



Challenges in implementing and administering the Vacant Site Levy

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Introduction

This note provides Members with an overview of the Vacant Site Levy (VSL) and examines the process of implementing the levy by local authorities (LAs). It further explores some of the challenges faced by local authorities in administering the levy and in maintaining a register of vacant sites in their respective catchment areas. This document draws from a PBO analysis of progress reports submitted by each local authority to the Department of Housing, Planning and Local Government, and from correspondence between the PBO, individual local authorities, and the Department.¹

Key Issues

- Each local authority has responsibility for the administration of the Vacant Site Levy and register in their respective catchment areas. The Planning and Development (Amendment) Act 2018 increased the VSL rate, from 3% of the market value of a vacant site for 2018, to 7% for 2019;
- Since the introduction of the levy, over 200 sites have been removed from vacant site registers due to appeals, the commencement of development work, or sales;
- According to the latest progress reports (from end-2019):
 - » Of 31 local authorities, 17 had active registers (i.e. listed sites) with assigned market valuations; a further six had active registers but were missing market valuations; while eight had no active register of vacant sites. A lack of housing need has been cited as one explanation for LAs not having active registers, however, the criteria for determining if there is a housing need in an area is unclear;²
 - » The total market value of sites subject to the levy in 2019 was over €144 million;
 - » Four local authorities collected payments under the levy, totalling €882,000. These include Kilkenny, Waterford City and County, Wicklow, and Dublin City. The total value of payments outstanding for 2019 was €2.3 million;
 - » Local authorities have indicated that approximately 18,000 total units could be added to the housing stock as a result of the successful implementation of the levy.
- Feedback from local authorities indicates that there are persistent difficulties in the administration of the levy (including resourcing issues, uncertainty in interpreting the provisions of the 2015 Act, and challenges in identifying vacancy and ownership details). This has resulted in an inconsistent approach to implementing the levy across different catchment areas;
- Consideration should be given to a more centralised approach to the administration of the levy (including in relation to the site inspection and valuation process) informed by engagement with individual local authorities. This could assist local authorities who are facing difficulties in administering the levy effectively, and could allow for a more uniform and consistent application of the measure across different catchment areas;
- The Vacant Site Levy is not intended to function as a revenue raising measure, but rather, as a policy tool to incentivise the development of vacant or idle land. The development and publication of key performance metrics by the Department (for example, in the context of an annual report and based on information included in local authority progress reports collated at an aggregate level) would enable a holistic or birds-eye view of the effectiveness of the measure.

¹ The data included in this note reflect the contents of LA progress reports. The latest iteration of these reports was submitted in December 2019. As vacant site registers are dynamic and ever-changing, the numbers included in this note may have changed since the submission of these progress reports.

² It is worth noting that data from the Housing Agency shows that all local authorities had waiting lists for social housing in 2019.

Background

The Vacant Site Levy was introduced as part of the [Urban Regeneration and Housing Act 2015](#) in response to issues of land management and housing supply, and to support local authority development plans. The 2015 Act introduced new guidelines for sustainable housing, including the introduction of a levy to be applied in respect of vacant sites from January 2018, and a register of properties to which the levy would be applied. The [Planning and Development \(Amendment\) Act 2018](#) increased the VSL rate, from 3% of the market value of a vacant site for 2018, to 7% for 2019.

The VSL is designed to disincentivise land hoarding and to act primarily as a site activation measure, rather than an income generating mechanism. For a site to be considered vacant, it must meet certain criteria:

- For **residential land**, the site must be situated in an area in which there is a need for housing and a suitability for the provision of housing, and the majority of the site must be vacant;
- For **regeneration land**, the vacant site must exhibit an adverse effect(s) on existing amenities, or reduce the amenity provided by existing public infrastructure and facilities.³

The 2015 Act defines a site as ‘any area of land exceeding 0.05 hectares’, excluding a person’s home which is defined as a ‘dwelling in which the person ordinarily resides’.⁴

The proceeds of the VSL do not accrue to the Exchequer. This revenue is used by LAs for the provision of housing and regeneration development in the local areas in which the vacant sites are located. In addition, the 2015 Act provides that no more than 10% of the revenue raised from the VSL, may be used for collection and administration costs.

