

Business and Regulatory Impact Assessment

Title of Proposal

Council Tax Increase on Long-term Empty Properties

Purpose and intended effect

- **Background**

There are around 25,000 long-term empty (LTE) homes in Scotland¹; these are homes which have been left unoccupied for six months or more and are eligible to pay council tax. Anecdotally, there are reports of many of these homes being left empty for years. Empty homes can attract vandalism and other forms of crime and, where there are a lot of empty properties in an area, this can prevent the community from operating effectively and being perceived by residents as a good place to live.

In addition, these empty homes are a wasted resource because many are in areas where there is a high demand for extra housing (either affordable or market housing) due to the number of households increasing.

We do not have any data available to the Scottish Government on the numbers of businesses who own empty homes, although from discussions with local authorities and contact with some owners, it seems that the vast majority are owned by individuals, not businesses. Some empty homes are owned by rural estate businesses, although a number of properties that might fall into this category are already likely to be exempt under existing provisions for agricultural properties. There may also be some empty homes owned by private landlords who are registered as businesses, although most landlords actively seek to avoid leaving their homes empty anyway due to the opportunity cost of lost rental income.

Some empty homes are owned by housing associations or other Registered Social Landlords (RSLs) (as at March 2010, 632 RSL homes were empty for longer than 6 months²), although a number of these are believed to be exempt from council tax because the homes are scheduled for demolition. A few private developers also have new build homes which have been classified as completed (and therefore entered on the council tax register) for more than six months, although most developers actively seek to avoid leaving homes empty long-term by selling at a discount, letting them or participating in one of the Scottish Government schemes to stimulate house building (such as the National Housing Trust initiative, the New Supply Shared Equity with developers scheme or the forthcoming new build Mortgage Indemnity Scheme).

- **Objective**

The Scottish Government (SG) wishes to encourage owners to bring their empty homes back into use.

- **Rationale for Government intervention**

While the SG is already working with Shelter Scotland to fund a Scottish Empty Homes Partnership, which helps Councils to provide advice and support to

¹ Data as at September 2011, based on Local Government Council Tax returns data

² Data from the Scottish Housing Regulator

owners, many Councils feel that advice and encouragement alone will only work for some owners. Therefore, where appropriate an empty homes council tax increase would provide an additional incentive for owners not to leave their homes lying empty unless it is absolutely necessary. As the SG is proposing to give Councils the power to charge an increase, but leave it at Councils' discretion whether or not to use the power at all and, if so, to what extent, this will allow Councils to take account of how much of a problem empty homes are in their area and also the level of requirement for additional revenue to support local priorities.

Consultation

- **Within Government**

We have worked closely with colleagues in Local Government Division and SG Legal Directorate, along with Communities Analytical Services, to develop workable proposals to implement the commitment to permit a council tax increase on long-term empty (LTE) properties.

- **Public Consultation**

A public consultation on the proposals ran between October 2011 and January 2012. In addition, we sought views on the principle of increasing council tax charges for owners of LTE homes as part of the 2010 housing discussion, which was based on the discussion paper *Housing: Fresh Thinking, New Ideas*. We have also held meetings with Council officers in August/September 2011 to discuss and help us to develop the proposals for consultation on a council tax increase.

- **Business**

As part of the consultation, we had face to face or telephone discussions with rural estate owners and an RSL who own empty properties and could be affected by the increase, along with a telephone discussion with Homes for Scotland. In addition, we met Scottish Land and Estates in July 2011 to discuss the proposals.

Options

The following options have been considered to tackle the problem of empty homes in Scotland:

Option 1 – keep Council Tax discount arrangements unchanged for long-term empty (LTE) properties. This would mean continuing to allow Councils to offer a council tax discount to owners of LTE properties of between 50% and 10% (30 out of 32 Councils have reduced or are currently planning to reduce their discount to 10%).

- **Sectors and groups affected**

There would be no additional effect on businesses from this option. However, Councils' work to bring empty homes back into use by providing advice and encouragement to owners would be likely only to have a fairly limited impact.

- **Benefits**

This option would not require any legislative changes and would not impose any additional costs on businesses. There would be a further opportunity to consider increased charges for empty home owners when broader proposals to replace the council tax with a fairer local taxation system are considered and consulted on following the next election.

- **Costs**

There would be no additional costs to Councils or businesses/individuals as a result of this option.

Option 2 – make minor changes to existing Council Tax regulations to allow Councils not to offer a discount to LTE property owners.

- **Sectors and groups affected**

There would probably be a limited impact on businesses from this option. As noted above, few businesses are believed to own LTE homes which would be liable for council tax and, where they do, economic incentives already exist to encourage these homes not to be left empty.

However, as the extra cost to owners would be limited, the change is likely to have a fairly limited impact on owners' decisions as to whether or not to rent or sell their empty home(s).

