

**COUNCIL TAX ON LONG-TERM EMPTY  
PROPERTIES AND THE HOUSING  
SUPPORT GRANT – CONSULTATION  
ON PROPOSALS FOR LEGISLATION**

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## **Background to this consultation**

The Scottish Government proposes to develop and bring forward to the Scottish Parliament draft legislation which will cover two key Housing Finance proposals which both relate to making better use of our housing resources.

Firstly, the Scottish Government proposes 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. Secondly, we propose to remove the legislation which currently requires the Scottish Government to provide funds through a 'Housing Support Grant' to local authorities whose housing debts reach a certain level. This will make sure that the Scottish Government's funding can be targeted at supporting key housing priorities, such as building new affordable housing, and that local authorities only borrow funding for housing where they are confident they can afford to repay it.

This consultation paper provides more information on what the Scottish Government is proposing and seeks views to help us in developing legislation.

## SECTION 1 – ALLOWING COUNCILS TO INCREASE COUNCIL TAX CHARGES ON LONG-TERM EMPTY PROPERTIES

### *Introduction*

As outlined in the 2010 discussion document [Housing: Fresh Thinking, New Ideas](#), the Scottish Government is keen to explore ways of bringing more empty homes back into use. The paper and accompanying discussion events asked stakeholders and members of the public for views on whether Council Tax charges should be increased for owners of long-term empty homes. As this idea was largely welcomed by those who participated in the discussion, the 2011 policy paper [Homes Fit for the 21<sup>st</sup> century](#), which outlines the Scottish Government's vision and strategy for housing over the next decade to 2020, confirmed that the Scottish Government proposed to take forward legislation to permit additional Council Tax charges.

There are currently around **25,000 homes in Scotland which are liable for Council Tax and are recorded by Councils as having been empty for six months or longer**<sup>1</sup>. Long-term empty (LTE) properties are a wasted resource. For their owners, they are not earning any income and may be depreciating in value due to deterioration. For the local community, these properties can be an eyesore and a nuisance as they often attract vandalism and fly-tipping and, if homes are neglected, the value of surrounding properties tends to be reduced as a result of the neighbourhood not being perceived as a good place to live.

In many areas where there is a high demand for housing, empty homes could play an important contribution in providing homes for households who need them. This could be either affordable homes, such as social rented housing, or market housing, such as homes for private rent or sale. This should therefore reduce the number of new homes which need to be built. As the numbers of households in Scotland are expected to grow by an average of 19,000 per year<sup>2</sup>, there will still be a need for more homes, although, in most cases, it costs significantly less and is a more efficient use of resources, to make an empty home available to live in than to build a new one.

In the current challenging economic climate, we need to ensure that efficient use is made of all public funding, including that set aside for housing. This means we want to do what we can to provide a range of tools to help Councils tackle empty homes, particularly in areas where there is a high level of demand for housing. Enabling Councils to charge a Council Tax Levy sits alongside other tools which can help and encourage empty home owners to bring their homes back into use. The Scottish Government is funding the Scottish Empty Homes Partnership, led by Shelter, which supports Councils in providing advice to empty home owners by providing guidance on a range of tools Councils can consider using.

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<sup>1</sup> Data as at September 2010, based on Local Government Council Tax returns

<sup>2</sup> See National Records of Scotland site: <http://www.gro-scotland.gov.uk/statistics/theme/households/projections/hproj-08-based/index.html>

## ***Current Council Tax rules***

Local authorities in Scotland were given discretionary powers in 2005 to reduce the council tax discount on long-term empty and second homes from 50% to a minimum of 10%<sup>3</sup>. For long-term empty properties, the reduced discount is currently only applied after the property has been empty for twelve months so the owner benefits from a six month exemption from Council Tax<sup>4</sup>, followed by six months with a 50% discount (as long as the property is unoccupied and unfurnished throughout this time). The aim of the reduced discount was to provide an incentive for owners to bring their homes back into use.

All additional income raised is retained locally and can be used by Councils to fund a range of types of affordable housing. Local Government Finance returns show that some £19.5m was collected in both the 2009/10 and 2010/11 billing years from these reduced discounts. Twenty six Scottish Councils have so far reduced their discount for long-term empty properties to 10%, with a further three Councils having confirmed they will reduce the discount from 1 April 2012 and some others are currently understood to be reviewing their policy.

