

On performance monitoring:

The Committee heard evidence that the current performance monitoring data in Wales is not robust. We were told it doesn't focus on the properties that have been empty for the longest; doesn't include the most problematic properties that have been removed from the council tax valuation list; and doesn't reflect much of the work local authorities carry out on empty properties.

What data is relied upon in England to measure progress in dealing with empty properties? How important is a robust evidence base to implementing a strategic approach and measuring success?

Answer

There are no national Performance Indicators in relation to Empty Homes.

There is no statistical release specifically dedicated to vacant dwellings. MHCLG publish annual Dwelling Stock Estimates, which indicates the number of empty and long-term empty homes (more than 6 months)

The data used in the live tables and the above publication is drawn from several separate sources, each of which has its own statistical release:

- Local authority housing statistics
- Council Taxbase - Local Government Finance Statistical Release which cover Council Tax information ie discount on empty homes and Empty Homes premium
- the Regulator of Social Housing's Statistical data return

These statistics are generally published to a wider audience by the Action of Empty Homes (Empty Homes Charity) on an annual basis.

It should be noted that the primary source of information in relation to empty homes is Council Tax data. As the discounts on empty homes are removed and the empty homes premium introduced, it is inevitable that the Council Tax data will become less accurate. As there is no incentive on owners to report their property empty.

While not a performance indicator. In 2011, the Coalition Government confirmed that councils could attract additional funding under the New Homes Bonus scheme for bringing empty properties back into use. Under the scheme, the Government matched the Council Tax raised for each property brought back into use for a period of six years. Following consultation in 2015, the Conservative Government introduced a national baseline for housing growth of 0.4%, below which the New Homes Bonus is not be paid. The number of years over which payments are made was reduced from six to five in 2017/18 and further reduced to four years from 2018/19. New Homes Bonus seems set to be discontinued after 2019-20, based on recent government statements.

New Homes Bonus has been the primary driver in England that has encouraged local authorities to prioritise empty homes work.

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The Current PI for Wales specifically exclude properties that have been un-banded by the Valuation Office Agency (VOA). These properties generally are in very poor condition and often will need to have some statutory action taken to resolve their condition. So, would not be reflected in the returns yet would take considerable resources to deal with them.

The PI relates to long term empty properties (6 months or more) which is the standard definition used nationally. Local authorities will be able to sift through their Council tax information to provide a breakdown of length of void. Not sure there is much to be gained by having this further breakdown.

It would be difficult to alter the PI to reflect the work local authorities do in relation to empty homes, where the property is not brought back into use. It would simply be a measure of the level of enforcement work that a local authority is undertaking.

On data protection:

Local authorities told the Committee that they get asked for details of empty properties by developers and others on a regular basis. They told us that, generally, data protection legislation prevents them sharing this information. To what extent is this an obstacle to bringing empty properties back into use, and are there examples of ways to work around this?

Answer

There is an issue in some local authorities about releasing information internally between Council Tax and the empty homes officer, especially after the General Data Protection Regulation (GDPR) as it applies in the UK, tailored by the Data Protection Act 2018.

However, Section 85, Local Government Act 2003: allows information on property details including address, owners name and contact information obtained from Council Tax to:

- Identify vacant properties and
- Taking steps to bring vacant dwellings back into use.

Providing Empty Property list to External Agents

There have been a number of Information Tribunal decisions:

London Borough of Bexley Vs Information Commissioner - Case No. EA/2006/0060 & 0066 March 2007

This was a pair of appeals to the Information Tribunal against a decision by the Information Commissioner that LB of Bexley should release address details of long-term empty properties to a member of the public under an FOI request. The FOI applicant was appealing to get the owner's address information. The Council was appealing against the Commissioner's decision that they should release property address information.

The Tribunal decided that **the addresses of empty properties constituted "personal information"** and that disclosure would thus be a breach of Data Protection principles. This did not apply to properties owned by organisations - so these could still be disclosed.

So local authorities can release empty homes that are owned by non individuals ie Companies, Housing Associations, Government Offices, NHS, MOD.

Tower Hamlets Reference: FS50259951 https://ico.org.uk/media/action-weve-taken/decision-notice/2010/517076/FS_50259951.pdf

The Commissioner considers that there is a substantial public interest in bringing empty properties back into use, which might be met to some extent by disclosure of the addresses in this case. However, he has to weigh the benefits of this potential longer term effect together with the more general public interest in accountability and transparency, against the more immediate likely prejudice to the prevention of crime and the effects of this on both individuals, and other bodies. His conclusion in this case is that the public interest in avoiding prejudice to the prevention of crime outweighs the public interest in disclosure

London Borough of Camden Vs Mr Yiannis Voyias Case No. EA/2011/0007 Feb 2013

The London Borough of Camden (the "Council") was entitled to refuse a request for information about certain types of empty properties in its area because the exemption provided by the Freedom of Information Act 2000 ("FOIA") section 31(1)(a) (prejudice to the prevention or detection of crime) was engaged and the public interest in maintaining that exemption outweighed the public interest in disclosure.

It should be noted that most of the decisions were before squatting in residential properties became a criminal offence on the 1st September 2012 (Legal Aid, Sentencing and Punishment of Offenders Act 2012). Making the case even stronger against releasing the information.

Alternative Options

We produce a guidance note and have a page on our website on the various ways a third party can try and trace an owner of an empty home.

- Sending or putting a letter through the letter box
- Land Registry check
- Websites: 192.com, Facebook, Linked In, Google, peopletraceonline
- Contact the neighbors
- Tracing agents
- Death Certificates or Grant of Probate

We encourage third parties to make their own investigations. If they have been unsuccessful and the local authority has an alternative address from Council Tax or other sources. Then we will forward a letter on their behalf, this ensures the actual information is not released to the client but enables the party to put forward any offer.

Those parties that generally request empty property lists (investors) aim to securing a market advantage in trying to secure properties below market value. It has been my experience that empty property owners tend not to be motivated sellers and often have an over inflated estimate of their property value.

Those that are motivated we encourage to sell the property through the auction. This ensures that the property is well advertised and is more likely to achieve market value and not being sold at a discount to the detriment of the owner. The owner is also able to benefit from reduced auctioneer fee scheme, which has been secured in partnership between the local authorities and the auctioneer.

Regards

Andrew Lavender
No Use Empty