

Council Tax on Long Term Empty Properties and the Housing Support Grant – Consultation on Proposals for Legislation

Response from Shelter Scotland

SUMMARY

- Shelter Scotland supports councils having the power to levy a charge of up to double the standard council tax for a long term empty home (defined as empty longer than 6 months).
- If the levy is designed to start to “kick-in” after a year of the property being empty then it would still ensure that the owner had an incentive to declare it as empty.
- It is essential that the money raised is retained for investment in affordable housing, as this is what enhances the legitimacy of the levy. We think the legislation itself should enshrine that principle. However, we recognise that it may be necessary for council tax sections to earmark a small portion of that income to cover increased administrative and compliance costs.
- We also believe that it is essential, for the attractiveness of the proposal, that councils commit at least a proportion of the income directly to bringing empty homes back into use; and that this be reflected in Scottish Government guidance.
- In other words, the powers will have greatest impact if seen as part of a package – with incentives as well as sanctions – designed to increase re-use of empty homes, rather than simply being a measure to increase revenue.
- Being in the position to offer support, including financial support, to owners who require it in order to make use of their property is much better than trying to create a series of exemptions from the levy. In general, we think the creation of classes of exemptions from the levy should be avoided and discretion over the levy exercised sparingly.

- There is potentially a loophole to be exploited by applying the levy power to empty homes but not second homes. We believe that councils should have the power to levy the same charge on second homes, if they so choose.
- There is merit in exploring further the way in which council tax liability could be used to sharpen incentives for developers who are sitting on developments of new property which have never been occupied and have been so for considerable lengths of time.
- We have misgivings about the way in which the proposal is being reported publicly, as a potential source of up to £30 million a year. In practice, this is extremely unlikely to be realised, as it depends on the exercise of discretionary powers by 32 different councils. It also places the focus on the raising of revenue rather than the reduction in empty homes. In practice, there continues to be a need to look for other sources of funding for renovation of empty homes.
- The Scottish Empty Homes Partnership, hosted by Shelter Scotland, will have a critical role to assist councils in implementation of the new regime from 2013-14 onwards; and that commitment to the continuation of the Partnership during that period would be very valuable.
- We support the removal of Housing Support Grant as almost entirely a historical anomaly in the funding of council housing but request that there is a review of the way HRA income is spent.

Contact: Gavin Corbett, Policy Manager, 0344 515 2468 or gavin_corbett@shelter.org.uk

Section A: Council Tax Levy on Empty Homes

Our response is structured around the consultation questions 1-9, with a final section for additional reflections.

Questions 1 and 2

Shelter Scotland supports councils being given the power to levy a charge of up to double the standard rate of council tax on a long term empty property. We think that a double charge is sufficient to sharpen the incentives to bring the property back into use. In some cases, even twice the standard charge may not be sufficient a prompt to action but, in those cases, councils need to be looking at other enforcement tools.

Question 3

A power to vary the charge within the area is appropriate given that this is a power in the current regime. However, we are not aware that this power is currently used so it may be worth exploring why this is so.

It may be that councils wish to use powers to vary the charge geographically as a better way of addressing particular circumstances rather than creating classes of exemptions. For example, it might judge that the charge be applied differently in a designated area for regeneration.

Question 4

In designing the charge we recommend that a sliding scale is introduced, where no charge is applied for the first 6 months, 100% is charged after a year and the levy then increases in incremental steps thereafter. The design of the charge, however, should be left to councils to adapt for their own areas.

Question 5

We do not feel that exemptions generally are to be encouraged in the sense that we think it hard to think of examples where empty property is a good thing. There may be mitigating circumstances in the sense of individual circumstances or hardship but the response there should be to focus advice and assistance on that property or owner, not to create an exemption.

If exemptions become widespread it will increase the complexity of any scheme, reduce income and make it more liable to challenge.

For example, the consultation specifically asks if there should be a power to exempt charges in cases of hardship. It is worth bearing in mind that the owner is sitting on an asset that can be rented out to create an income stream or sold to realise a capital receipt. To the extent, that hardship may still be a barrier to re-use, the council should consider assisting the owner, using revenue raised from the levy.

Nor do we think that “intention to sell” should be used to merit exemption. This is hard to test and secure compliance upon.

Question 6

Other things being equal, the new proposals may make it more likely that owners will not disclose to the council that a property is empty. A duty to inform the council is important, especially if backed by reasonable fines for failure to do so. An owner must not be better off being fined than if he or she had paid the charge. It might be possible to ensure that the fine is based on a multiple of the charge that has been evaded. However, it is also realistic to assume that not all owners will respond to this new duty, which is why it is important that the design of the charge builds in an incentive to disclose – ie by not reaching 100% until after a year and rising in a tiered way thereafter. In this way, owners would have a real incentive to declare their property empty.

We also think that there is a potential loop-hole with the different way that it is proposed to treat second homes. At the moment second homes powers and empty homes powers are the same and most councils have chosen to use them in the same way. However, in the future it is proposed that the maximum charge for second homes is retained at 90% of standard council tax. This means that there may be an incentive to describe a property as a second home rather than an empty home, especially after a year. In other words, an owner could say for the first year that the property was empty in order to pay less than the standard charge but then say that it was occupied some of the time in order to pay less. One way around this would be to create a “test” of what constitutes a second home but we consider it unlikely that councils will have the capacity to apply that test case by case. So we think that councils should be able to apply the same tax regime to second homes – whether they chose to do so would, as at present, remain at their discretion. This is not an innovation. When the community charge was introduced more than 20 years ago, the levy of double standard community charge applied to both empty and second homes¹.

