

# Amend legislation in Wales to align with England for Excessive Council Tax Increases

Y Pwyllgor Deisebau | 04 Mawrth 2024  
Petitions Committee | 04 March 2024

Reference: SR24/7850-8

**Petition Number:** P-06-1402

**Petition title:** Amend legislation in Wales to align with England for Excessive Council Tax Increases

**Text of petition:** In England local authorities are required to determine whether the amount of council tax they plan to raise is 'excessive'. The Secretary of State sets thresholds of excessiveness, known as 'referendum principles'. Currently local councils in Wales can increase Council Tax annually up to 10% without a local referendum which was done by Welsh councils in the last 12 months. Many are now planning to do this again placing a massive financial burden on already struggling households.

This briefing <https://commonslibrary.parliament.uk/research-briefings/sn05682/> explains the system of local referendums on 'excessive' increases in council tax, that has been in place in England since the 2012/13 financial year. It explains the legal background to the system, including the procedures, timings and costs for referendums and how council tax increases are presented by local authorities.



# 1. Background

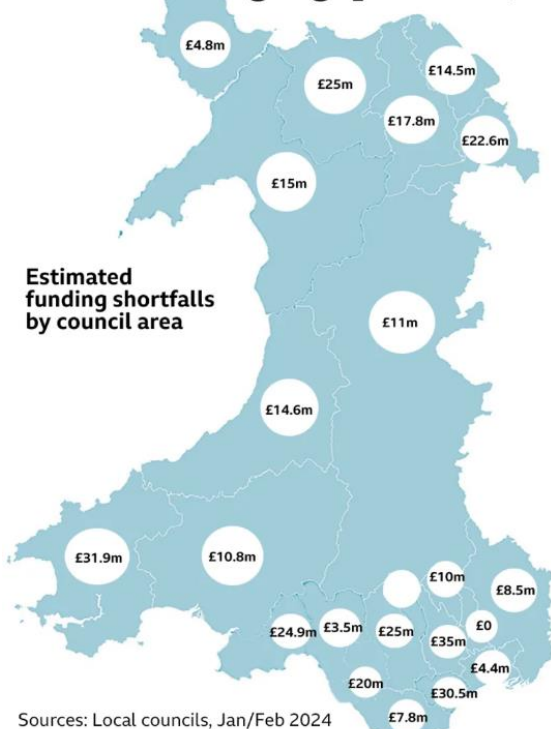
The Welsh Government provides the majority of funding for local authorities through the Revenue Support Grant (RSG) and redistributed Non-Domestic Rates (NDR). For 2024-25, local authorities will receive around £5.7 billion from the Welsh Government in core revenue funding and non-domestic rates. The Welsh Government has also allocated close to £1.4 billion in specific grants, and £960 million in capital funding. Further information on what the Draft Budget means for local authorities can be found in this [Senedd Research article](#).

The remaining funds to support local services are raised by local authorities themselves. The most significant element is council tax, but there are also a number of other income streams for local authorities, such as discretionary charges for leisure services, parking and trade waste.

Local authorities are currently consulting on how much to increase their council tax for 2024-25 to make up some of the estimated funding shortfalls. The Welsh Local Government Association (WLGA) in its [written evidence on the Welsh Government’s Draft Budget 2024-25](#) has estimated a funding shortfall in excess of £400 million for Welsh local authorities in the next financial year.

A [BBC Wales article](#) (published 14 February 2024) illustrates the estimated budget shortfalls by council area:

## Council budget gaps - 2024/25



Sources: Local councils, Jan/Feb 2024



## 2. Council tax increases

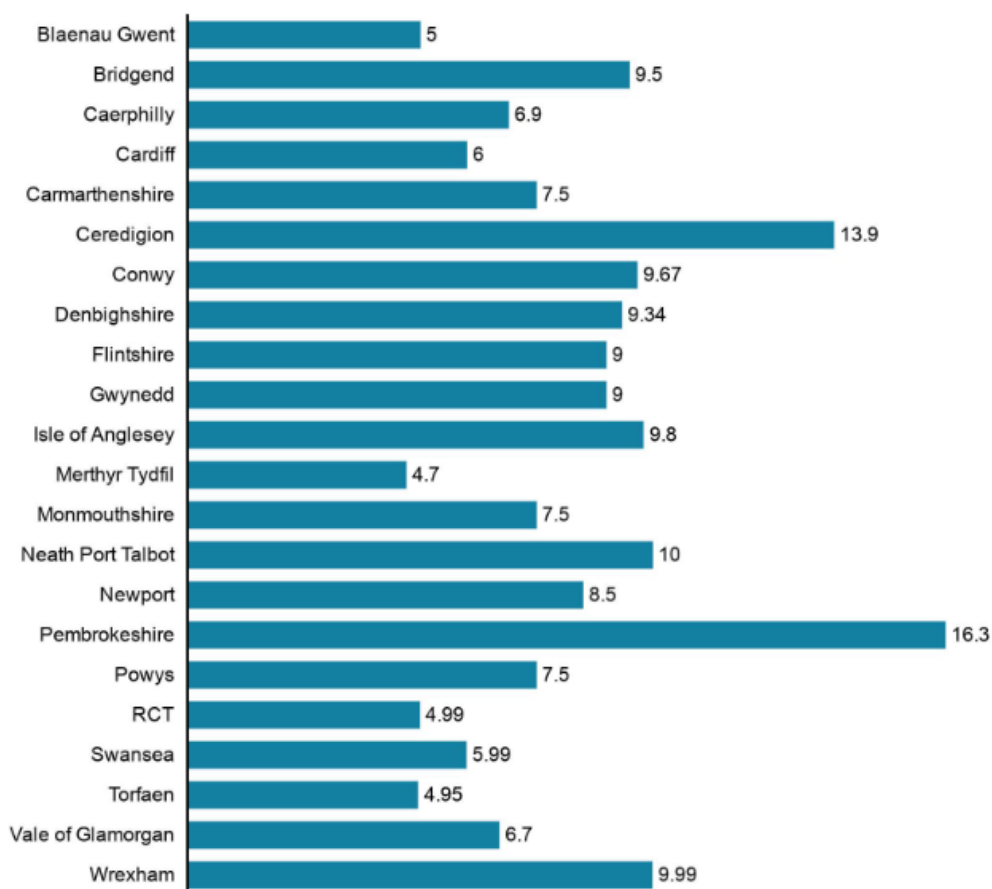
Average Band D council tax for Wales increased by **£82 or 5.5% in 2023-24**. Police increases averaged 6.8% (£21). These increases combined produce an average band D rise of 5.8% (or £102). This provided for the highest combined increase in average Band D rates since 2019-20 when there was an average Band D rise of 6.6% (£99).

Between **2018-19 and 2023-24**, the average Band D combined rate (council tax and police) has increased by 26%, and over a period of a decade (**between 2013-14 and 2023-24**), it has increased by over 50%.

The [BBC Wales article](#) illustrates the current proposed percentage increase in council tax by local authority in Wales for 2024-25, however, local authorities are yet to finalise their budgets:

### How much could council tax go up by?

% change 2024-25 on 2023-24



Some of these figures are early potential estimates and all are subject to a final decision by full councils at the end of February and early March

Source: Local councils, February 2024



### 3. Council tax limits and the legislative framework

The Welsh Ministers do currently have powers to limit (cap) excessive increases in the budget requirement of local authorities and Police and Crime Commissioners in Wales. However, the Minister for Finance and Local Government, Rebecca Evans MS notes in her response to the petition that ‘the Welsh Government has respected the autonomy of local authorities and has not used powers to cap council tax in Wales since devolution.’

The Minister also highlights that the option to hold council tax referenda “do not apply in Wales”. The referendum scheme was introduced by the [Localism Act 2011](#) and the provisions apply to England only.

The Minister’s response goes on to state that:

The complexity of the referendum principles set in England is difficult for taxpayers to navigate, and in some cases, permits larger rises for certain areas (eg. 15% in Croydon, and 10% in Slough and Thurrock, in 2023-24). It should also be noted that the complexity and costs of holding referenda place an additional burden on local authority resources, which would further exacerbate the financial pressures faced by them.

#### 3.1. Legislative framework to limit excessive increases

The relevant legislation is the Local Government Finance Act 1992 (“the LGFA 1992”).

[Section 52B of the LGFA 1992](#) gives Welsh Ministers the power to take action against a local authority if they consider that the budget requirement set out by the local authority for the upcoming year is ‘excessive’.

