

## Appendix 1 – Draft Response

### Council Tax on Long-Term Empty Properties and Housing Support Grant – Consultation on proposals for legislation

#### Background

The Scottish Government issued a consultation on Council Tax on Long-Term Empty Properties on 19 October with a closing date for responses of 10th January 2012.

The Government is proposing to allow councils the discretion to increase Council Tax charges for homes that are left empty for longer than six months in order to encourage owners to make their homes available for rent or sale. In initial discussions with civil servants on what they were proposing, CoSLA indicated that Local Government may be supportive of such a measure but that expectations would need to be managed about what can realistically be achieved. CoSLA also suggested that any additional income raised from the levy should be for Councils' local discretion rather than being ring-fenced to be spent only on affordable housing and we support this position. The consultation has a separate section on proposals to abolish the Housing Support Grant. The bill will abolish the Housing Support Grant, which was originally established to subsidise local authorities' housing budgets by helping pay interest on housing debts. No councils other than Shetland Council make use of this facility.

If all local authorities in Scotland decide to use the maximum powers, they could raise up to £30million per year to spend on much-needed affordable homes. Launching a consultation on the proposals, Cabinet Secretary for Infrastructure and Capital Investment Alex Neil said:

*“Although the public purse is under huge financial strain the Scottish Government is doing all it can to increase the supply of affordable housing across the country. One way to do this is to tackle the problem of empty homes, which are a wasted resource and often also a blight on local communities as they attract vandalism. We are proposing to bring forward legislation to allow Councils to charge a Council Tax levy on homes which have been empty for more than six months. It will be up to each Council to decide if they want to use the new powers, which could encourage more owners to rent or sell their empty homes.”*

Argyll and Bute Council is very supportive of the government's policy intention to reduce the numbers of empty homes. This council published its strategy for empty private sector homes in September 2011. This strategy recognises that we face housing shortages and restrictions and the contrast between 3,343 households on the waiting list and approximately 4,254 houses lying empty for some or all of the time clearly means that this is one potential source of houses which shouldn't be ignored. However we recognise that dealing with empty homes can present many complexities and the strategy presents various options to encourage and assist owners to bring back long term empty homes to use and to make better use of second and holiday homes. We consider that these alternatives may have more success than adding a levy on the council tax, but we welcome the government's intention to broaden the range of options available.

In Argyll and Bute, our council tax base return made as at 9 September 2011 showed that this council has 718 long term empty dwellings. This is just 1.5% of all our council tax dwellings. This has increased from the previous year figure of 631 empty homes which is probably reflecting the down turn in the housing market and the difficulty of selling property just now. The figure for the whole of Scotland is reported at just under 25,000 so we seem to have nearly 3% of the total, whereas we have just 1.9% of total chargeable dwellings. This means we have more than our share of long term empty dwellings. We know that we have the highest proportion of second homes in Scotland so perhaps this is not surprising, as the distinction between these 2 categories can be difficult.

We also have 3,937 second homes in addition to those classified as long term empty. These numbers have reduced slightly (from 3,983). In addition there are a number of self-catering properties which are available for short term lets and are under non-domestic rates valuation roll. This is of huge advantage to the owners as they pay a fraction in rates of what they have to pay in council tax – most get 100% exemption from rates as small businesses. Many properties yo-yo back and forth between council tax and rates as owners will aim to maximise their income through short term summer lets (rates) and then long term winter lets (council tax). When empty, they could be in either category.

At the moment, the difference between second homes and long term empty properties is that second homes are furnished. Empty homes are currently entitled to 100% exemption from council tax for 6 months, then 50% discount for 6 months and then reduce to 10% discount. Second homes just get 10% discount. We do not check if a second home is furnished or not – we simply give the 10% discount as long as the owner is registered for council tax at another address.

The reduction in the discount from 50% to 10% was agreed by Council on 21 December 2004 and introduced from 1 April 2005. In 2010/11, as a result of the reduction in discount for both second homes and long term empty homes, Argyll and Bute Council charged an extra £1.902m in council tax of which £1.829m (96.18%) was collected. For all years since the legislation was introduced, we have billed a total of £10.774m and collected £10.379m, some 96.33%. These monies are ring fenced to the Strategic Housing Fund.