¹ We do recognise the different policy cases. While a property lying empty is never benign, there are circumstances where second homes can be regarded as an asset: for example, where local demand is weak and where an otherwise empty or derelict property is being brought into use and used then at least some of the time. If councils chose to exercise their suggested powers to levy

Question 7

We agree that a home should no longer need to be unfurnished to be regarded as long term empty. The retention of a “furnished” criterion simply adds to complexity and compliance difficulties and has a fairly weak relationship to how long a property has been empty or the extent to which it being empty causes problems. Abandoned property can be furnished; indeed, in our experience it often is.

Question 8

The consultation asks if the minimum period for re-occupying a property to ensure that it is no longer seen as empty should be extended from 6 weeks to 3 months. The purpose of setting a minimum period is to avoid a property being occupied for a few days simply to avoid the higher charge, if levied, when in reality the property remains empty. We are inclined to be supportive of this change, although we are not aware of any weight of evidence for a particular period. We cannot see any disadvantage of a longer period. However, it does re-inforce the need to consider second homes again as part of this process, rather than retaining the status quo for second homes.

Question 9

In our view it is essential that the revenue raised is, as at present, earmarked for investment in affordable housing. This should be part of the legislation. If the revenue goes into the general funding pot the argument for the levy is much weaker. It is possible, at the extreme end of dereliction or building safety to make an argument for a higher levy based on direct higher costs but in general the case for a higher charge rests on the cost to the community in a more diffuse way – that is the loss of opportunity to meet housing demand from a property lying empty. That argument can be extended further to make a very strong case for at least some of the revenue to be directed towards empty homes services – for example, to fund advice and assistance to empty home owners or to offer help with capital costs if the circumstances require it. So, in this instance, the council is saying “Yes, we will seek to charge you more if you have a property that is empty longer than x period but we will also work with you to look at ways of bring it back into use.” The Scottish Government should articulate this argument in the guidance.

the higher charge on second homes as well, they may choose to designate certain areas where second homes were not seen to be detrimental and should pay less.

The suggested new council tax regime is a bit more complex than the existing arrangements and Council Tax sections will argue that there will be additional costs of administration and compliance. In our view it is reasonable to ensure that these costs are met by any additional revenue raised before the bulk is then allocated to affordable housing. If such an arrangement is not made, there is a risk that the powers will not be exercised at all.

Overall, then Shelter Scotland believes that charging a council tax levy on long-term empty homes is useful and appropriate where:

- It is **part of a package of measures** being implemented by a council to bring long-term empty homes back into use including at least some of: provision of specific advice and information for empty home owners; access to property specific advice where appropriate; incentives in the form of loans or grants to bring homes back into use; consideration of use of other enforcement powers.
- It is **applied at a set point in time** after the home owner has had a reasonable amount of time to take action themselves and/or take up offers of assistance from the council. A year after the property initially becomes vacant might be an appropriate time to consider imposing a levy, although of course the exact time chosen will depend on local circumstances.

The Scottish Empty Homes Partnership, hosted by Shelter Scotland, will have a critical role to assist councils in implementation of the new regime from 2013-14 onwards; and that commitment to the continuation of the Partnership during that period would be very valuable.

Additional points

We do have misgivings about the way in which the proposal is being presented publicly, as a potential source of up to £30 million a year. In practice, this is extremely unlikely to be realised, as it depends on the optimal exercise of discretionary powers by 32 different councils. It also places the focus on the raising of revenue rather than the reduction in empty homes. And, by over-stating the financial case it may imply that there is not a need to look for other sources of funding for renovation of empty homes.

Finally, we think the Scottish Government should consider empty newly-built properties which have never been occupied, particularly in cases where the property developer has taken the build to a point just prior to a completion certificate such that it is not liable for council tax at all. Our understanding is that the Assessor for Council Tax purposes has

considerable discretion to designate such properties as either liable for council tax now or within a defined period. It would be useful for that to be highlighted further, as well as the potential options open to developers in those circumstances: such as intermediate rent; shared equity; or rent to buy schemes. If newly-built properties are seen to be exempt, then it may be seen by existing property owners to be unfair and undermine the scheme as a whole.

Section B: Arrangements for Housing Support Grant

Consultation question 10

Shelter Scotland agrees with the proposed course of action. Housing Support Grant has been all but obsolete for a number of years and, in the current arrangements for financing capital investment in housing, it is an anomaly. When Housing Support Grant was introduced the financing of council housing was seen as a three-way pact between a) tenants through rent b) local tax-payers through significant contributions from the General Fund and c) national tax-payers through HSG. The nature of that “pact” has changed. The contribution from rents has increased hugely, with the national funding being through housing benefit and, more recently, through modest capital grants. The contribution from the local tax base has disappeared; indeed, it is sometimes alleged that the Housing Revenue Account is being used to fund expenditure which should rightly be funded from general council tax funds. We think the Scottish Government should seek to ensure that Housing Revenue Accounts are not leaking money to other activities.

A related question is the extent to which the Housing Revenue Account is funding aspects of core homelessness services which should be services provided for the whole community. At the time of writing Shelter Scotland has commissioned an investigation into the funding of homelessness services, the results of which are not yet available. However, if the HRA is now to be made wholly self-contained then it is worth a more detailed look at outflow as well as income in order, in this instance to ensure that the adequate funding of homelessness services is put on a secure long-term footing.

Contact: Gavin Corbett, Policy Manager, 0344 515 2468 or gavin.corbett@shelter.org.uk