The effectiveness of the VSL has been a topic of considerable debate. There is ongoing concern that the increased 7% rate is not substantial enough to deter land hoarding.⁵ Of note, house price inflation over the last number of years has exceeded the VSL rate (residential property price growth has averaged 8.5% on an annual basis since the introduction of the VSL in 2015).⁶ In addition, local authorities have faced multiple difficulties in effectively administering the levy. These issues are explored in the remainder of this note.

³ *Urban Regeneration and Housing Act 2015*, Part 2, Section 5 (1b).

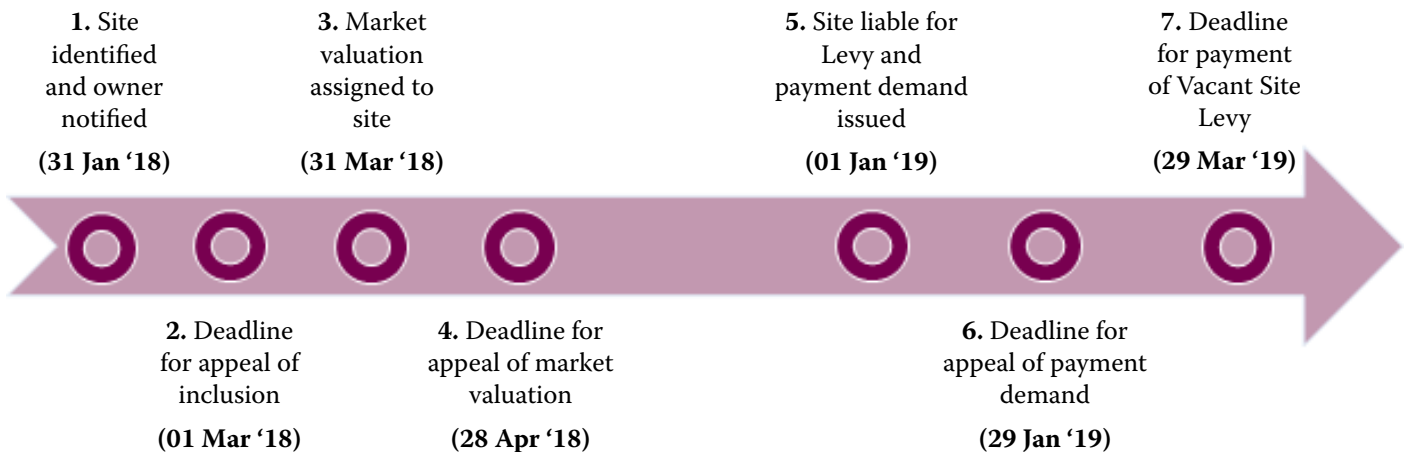
⁴ *Urban Regeneration and Housing Act 2015*, Part 2, Section 5 (2).

⁵ [Dail debate between Deputy Mick Wallace and Minister Eoghan Murphy, 9/04/2019](#).

⁶ CSO – Residential Property Price Index, March 2020.

Administering the Vacant Site Levy

Figure 1. Timeline of Vacant Site Levy administration



Note. This figure shows an indicative “best-case scenario” timeline of the administration of the Vacant Site Levy and register. This example assumes the owner of a site is notified on 31st January 2018 that their site is set to be included on the register. It also assumes that a valuation is assigned to the site by end-March. In reality, as outlined in this note, LAs have reported difficulties in arranging for site valuations. This example further assumes that there are no successful appeals in respect of the site, that would ultimately prevent timely payment of the levy.

1. **Site identified & owner notified;**
2. **Deadline for appeal of inclusion**

Under the 2015 Act, each LA is obliged to maintain a register of vacant sites to which the VSL is applied. The planning department of the LA is responsible for the administration and publication of this register for those vacant sites located within their catchment areas. The implementation of the levy requires considerable preparatory work by LAs before the levy can be applied. Each LA must:

- Undertake a preliminary assessment and quantification of the number and location of potential vacant sites in their functional areas;
- Submit a report by the Chief Executive to elected members of the LA on the application of the levy in their functional areas;
- Incorporate designated areas in which the levy can be applied into their development plan or local area plan;
- Identify individual sites in these designated areas which the planning authority deems to have been vacant during the previous year.

