay mortgage liability.

Total duration of time from enforcement action, works in default, to property being tenanted – **3 years**.

Interim EDMO application submission to RPT – **481 pages**.

- Long term empty property where LA has exhausted 7 years of informal action, without success. Formal action taken by serving split

improvement notices under the Housing Act 2004. Empty property owner appealed decision through the Residential Property Tribunal, claiming no hazards exist at the property. From the date of inspection, a period of 5 months elapsed, prior to hearing. During this time, compliance period far elapsed and hazards remain at property with LA powerless to act.

RPT confirmed enforcement action and original periods as stated on original notices served a full **6 months prior** can now commence.

Appeal defence submission documentation – **548 pages**.

Property remains empty.

- Long-term empty mid-terrace property, with leaking flat roof, rainwater goods and chimney stacks in poor condition, structurally unstable. Landlord very unwilling to co-operate. Housing Act 2004 split improvement notices served. Following non-compliance with notices, works in default process instigated, to include party wall responsibilities and Construction (Design & Management) responsibilities engaged. Full tender process and project management duties undertaken, with defects affecting adjoining properties addressed. Internal deficiencies suspended, as property is empty and do not affect occupiers.

Financial charge registered locally and restriction placed on Land Registry title. Owner of property refused to pay debt and enforced sale procedure instigated. Property sold at public auction and debt recovered without challenge. Property purchased by Developers, however still empty due to internal works. Developers engage with LA and renovate internally with a view of selling on completion. Property sold, and now provides a family home.

Duration from enforcement action to property occupied – **2 years, 3 months**.

- Gwynedd Council has undertaken 4 enforced sales in the last 4 years, and many others are in hand, many of which have been on their hands for many years, due to ownership issues and the general lengthy process involved in enforcement relating to empty properties. To enable enforced sale of a property, Housing Department depends on other Departments within the Council, and their lack of resources can also have an effect on the length of the process. The LA has only one empty homes officer and does not have the resources to undertake lengthy processes such as EDMOs.
- Wrexham County Borough Council has recently been successful in working with the Duchy of Lancaster (DOL) and the Treasury Solicitors

to bring very long term empty properties back into use. Both cases took a significant amount of time and resources to achieve though the outcome has been very beneficial with one property sold to private developers and now providing much needed private rented accommodation. The second site involved the demolition of three large houses in a village centre and the site will shortly be developed into high quality affordable housing by Wales & West Housing Association. The solicitors for the Treasury and DOL were helpful though the process was lengthy.

Examples of the use of informal action, which can prove efficient but continue to be staff resource intensive:

- Generally, following empty property owners' engagement, Empty Property Officers work closely with the in-house Social Lettings Agency, providing a property survey and advisory schedule of works, to bring a property up to a good lettable standard. Property is improved by landlord or by assistance from the team and let as an affordable home to prospective tenants on the Housing Choice Register. Property is managed by Simple Lettings (Carmarthenshire).
- Long term empty property within an area of housing need. Developer who works closely with the LA acquired the property at a public auction, and sought planning consent to sub-divide the property. Developer was supported by Houses into Homes, to renovate the building, which was subsequently handed back to the LA as temporary accommodation. LA obtained full nomination rights.
- Long term empty property in a poor condition. Positive engagement from an elderly owner, who subsequently was presented with extensive advice, guidance and support. Property was offered for sale at a public auction, following a LA referral. Property sold to a developer, who subsequently renovated and offered the property to let.