- **Benefits**

This option would only require a change to regulations so could be achieved without primary legislation (although primary legislation might be beneficial in order to place a duty on owners to declare when their homes are empty and to allow Councils to impose penalty fees if they do not do so). This option would also be straightforward to implement as feedback from Councils suggests that it would be fairly straightforward to remove the council tax discount on their IT systems. There would be a further opportunity to consider increased charges for empty home owners when broader proposals to replace the council tax with a fairer local taxation system are considered and consulted on following the next election.

- **Costs**

The great majority of Councils currently only offer a 10% discount on council tax for LTE homes so, where Councils choose to remove the discount, these businesses would need to pay the standard council tax rate. The extra cost will vary depending on the Council area and council tax band of the property, but in most cases the additional cost would be approx. £80-£110/year (based on current council tax rates).

Option 3 – take forward primary legislation to allow Councils to remove the discount and also charge a levy of up to 100% of the standard Council Tax rate for long-term empty (LTE) properties which have been empty for 1 year or more.

- **Sectors and groups affected**

As noted above, only a few businesses are believed to own LTE homes which would be liable for council tax. However, those that do could be affected by this option. They would only need to pay additional council tax costs if both the Council where the home(s) is located decides to charge an increase and also the business decides not to take action to sell or rent the home(s). Owners could be charged up to double the standard rate if they leave a home empty, although this is a maximum and local authorities could also decide either to: do nothing, just to remove their existing discounts or to charge an increase of less than full council tax rate.

We propose that Councils should also offer time-limited exemptions from the increase to certain groups of people, for example people who are actively trying to sell their homes so this may offer an opportunity for those who are genuinely trying to bring their home back into use not to be penalised. Some Councils may also wish to offer their own additional exemptions, such as for owners actively trying to let their home, but it will be at Councils' discretion to decide if this is

justifiably or necessary in their area.

- **Benefits**

This option offers maximum flexibility to local authorities to take measures based on the extent of the problems in their area due to empty homes and the levels of demand for extra housing. It allows them both to remove the current council tax discount for LTE homes (between 10% and 50%, depending on each Council's policy) and also, if they wish, to charge an increase of up to 100% of the standard rate of council tax for the relevant band of property. Therefore it avoids a one size fits all approach, which recognises that Councils are best placed to decide what is appropriate for their area based on local evidence.

This option would be likely to have the greatest impact in encouraging owners not to leave their homes empty for long-term as it imposes significant ongoing costs on owners for doing so.

- **Costs**

As noted above, this option could require businesses who own LTE homes to pay additional council tax costs if: they are liable for council tax (properties are exempt in certain circumstances for a period of time e.g. where they are being renovated so cannot be lived in), they do not bring their homes back into use and if their Council decides to impose an increase. The level of cost increase per property will vary depending on:

- a) the level of increase the Council imposes (e.g. no increase (but removal of the discount), 20%, 50% or 100% of the standard council tax rate);
- b) the council tax rates in the relevant Council area; and
- c) the council tax band of the property.

The majority of empty homes tend to be in the lower council tax bands (53% fall into band A or B). The additional cost per year to the owner if the increase was applied compared to a current 10% discount would be in the region of £835 to £2,505 based on current council tax rates. The bottom end estimate is based on average council tax in Band A, the upper end estimate average council tax in Band H (only 1% of long-term empty homes are in Band H). We do not propose that additional water and sewerage charges should be applied by Scottish Water alongside the council tax increase.

Scottish Firms Impact Test

Face to face interviews and telephone conversations with businesses that could be affected were carried out as part of the consultation process. However, as noted above, the only businesses likely to be affected are those acting as professional landlords or house builders. The Scottish Association of Landlords has previously commented as part of the Scottish Government's Private Rented Sector review³ that their members were unlikely to leave their properties empty as this would not be profitable. Meanwhile, Registered Social Landlords also have a strong incentive (both financial and due to waiting lists) not to leave homes empty longer than necessary. Where a home has been designated as due for demolition, due to either low demand for homes in the area or where serious structural or other works would be required, the home becomes exempt from council tax if it is unoccupied.

Feedback from Homes for Scotland suggests that, while developers have had problems selling new homes over the past few years, few are now left empty for more than 12 months after completion. Under the Scottish Government's proposals, homes actively

³ See <http://www.scotland.gov.uk/Publications/2009/03/23135229/20>

being marketed for sale would be entitled to a further 12 month exemption from any council tax increase (so would continue to pay council tax at a discount rate). That would give developers up to two years to sell their homes before they would be liable to pay any increase.