In establishing the register of vacant sites, each LA must publish certain information, including the location of the site, the name and address of the owner(s), a description of the site, market valuation, and the date the site was added to the register.

The LA must notify the site owner of the intention to include the site on the vacant site register in advance of publication. An appeals process (adjudicated by An Bord Pleanála) allows the owner to **appeal the inclusion** of a site within 28 days of being notified that the site will be entered on the register. As part of this process, the onus is on the owner of the site to show that a majority of the site was not vacant for the preceding 12-month period. If the appeal is successful, the site can be removed from the register.

3. Market valuation assigned to the site;

4. Deadline for appeal of market valuation

Under the 2015 Act, the planning authority must determine the market value of a vacant site ‘as soon as may be’ once it has been entered on the register.⁷ The Act further states that, at least once every three years thereafter, an estimate of the market value must be provided. It is the LA’s prerogative to authorise a suitably qualified person to inspect a site and attach a valuation report.

The market valuation is a key factor in determining the viability of a vacant site for development. Owners may appeal **the market valuation** attached to the site, within 28 days of being notified that a market value has been determined and added to the register. A Valuation Tribunal will determine if this appeal merits an amendment to the site valuation. The LA or Valuation Tribunal can direct that a vacant site has zero market value if no market exists for the site, if the site is situated on contaminated land, or if the cost of developing a site exceeds the market value.

5. Site liable for Vacant Site Levy & payment demand issued;

6. Deadline for appeal of payment demand;

7. Deadline for payment of Vacant Site Levy

The VSL is paid in arrears (beginning 2019), meaning that an owner is liable to pay in 2019 for a site that they own that was on the register in 2018 (assuming no development works are activated in the interim period). The owner of a site may **appeal the payment of the VSL** if it can be established that the site (or a majority of the site) was no longer vacant on the 1st of January of the year concerned, or on the date on which an appeal is made.

Where a vacant site is subject to a change of ownership, the VSL rate can be reduced to zero for that year and the preceding year (except when the change of ownership concerns a connected person e.g. a spouse, sibling, or child). The demand for payment of the levy can also be annulled if the owner of a vacant site dies.

Overview of local authority progress reports

To support LAs in administering their vacant site register and in the application of the VSL, several circulars⁸ have been issued by the Department to clarify and update procedures. In addition, the Department has indicated that it has active engagement with LAs on the implementation of the VSL, to ensure a consistent application of the levy and to facilitate the sharing of best practice (including via the provision of information seminars for LAs on the VSL). The Department has also committed to monitoring the implementation of the levy on an ongoing basis.⁹

However, individual LAs are responsible for the establishment, maintenance, administration (including the collection and expenditure of levy income) and publication of data in respect of their vacant site registers. This information is not collated and published by the Department at an aggregate level. In overseeing the administration of the levy, the Department mandates that LAs provide updates and progress reports on an annual basis. As part of this reporting, each LA is obliged to submit information detailing (among other things):

- If a public register of vacant sites has been established;
- If site inspections have taken place;
- If the ownership of sites has been established;
- The number of sites added to the register;
- The market value of sites added to the register; and,
- The number of appeals, and subsequent removals of sites, from the register.

⁷ *Urban Regeneration and Housing Act 2015*, (Amended), Part 2 Section 12.

⁸ See Circular PL 07 2016, Circular PL 06/2018 and Circular PL 09/2019.

⁹ Based on direct correspondence with the Department of Housing, Planning and Local Government, as well as content from [Parliamentary Question \[46928/18\]](#), 14 November 2018.

These progress reports were submitted by LAs to the Department for both 2018 and 2019. They have been reviewed by the PBO, and further clarification was sought from the Department and relevant LAs, where necessary. A benchmarking exercise was undertaken by the PBO, which compared details of the progress reports between 2018 and 2019, to examine how issues pertaining to the VSL have evolved over time.

