

Briefing

Compulsory leasing of empty homes in Scotland

From the Shelter policy library

March 2005

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Shelter

Compulsory leasing of empty homes in Scotland

Introduction

There are a considerable number of homes in the private sector in Scotland, which have been empty for more than six months. Given the shortage of affordable housing, it is counter productive to have potential homes lying empty. **Shelter proposes that the Housing Bill introduces a mandatory leasing scheme for local authorities to allow them to bring empty properties back into use.** Many properties in Scotland remain empty through the unwillingness of owners to rent. Shelter believes that local authorities should be given powers to take temporary management control of such properties to bring them back into use to provide an additional supply of emergency or interim housing in high demand areas.

The issue of empty homes is particularly important at a time when the lack of affordable housing is resulting in increasing numbers of homeless families being housed in temporary accommodation, including bed and breakfast hotels. Empty homes represent waste in terms of unmet housing needs and generate financial cost to a landlord or property owner through rent losses and council tax payments. Properties that are vacant for long periods can also have an adverse effect on the local community as they can attract vandalism, arson or antisocial behaviour.

There are approximately 87,000 empty homes in Scotland (3.8% of stock in Scotland compared with an average of 3.4% across the UK). 48,091¹ of these empty homes are in the private sector, which accounts for 55% of all vacant residential properties. A large number of these properties are transitionally empty as owners move between houses or while repair work is undertaken. However, 46.7%² of vacant properties (around 22,500) in the private sector have been empty for more than six months. Shelter urges the Executive to consider policies that could bring these homes back into use. Addressing the problem of empty homes in Scotland would benefit communities, add to the supply of houses for local authorities to meet their housing duties and generate revenue for the property owners

The source of the problem

In the private sector, empty houses may be due to the effects of low demand, but empty properties also exist in areas of high market demand, and where there is an acute shortage of affordable housing. The highest numbers of private sector empty homes by local authority area are in Edinburgh (4,900), Aberdeen City (4,240), Fife (3,339) and

¹ The 2001 Post Census Vacant Survey (PCVS)

² The 2001 Post Census Vacant Survey (PCVS)

Glasgow (3,134). The authorities with the highest number of empty homes as a proportion of the local dwelling stock are the Western Isles (7.1%), the Orkney Islands (6%), Aberdeen City (5.7%) and Moray (5.6%). Many of these are also areas where there is a significant shortfall in the numbers of social housing available to meet needs, as the following table shows:

| | Private sector vacancies | Applicants on waiting list |
|-----------------------|---------------------------------|----------------------------|
| Scotland total | 48,091 | 136,100 |
| Aberdeenshire | 3,069 | 3,407 |
| Argyll & Bute | 1,788 | 2,078 |
| Eilean Siar | 766 | 617 |
| Highland | 3,010 | 7,651 |
| Moray | 1,687 | 2,024 |

Efforts to reduce the number of empty private sector properties should focus on bringing houses back into use to meet local need, either as interim accommodation for people with high support needs, or as temporary accommodation for homeless families. These principles were behind the Empty Homes Initiative (EHI) launched by the Scottish Executive. This initiative ran from 1999 to 2003 to encourage owners of empty property to voluntarily lease them to the local authority or a Registered Social Landlord (RSL) to supplement social housing stock. Evaluation of the EHI showed that around a quarter of empty properties claiming council tax discount might be regenerated to provide affordable rented accommodation. The EHI evaluation report concluded that on a national scale this would represent a significant number of properties that could be brought into use more cost effectively than building new affordable rented stock.³

Obstacles to reducing the number of empty homes

The Empty Homes Initiative began to address the problem of bringing privately owned houses in disrepair back into use in the social rented sector through the co-operation of the owner. However, the EHI targeted only part of the problem of empty homes: there is also a significant problem of owners who will not co-operate with such schemes. Local authorities used the databases they developed under the EHI to analyse the underlying

³ Evaluation of the Empty Homes Initiative 2001 Scottish Executive Central Research Unit p.41

reasons why properties remained empty⁴. Their results suggest that, at most, only a third of empty properties were empty for economic reasons because the owners could not afford the costs of repairs. A large proportion of properties in Scotland remain empty through the unwillingness of owners to let under any circumstances. Despite Executive initiatives, the problem of empty homes in Scotland remains to be tackled effectively. There are a number of obstacles to dealing with this problem.