Therefore very few businesses are likely to be significantly affected unless they own properties which cannot be let because they are in a serious state of disrepair, but the owner does not wish to sell them. Scottish Land and Estates have indicated that a number of rural estate businesses own such homes, but a precise number of homes in this category is not available as Council Tax data does not indicate whether an owner of an LTE home is an individual or a business.

Other businesses may own residential properties, for example for staff use, but it is unlikely these homes would be left empty long-term.

- **Competition Assessment**

We do not believe that any of the three options would have an impact on competition between firms. As noted above, few businesses would be likely to be affected by a council tax increase. Although different businesses could be subject to different levels of council tax charge depending on which local authority area their empty homes are in, an empty home is anyway a wasted resource for a firm and it makes business sense to sell or rent it wherever possible.

- **Test run of business forms**

There will not be any new forms under any of the three options. For options 2 and 3, home owners would have a duty to inform their local authority if their home is left empty for a significant period of time, but owners/residents are supposed to tell their Council anyway where they move or their circumstances change so this should not impose any additional burden on businesses. This new explicit duty is required in order to ensure owners tell their Council where a property is empty and Councils can back this duty up with the power to impose a penalty charge where an owner has not done so.

Legal Aid Impact Test

Option 1 would have no impact. Options 2 and 3 also are not expected to create any additional rights of appeal so should not significantly impact on the numbers of people seeking legal aid. Home owners can appeal to the Valuation Appeal Committee if they do not agree with a Council decision, but do not require legal advice to do this. If an owner's appeal to the Committee is unsuccessful, they can then appeal to the Court of Session, but such an appeal can only be brought where the owner feels the Council has not followed the requirements of the legislation.

Enforcement, sanctions and monitoring

Local authorities will enforce the payment of council tax charges in their area. They already have sufficient powers to seek information and payment where there is sufficient evidence that an owner has evaded payment of the correct level of council tax. It is likely that additional enforcement work would be required to allow Councils to investigate in cases where owners may seek to avoid paying the council tax increase by not being honest about the property's status, although a Council would only be likely to introduce an increase where the benefits from empty homes brought into use and additional revenue raised sufficiently outweighed any additional ongoing costs of enforcing the increase.

Implementation and delivery plan

Councils should be able to implement the new council tax increase from April 2013 if they wish to do so.

- **Post-implementation review**

The Scottish Government will review on an annual basis the number of Councils charging an increase (or differing levels of discounts) and will monitor the annual data on the number of long-term empty properties, according to Council Tax records. We will seek feedback from Councils on how successful the measure has been in their area, particularly as part of the wider review of local taxation.

Summary and recommendation

Option 3 is being taken forward because it offers flexibility to Councils (so allows the Council to decide to stick with option 1 or 2 if it feels this is more appropriate), as well as maximum potential benefits in bringing empty homes back into use.

Feedback from businesses and other stakeholders has been taken into account as part of the consultation process and has enabled the SG to amend its proposals. As an example, our original proposals had suggested that councils could apply the increase when the property has been empty for 6 months or more. Feedback from the consultation informed us that 6 months is too soon in some cases to be able bring a property back into use (where considerable renovation work is required). We have therefore amended our proposals so that the increase would only become payable when the property has been empty for at least 1 year.

Summary costs and benefits table

The table below indicates potential costs for each option relative to the others.

Option number	Total benefit per annum: economic, environmental, social	Total cost per annum: economic, environmental, social, policy and administrative
1	Benefits would be unchanged compared to the current system (although the small number of Councils still offering a 50% Council Tax discount on LTE homes could decide to reduce this to a minimum of 10%).	Costs to empty home owners (and administrative costs for Councils) would remain unchanged.
2	Could encourage owners to bring properties back into use (although the impact from this option alone would probably be very limited). Would be likely to raise some additional revenue (approx. £1.5-1.7m/year if all 32 Councils removed council tax discounts for LTE homes, assuming the total number of empty homes remains unchanged).	The additional cost to businesses who own an empty home would be approx. £80-£110/year, depending on the area and council tax band.
3	Offers significant benefits in providing a strong incentive for empty home owners to bring their properties back into use and raising up to £16m/year in additional revenue for Councils on average over the first four years (although this is where all Councils	The additional cost to businesses who own an empty home and do not bring it back into use would be in the region of £835 to £2,505 ⁴ /year where a Council chose to impose the maximum 100% council tax increase.

	charged the maximum increase and assumes only 10% of empty homes are brought back into use each year so the actual level of revenue is likely to be lower). At the same time, this offers the benefit of flexibility for local authorities to decide their policy on charges based on what is most appropriate in their area.	
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Declaration and publication

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:



Date: 19 March 2012

Minister's name, title: Keith Brown MSP, Minister for Housing and Transport

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⁴ The bottom end estimate is based on average council tax in Band A, the upper end estimate average council tax in Band H (only 1% of long-term empty homes are in Band H)