Some key headline statistics from the PBO's review of these progress reports are provided below. However, it is worth noting that, as this analysis is based on progress reports for 2018 and 2019 (with the latter submitted at end-2019), the situation for some LAs may have changed in the interim period.¹⁰

It is worth noting that several LAs had not added any sites to their registers for 2018 and 2019, indicating that issues underpinning the administration of the levy have persisted since the measure was introduced.

At end-2019, of 31 local authorities, just 17 had active registers (i.e. with listed sites) with assigned market valuations. These are: Cork City, Cork County, Donegal, Dublin City, Dún Laoghaire-Rathdown, Fingal, Kilkenny, Limerick City and County, Longford, Meath, Roscommon, Sligo, South Dublin, Tipperary, Waterford City and County, Wexford, and Wicklow.

A further six LAs had active registers but were missing valuations. The PBO engaged with these LAs at end-2019 in relation to this. Their responses highlight issues in establishing the ownership of vacant sites, in allowing for appeals processes regarding assigned market valuations, as well as issues concerning the resource implications of the levy.

This leaves eight LAs with no active registers, including: Cavan, Galway County, Kerry, Leitrim, Louth, Mayo, Monaghan, and Offaly. In some cases, a lack of housing need in an area has been cited as one explanation for LAs not having active registers. However, the criteria for determining if there is a housing need in an area is unclear. It is worth noting that data from the Housing Agency shows that all local authorities had waiting lists for social housing in 2019.

The total market value of sites subject to the VSL in 2019 (for sites listed on registers in 2018), was over €144 million.¹¹ However, it is important to clarify that the final revenue raised from the levy is difficult to estimate, and is subject to change substantially, as various activities (e.g. a change in ownership, the subsequent activation of a site) can result in sites being removed from the register. As detailed in the 2019 reports, a total of 47 sites were subject to a change in ownership, meaning that their respective levies will be set to zero.

As of end-2019, four LAs had collected payments under the VSL, totalling €882,000. These include Kilkenny, Waterford City and County, Wicklow, and Dublin City. The total value of payments outstanding for 2019 was €2.3 million. It is worth noting that all levies due on an individual site will remain as a charge on the land, giving rise to a cumulative sum until all outstanding levies are paid.

The 2019 reports obliged each LA to estimate the 'number of housing units that could potentially be generated from sites currently on your register'. **On aggregate, LAs indicated that approximately 18,000 units could be activated and added to the housing stock as a result of the successful implementation of the VSL.** The metric used to determine the number of possible units varies by individual LA. For example, Tipperary provides a figure based on 30 units per hectare, while the figure for Roscommon is based on between 15 and 20 units per hectare. This reflects differences in density levels between rural and urban areas.

10 Since submitting the latest progress reports at end-2019, the activity status for some LAs has changed. As an example, Clare County Council indicated in its progress report to the Department that no sites were registered as vacant in October 2019. However, by early 2020, it had 15 sites registered as vacant. In addition, both Limerick City and County Council and Meath County Council, have since attached valuations to sites on their registers, whereas this was not included in progress reports submitted at the end of 2019.

11 Cork County Council revised the value of sites on its register that are liable to pay the levy, from €14.2 million to €2.9 million as a result of boundary changes with Cork City Council. For clarity, the larger sum has been used in this calculation.

Data from the 2018 progress reports indicates that 304 sites in total were registered as vacant (as of September 2018). The corresponding figure for 2019 was 353 (an increase of 16%). Under the 2015 Act, owners are required to notify the LA if a site on the register is no longer vacant. The 2019 reports indicate that there was a total of 66 such sites. Since the introduction of the levy, over 200 sites have been removed from registers due to appeals, the commencement of development work, or sales.¹²

The remainder of this note examines some of the key issues encountered by LAs (as reported in LA progress reports) in their implementation and administration of the vacant site register and levy.