- The disincentives created by allowing a council tax discount on empty property which may have been inherited or purchased for investment purposes.
- Owners not having the means to bring derelict properties or properties in serious disrepair back into use.
- Owners being unwilling to let property because of management costs or the perceived burden of becoming a landlord.
- Owners of long-term empty and/or derelict property who will not co-operate with voluntary schemes to bring their property back into use.

Policy solutions

Council tax

Council tax discounts can provide owners with an incentive to keep a home empty for investment or other purposes. From April 2005, the Scottish Executive has given local authorities discretion to reduce the council tax discount on second homes and empty homes to 10% of the full rate. This reflects the cost to a community since more empty houses mean lower school rolls and reduced use of local businesses, especially in rural areas. Paying higher council tax is also a disincentive to leave property unoccupied to accrue value. Any income from cutting the discount will be retained locally for affordable social housing. The Scottish Executive estimates that at 1 September 2003 there were 66,500 dwellings in Scotland in receipt of 50% discount, and that reducing the discount on these homes to 10% for 2004-05 could generate an additional income of £24 million.

Co-operative leasing schemes

Many private owners are unwilling to let their properties in the social sector because of concerns over the burden of management and perceived risks of letting to social housing tenants. Schemes such as the Empty Homes Initiative (EHI) and Lead Tenancy Scheme (LTS)⁵ have attempted to address this problem. In the evaluation of the EHI, 11 of the

⁴ Evaluation of the Empty Homes Initiative 2001 Scottish Executive Central Research Unit p.27

⁵ The LTS was set up in 1992. Under the Scheme, a landlord can voluntarily let their property over the medium to long term to an RSL or local authority that then becomes the 'lead tenant' managing the property and subletting to social housing tenants. The owner is guaranteed a fixed continuous income without management costs, and the empty property is brought back into use.

local authorities involved felt that it only 'scratched the surface' of the empty homes issue⁶. The EHI relied on the voluntary co-operation of private owners. This approach will therefore only work for a proportion of owners of empty houses and other methods should be sought to address empty houses where owners are not prepared to co-operate with such schemes.

Compulsory leasing schemes

There are strong arguments for a new power in Scotland to enable local authorities to compulsorily secure the re-use of private sector empty homes. These houses would: provide an additional supply of emergency or short term interim accommodation in high demand areas; help to improve private sector housing conditions and enable local authorities to tackle low demand in run down areas of private housing; are a cost effective means by which empty properties can be brought back into the housing market on a longer term basis.

Around 22,500 homes in the private sector have been empty for more than six months and so could potentially be subject to a compulsory leasing scheme⁷. Even if only a small percentage of these were considered suitable for compulsory leasing it would contribute to the local supply of affordable housing. This will bolster the Executive's commitment to 5,000 new affordable homes over the next year.

A model of a compulsory leasing scheme has now become law in the Housing Act 2004 in England and Wales. The legislation is intended to work alongside other voluntary leasing arrangements operated by local housing authorities (in England and Wales), and as an alternative to enforcement action such as compulsory purchase orders. A compulsory lease would mean that local authorities could seek permission to force a lease on an owner of an empty property and then undertake refurbishment costs to make the property ready for letting. The property could then be used as social housing and the rent paid could potentially be used to offset the cost of refurbishment. Local authorities may choose to contract out the refurbishment and management of properties acquired with compulsory leases to an RSL.

What would a compulsory leasing scheme look like?

A compulsory leasing scheme for Scotland would be similar to the provisions for Empty Dwelling Management Orders (EDMOs) which became law in England and Wales as part of the Housing Act 2004.

A Compulsory Leasing Order (CLO) would be made against the person with the most interest in the dwelling, known as the 'relevant proprietor'. Any

⁶ Scottish Executive Central Research Unit, *Evaluation of the Empty Homes Initiative* (2001)

⁷ Post Census Vacant Survey 2001

other person with an interest in the property is treated as a third party. While a CLO is in force, the local authority takes over the rights and responsibilities of the relevant proprietor, but does not become the legal owner and so cannot mortgage the property or sell it. The relevant proprietor cannot receive any benefit from the property such as rent and has no management interest while a CLO is in force. They can, however, dispose of their interest in the dwelling, and are entitled to any surplus remaining from rent after expiry of the final CLO and once the local authority has covered its costs and compensation payments.

A third party in the dwelling could apply to the Sheriff for compensation from the local authority for any interference with their rights in respect of property on which a CLO is made. A local authority can also apply to the Sheriff for an order to terminate a lease or licence on the dwelling where it is not being occupied, and can recover the cost of any compensation they may have to pay out of the surplus rent obtained under the CLO.