Underpinning the Scottish Government's original proposal and the Council's policy decision were the following arguments:

- Giving tax discounts on second properties is often perceived as unfair because, it is argued that their owners are generally able to afford full council tax and should do so. Conversely, however, it can be argued that the same level of demands are not being made on local authority services by these properties and making owners pay full council tax is unfair.
- Second homes can have a significant impact on the nature and sustainability of local communities. Second home owners can contribute strongly to certain sectors of rural communities – buying goods and services where demand may otherwise be weak. However, high demand for second homes may affect property prices in some areas, potentially making property less affordable for local residents. Properties that are not occupied for much of the time can lead

to a reduction in the demand for local services such as the local bus service, the village shop and pub.

- Homes that have been empty for long periods can deny homes to those in housing need and can be a drain on local resources (e.g. environmental health, policing). Empty homes can also increase pressure for the building of new homes

The proposal is to try and increase the incentive for owners to bring long term empty properties back into use, and we would all fully support that policy intention. Long term empty properties fall into a number of categories as follows:

- Ones where the landlord is trying to let but failing to find any tenants, or owner is trying to sell property unsuccessfully
- Ones where the property is in too poor a condition to sell or let and owner cannot afford to do them up
- Ones where the owner cannot be found or is just uninterested in the property

We get a number of cases where pressure is put on the council to grant a closing order in order to get exemption from council tax. This is generally resisted because then all incentive to do them up goes. This causes much complaint from the owners when they are chased for the council tax. These proposals will exacerbate these cases.

These proposals may be very difficult to enforce. The Scottish Government proposes to change the definition of long term empty so that the property does not have to be unfurnished. That is a difficulty as a second home is currently a property that is not an empty property. So this means changing the definition of a second home also. We understand that consideration is being given to a definition of a second home as a property that is sometime occupied with this to be verified based on utility bills. We consider such a definition to be fraught with difficulties. Many responsible owners will ensure that there is some modest heating of their property in winter without actually occupying the property, particularly as this is encouraged by insurers.

Owners will quickly realise that it is in their interests for the properties to be classed as second homes (or even self-catering properties) rather than long term properties and will act accordingly. We never inspect properties at present – we have no resource to do this and it would be very time consuming in a rural area.

In addition to these general observations, we have given a number of comments against the specific consultation questions below.

## **Consultation Questions**

### *Questions on Council Tax charges on long-term empty properties*

1. Should Councils be able **to remove the current Council Tax discount** (of between 10% and 50%) on long-term empty homes?

Response:

If the discount were to be removed, this could generate additional income of £78k potentially for the council. However, it would remove any incentive for telling the council that the property continues to be long term empty or whether it has become occupied as full council tax would be billed and paid.

2. Should Councils be able to **charge an additional levy** on the Council Tax on long-term empty homes and should they have flexibility in deciding the level of the levy? If so, what should be the maximum level of levy Councils could impose?

Response:

If an excess charge of 100% were to be levied, the additional amount billed for this council would amount to £782k per annum if it were all to be paid in full and none were to be exempted from the levy. We are concerned that there would be high levels of non-payment of such a levy.

It should be noted that many of our long term empty properties may be below tolerable standard and may take considerable investment before they can be brought back into use. The Empty Homes Agency in England has estimated that on average it costs between £6,000 and £25,000 to bring an empty home back into use. This compares favourably with the average costs of a new build home in Scotland of £100,000. We need to ensure that an levy of excess charges do not provide a disincentive through reducing monies available to do up properties and bring back into use.

There are a number of properties which are long term empty with absentee landlords. Typically these owners are poor payers of council tax and levying more council tax may not necessarily increase collections. However, there may be other methods which could bring these back into use. Consideration has previously been given to introducing a new diligence called Land Attachment and legislation has been laid which allows for this although detailed enabling regulations have not yet been made. If this were to be introduced for unoccupied property, then this could be used to force a sale in certain circumstances. Current proposals would not allow this following Summary Warrant, so it could only be used following departure from warrant and issuing of an ordinary court action for arrears of council tax. Enacting the planned regulations for Land Attachment, and potentially allowing this following Summary Warrant for unoccupied property could potentially be even more effective at bringing long term empty property back into use.

3. Do you agree that Councils should continue to be able to apply different levels of Council Tax charge in **different geographic parts of their area** if they feel this is appropriate?

Response:

Argyll and Bute Council has not used this power, and we understand that no councils in Scotland have used this, preferring instead to restrict the reduction in council tax to their full geographical area. Although there are often some parts of an area where

there is more unmet housing need than in other areas, it may be felt to be discriminatory to distinguish between areas in taxation levels in order to avoid the accusation of “postcode lottery”. Additionally, the antisocial issues that go with unoccupied property typically affect all areas equally. It is therefore unlikely that the flexibility to vary by geographic area would be used more widely in future.