Ongoing issues in administering the Vacant Site Levy

In general, LAs have expressed concerns regarding the resource implications of administering the VSL, and in correctly interpreting the 2015 Act. Some of the specific problems encountered by LAs include:

Defining and identifying a vacant site

LAs have highlighted a difficulty in identifying a vacant site, and the point at which a site is no longer vacant. Specifically, the 2018 reports indicate that some LAs were not satisfied that the definition of a vacant site was clear enough to allow for sites to be added to the register. The definition of 'vacant and idle' was clarified through an amendment in the Planning and Development (Amendment) Act 2018, however, the 2019 progress reports indicate that there is continued confusion in determining vacancy. There have also been challenges related to the inclusion of sites that are being used for storage purposes, and whether these sites should be classified as vacant or the purposes of the VSL.

Determining ownership & liability

LAs have highlighted problems identifying the ownership of vacant sites, and there are ongoing issues concerning the procedure when sites on the register are sold, resulting in a transfer of ownership. At least one LA that collected payments under the levy sought clarification from the Department, as it believes that the correct interpretation of the 2015 Act prevents them from using the collected revenue. There have been concerns expressed that revenue collected under the levy may need to be refunded as a result of a change in the ownership of the land.

The timeframes set out in legislation governing the levy are intended to allow owners sufficient time and opportunity to initiate development, or to sell vacant sites, to avoid becoming liable to pay the levy. However, the application of a zero rate for the previous year once there is a change in ownership, may ultimately undermine the incentive to develop land.

The appeals process

LAs have reported issues in including sites on the register where there is a challenge to the claim of neglect or vacancy. In addition, where the Valuation Tribunal is determining the outcome of an appeal in respect of an assigned market valuation, there is uncertainty regarding the timeframe allowed for the appeal to be processed.

Location of sites

LAs have indicated that it is often difficult to determine if sites are having an adverse effect on existing amenities (as required under the Act) and this is preventing them from adding sites to their register. There is also a difficulty in identifying if there is a housing need in the area in which a site is registered. In one particular case, several sites were removed from a register following a successful appeal, as it was deemed that there was a lack of housing need in the area. The criteria for determining if there is a housing need in an area is unclear (data from the Housing Agency shows that all local authorities had waiting lists for social housing in 2019).

¹² Figure supplied in direct correspondence with the Department of Housing, Planning and Local Government.



Resource implications

Staff shortages have been cited as a reason for empty or incomplete vacant site registers. There have also been issues in identifying and allocating the relevant expertise for the valuation of sites. This is resulting in a lack of valuations for some listings, or delayed valuations in other cases. In one case, it was suggested that market valuations would not be assigned to sites until early 2020, three years after the commencement of the VSL.

Conclusion

The management of land and its relationship to housing supply has featured prominently in social and political discourse over the last number of years. Measures designed to return vacant sites to beneficial use could well assist in addressing issues of housing supply, but there is evidence of ongoing challenges in the implementation and administration of the Vacant Site Levy.

As each local authority is charged with administering the levy for sites within their respective catchment areas, there is considerable regional variation in the interpretation and implementation of the measure. A centralised approach to administering the VSL could be considered as a means to addressing some of the issues facing local authorities. This might include, for example:

- Developing a central process (informed by engagement with LAs) to administer and manage vacant site registers (including in relation to site inspection and valuation) and the charging of levies;
- Collecting, collating and publishing at an aggregate level, key statistics on vacant site registers and the administration of the levy, including relevant performance metrics;
- Provision of resources and supporting structures to assist local authorities in effectively administering the Vacant Site Levy;
- Provision of additional guidance to local authorities in interpreting the Act (e.g. the process when there is a change of ownership; determining if there is a housing need in an area; issues around the appeals process etc.).

The feedback from local authorities contained in the latest progress reports submitted to the Department in December 2019, indicates that there are persistent difficulties in the administration of the levy. To enhance transparency and assist the administrative burden on LAs, an annual report collating the information provided by LAs, including concerns and difficulties experienced by individual LAs, could help in identifying areas of inefficiency and provide potential support for the effective implementation of the VSL.

The progress reports also suggest that there is the potential to develop vacant sites – local authorities estimate a total of 18,000 potential additional units for housing supply (based on sites listed on their individual registers). This points to a potentially significant role for the Vacant Site Levy in addressing capacity constraints in the provision of housing, and underscores the need to ensure that the measure is implemented and administered in a consistent and effective way.

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