A “budget requirement” is the amount equal to how much the local authority’s expected spending (i.e. expenditure incurred during the year in performing its functions, grant monies that will have to be repaid to Welsh Ministers, allocation of funds to financial reserves and contingencies) exceeds its expected income (i.e. monies which the authority expects to receive that year, subject to certain exceptions).

Section 52B provides that they must produce a set of principles that will be used to determine whether the budget requirement is excessive. It also provides that these principles must (as a minimum) contain a comparison of the budget requirement for the year under consideration with that of an earlier year.

Section 52C provides that the Welsh Ministers may publish a report which sets a “notional amount” for a local authority’s budget, to be used as the basis of any comparison between the year under consideration and any previous year. Notional amounts may be set by the Welsh Ministers in certain circumstances such as where there has been a change in function or boundary – thereby allowing a valid comparison can be made with the budget requirement for the year under consideration. It may also be used to set a notional amount where there was no budget requirement set for an earlier year.

Following determination using the principles required by section 52B, if the Welsh Ministers are of the opinion that the amount calculated by an authority as its budget requirement for the year is excessive, section 52D enables the Welsh Ministers to “designate” or “nominate” the local authority in question.

### 3.2. Designated Local Authorities

Section 52E provides that if a local authority is *designated*, the Welsh Ministers must notify the authority of the amount which they propose should be the maximum amount calculated by the local authority as its budget requirement of the year, and set out the maximum amount which the Welsh Ministers propose the authority could calculate as its budget requirement for the year without the amount calculated being excessive.

The local authority can then either:

- accept the designated maximum amount provided by the Welsh Ministers; or
- challenge the decision of the Welsh Ministers.

If an unsuccessful challenge to the maximum amount is made by the local authority, the Welsh Ministers are able to issue a mandatory order to the local authority to ensure that the authority complies.

### 3.3. Nominated Local Authorities

Section 52L provides that if a local authority is *nominated*, the Welsh Ministers must notify the authority of the amount which they would have proposed as the target amount of budget requirement for the year under consideration if they had *designated* the authority.

After a local authority has been nominated, the Welsh Ministers can decide whether to:

- *designate* the authority (following the procedure in section 52E outlined above); or
- determine an amount that they propose should be the notional amount calculated by the authority as its budget requirement for the year.

If the local authority receives notification from the Welsh Ministers of a proposed amount, the authority has 21 days to either:

- accept the amount proposed by the Welsh Ministers; or
- challenge the proposed amount and request that the Welsh Ministers reconsider their determination.

If the amount proposed is challenged by the local authority and the reasons given for the challenge are agreed with, the Welsh Ministers may reconsider their decision.

### 3.4. Interpretation of the legislation

While the provisions in Chapter IVA of the LGFA 1992 do not specifically mention council tax, the title of the chapter which they fall under is called “Limitation of Council Tax and Precepts”. A [House of Commons Briefing Paper on Council tax capping](#) published in 2004 (specifically Chapter III) provides some background as to why this section of the legislation provides Ministers with the power to cap council tax.

Welsh Ministers have previously outlined how they might be prepared to use the powers available to limit increases in council tax if these were deemed excessive. For example, in her [statement on the Provisional Local Government Settlement for 2014-15](#) (16 October 2013), the then Minister for Local Government (Lesley Griffiths AM), said:

In enabling Local Authorities to make local decisions about council tax, I am offering them flexibilities in managing their budgets which are not available to their counterparts in England where restrictive freezes apply. However, I have made it very clear I am prepared to use capping powers available to me in the event of excessive increases.

A similar statement was made in 2015 by the then Minister for Public Services, Leighton Andrews AM, stating in his [letter accompanying the Final Local Government Settlement 2015-16](#):

I am prepared to use the capping powers available to me should I consider any proposed increase in council tax to be excessive. I also expect every authority to take account of all the available funding streams in considering service provision and setting its budget and Council Tax.

The Minister for Finance and Local Government, in her response to this petition noted that it seeks to provide “flexibility” for local government to decide on how it funds local priorities:

the Welsh Government channels as much of the available funding as possible into the main Local Government Settlement so that local authorities have greater flexibility in allocating funding according to local priorities.

The Welsh Government [recently announced an additional £25 million in consequential funding](#) from the UK Government to “support the social care workforce, schools and help councils respond to other pressures in their local communities”.

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