4. Do you agree that Councils should have **flexibility in deciding how long a home should be empty** before they apply increased Council Tax charges for long-term empty homes and should Councils also be able to increase the level of charge the longer a home has been empty?

Response:

Councils may well feel that they have to recognise the difficult housing market, particularly the difficult conditions facing first time buyers who may wish to enter the housing market but cannot raise a large enough deposit. Sellers may find it difficult to lower their prices if they have high mortgages to pay off, and may prefer to hold on to their properties awaiting more buoyant market conditions. These aspects may discourage councils from further penalising owners who are trying to sell their properties. This could be addressed through exemptions (see question 5 below) or through providing a longer period.

This policy would penalise empty home owners as opposed to second home owners. Whilst many second homes are used on a regular basis, there will also be a number which are largely left empty for the bulk of the year and provide as little economic benefit to the area as long term empty homes. This may be perceived as unfair, and may encourage owners of empty homes to re-classify them as second homes.

5. Should Councils be able to apply additional, time-limited **exemptions** to the levy for certain types of property or owner? If so, please provide details of the circumstances under which you feel that an exemption would be appropriate and how long these additional exemptions should be available for.

Response:

Exemptions should be provided for owners who are actively marketing their properties. There should also be exemptions for properties owned by people who have had to move into care homes or hospitals, or moved to be cared for by family members. If someone else has lived in them after their owner, these owners may not be exempted from council tax.

Consideration should also be given to exempting registered social landlords who may be holding some hard to let housing stock which is used from time to time for decants, and also to exempting some properties which are difficult to sell due to particular factors e.g. risk of subsidence in an area may make it difficult for a buyer to get a mortgage on a property.

Another category for consideration may be where the owner is deceased. We have recently reviewed our records of long term empty properties where there are liabilities outstanding for the previous council tax year and note that nearly 20% of

these cases are billed to the Executors of the previous deceased owner. It may be that there are particular circumstances in these cases which might merit exemption from the levy for a period.

6. Do you agree that homeowners should have a **duty to inform their Council if their home has been empty and unoccupied** for six months? If so, should Councils be able to charge a fixed penalty fee where an owner has not informed them that a property is unoccupied and what level of penalty fee would be appropriate?

Response:

We agree that there should be such a duty otherwise this policy of charging an excess charge will not be possible. However previous experience of being about to charge civil penalties in council tax has shown them to be totally ineffective and uncollectable. Virtually no council in Scotland levies these charges on any regular basis.

7. To help minimise avoidance, do you agree that a home should **no longer need to be unfurnished** to be classed as long-term empty?

Response:

Whilst this might help to minimise avoidance, making this change would mean that it would not be possible to distinguish between long term homes and second homes. We consider that such a distinction between second homes and long-term empty homes is both necessary and useful, and would not wish to see this policy extend to second homes.

8. Should the **minimum period an empty home must be occupied before it can be declared as empty again** and benefit from an exemption be extended beyond the current six week minimum? If so, what should the minimum period be?

Response:

We have not experienced issues with the 6 week period being misused and do not think it necessary to extend this period. It would already be possible to benefit from occupying a property for a short period of at least 6 weeks, and then become eligible for a further period of 6 months empty and unfurnished exemption, followed by 6 months 50% discount. We have not found many instances of people misusing this provision and deliberately occupying the property for a short time just to get further exemption.

9. Should the additional revenue raised from Council Tax on long-term empty homes be **used for affordable housing**? Please let us know if you have particular views on the types of project or expenditure this revenue should be used for.

Response:

We do not agree that any additional revenue from this policy should be ring fenced. Council should have full discretion over these funds to use as they see fit. It would not be helpful to have to distinguish these from the rest of council tax income especially in addition to continuing to distinguish additional monies from the reduction of the discount von second homes.

We also suggest that more flexibility is given to the monies raised from the reduction of discount from 50% to 10% so that these can be used to support a broad range of housing initiatives aimed to at bringing empty homes back into use. At present these monies can only be used for capital projects. Flexibility to use these monies for revenue purposes could make many more properties available at better value to the community.

*Question on the Housing Support Grant*

10. Do you agree that Housing Support grant should be abolished from April 2013?

Response:

This does not impact on Argyll and Bute Council and we therefore have no comment on these proposals.