There could be two types of CLO, interim and final, which allow a local authority to secure occupation and management of privately owned property: an interim CLO would come into force as soon as it has been authorised by a Sheriff and can last for a maximum of 12 months; a final CLO can last for three, five or seven years and would follow an interim CLO. The local authority would not need to obtain authorisation from a Sheriff for a final CLO.

A local authority can apply for an interim CLO where a property has been unoccupied for at least six months and the owner does not intend to take immediate steps to secure occupation of the dwelling. Under an interim CLO the local authority could only grant a tenancy with the consent of the relevant proprietor. A final CLO would replace an interim CLO or a previous final CLO if the property would otherwise become unoccupied. A final CLO would contain a management scheme setting out how the local authority intends to carry out its duties and how it will account for money expended and collected. There would be no restrictions on the works of repair or renovation that a local authority may undertake under a CLO, but the cost of work must correspond with the likely income under the lifetime of an order. Under a final CLO, a local authority does not need to seek the permission of the owner of the property before it grants a tenancy agreement.

Would it work for Scotland?

In order to be effective and for Compulsory Leasing Orders to be used by local authorities they must be cost effective, adequately resourced and linked to the local housing and

homelessness strategies. The threat of a management order may be enough to persuade an owner to take steps to ensure occupation of their property without the need for intervention. Where this is not the case, the orders would give local authorities an extra power to address the problem of empty houses and secure an alternative supply of accommodation to meet their commitments under the Homelessness Act and other housing duties.

It is clear that they must be adequately funded so that local authorities are not discouraged from using them. Since many local authorities have developed voluntary private sector leasing schemes to provide temporary accommodation, the issues of funding and management should not prove to be a disincentive. Shelter Scotland is keen that local authorities would be encouraged to use these orders and would welcome discussion over whether there should be a target for local authorities to bring long-term empty property in the private sector back into use.

Do local authorities want compulsory leasing powers?

In England, the swift passage of primary legislation has meant that compulsory leasing could not be piloted. However, in a consultation⁸ by the Office of the Deputy Prime Minister, 78% of respondents agreed that the use of management orders would be an effective way of dealing with the problem of empty houses, while a survey by *Inside Housing* of housing associations and council housing departments in England in December 2004⁹ showed that 84% of councils and 80% of housing associations were in favour of the policy. Research in Scotland has shown that half of the local authorities have a dedicated empty homes strategy within their overall housing plan, and most of the rest make explicit reference to bringing empty properties back into use¹⁰. Housing strategies demonstrate that bringing empty properties back into use is a key instrument for achieving social housing objectives, and informal discussions with local authorities have shown that support for the powers is high across the housing sector in Scotland.

Shelter believes that incentives for compulsory leasing are strong

- Compulsory leasing has the potential to provide a much-needed source of temporary accommodation to enable local authorities to meet their commitments under the Homelessness Act and to eliminate the use of bed and breakfast accommodation.
- In combination with other measures for area renewal, compulsory leasing powers would be a means of addressing low and falling demand in areas where derelict property and unoccupied housing is a problem.

⁸ 'Empty Homes: Temporary Management, Lasting Solutions' in May 2003

⁹ Inside Housing 7th January 2005 p.18

¹⁰ Scottish Executive Central Research Unit, Evaluation of the Empty Homes Initiative (2001) p.41

- Compulsory leasing powers would give local authorities in high demand areas or where there is a small private rented sector an additional means of securing affordable social housing.
- Compulsory leasing powers are an alternative way of improving the standard of private sector housing
- Compulsory leasing powers would bring benefits to property owners by raising the value of the property and generating income.

Shelter urges the Executive to include a compulsory leasing scheme in the Housing (Scotland) Bill, giving local authorities the power to take management control of empty homes for a fixed period.

Securing the re-use of a proportion of empty homes could contribute to the supply of affordable housing across Scotland, but this measure alone is inadequate. Bringing empty properties back into use should be part of a wider programme of initiatives that includes tackling low demand and market failure, tackling antisocial behaviour, the provision of affordable homes and ensuring that all homes meet a decent standard.

March 2005

This is one of a series of position papers produced by Shelter on the Housing (Scotland) Bill. For more information, contact Grainia Long, Policy Manager, Shelter Scotland on 0131 473 7194 or grainia_long@shelter.org.uk