## ***Overview of what the Scottish Government is proposing***

While the great majority of Councils have reduced the level of Council Tax discount provided for long-term empty properties, the reduced discounts on their own do not seem to have provided a sufficient incentive for most owners who did not otherwise plan to make their home available; in fact, data suggests that the number of long-term empty homes in Scotland has increased slightly in recent years<sup>5</sup>.

We propose to bring forward legislation to the Scottish Parliament which would give Scottish Councils the extra flexibility to increase the amount of Council Tax charged on long-term empty homes. This flexibility will help Councils, particularly in areas with high levels of need for affordable or market housing. It is expected both to encourage home owners to bring their properties back into use – either for rent or for sale – and to raise additional revenue to fund affordable housing in their area.

We propose that the legislation should allow Councils both **to no longer provide any discount** for long-term empty homes and, in addition, **to apply an excess charge** (or 'levy') of up to 100% of the standard Council Tax rate for homes that are unoccupied long-term. This means that owners of these empty properties could be charged up to double the rate payable by home owners paying the standard rate. The actual level of extra charge which each owner needed to pay would vary depending on the Council Tax band of their property and the percentage levy the relevant Council decided to charge (if any). It would be up to Councils to determine

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<sup>3</sup> See the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005: <http://www.legislation.gov.uk/ssi/2005/51/contents/made>

<sup>4</sup> This applies in most cases – there are certain cases where empty properties can receive an exemption for a longer period.

<sup>5</sup> Based on Council Tax records, 20,328 homes were recorded as LTE in Sept 2007, while 24,598 homes were recorded as LTE in Sept 2010. While some of this change is likely to be due to improvement in identification of LTEs by Councils, it seems that the number of empty homes is nonetheless increasing.

whether or not they wished to increase their existing charge rates for long-term empty home owners, and, if so, to what extent, based on the evidence available to them on numbers and locations of empty homes in their area and levels of need and demand for homes shown by their Housing Need and Demand Assessments and Local Housing Strategies.

Bringing long-term empty properties back into use would increase the number of homes available in a local area, contribute to area and town centre regeneration, discourage antisocial behaviour and help sustain rural communities.

As well as giving Councils discretion in the level of discounts and, if appropriate, levy they charge owners of LTE properties, Councils will continue to be able to **vary the level of charge in different parts of their local authority area**. So far Councils have not chosen to use this discretion and in many cases Councils may feel it is fairer and easier to administer and publicise if they charge the same rate in all areas, but Councils could use this discretionary option if they wish in future. For example, a Council could choose to target increased charges at owners of properties in areas of high housing demand where bringing empty homes back into use is a priority, but exclude those areas where homes may be empty because of low demand for housing. As under the current regulations, local authorities could use either postcode boundaries or council wards as a means of identifying parts of their area.

In addition, the Scottish Government proposes to allow Councils **flexibility in the timing of applying increased charges**. Currently, Councils need to wait until a property has been empty for twelve months before they can reduce the Council Tax discount to 10%.

All empty homes which are unfurnished should continue to be exempt from Council Tax for the first six months. However, in future, we propose that Councils should be able to **implement a Council Tax levy and/or reduced discount as soon as a property has been empty for six months** if they feel this is appropriate. However, a Council may choose to continue to wait for more than six months if it feels this is appropriate to help give owners more time to sell or rent their property. We propose that the new powers should also allow flexibility if a Council wishes to increase Council Tax charges over time, based on how long a home has been empty, as long as the maximum levy does not exceed 100% of the standard Council Tax rate.

### ***Proposed exemptions from the levy***

The proposed levy or removal of discount would apply to both private and social rented homes. It is not expected to apply to those home owners and types of empty dwellings which are currently exempt from Council Tax<sup>6</sup>, such as social rented homes which are due to be demolished and homes normally occupied by someone who is currently in hospital or in a care home. Any excess charge would also not apply to owners of second homes, who would continue to receive a Council Tax

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<sup>6</sup> See Schedule 1 of The Council Tax (Exempt Dwellings) (Scotland) Order 1997 (as amended by The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2007) – <http://www.legislation.gov.uk/ukxi/1997/728/contents/made>

discount of between 10% and 50%, depending on the policy of the local authority concerned.

We recognise that there are situations where a home owner is genuinely trying hard to bring their home back into use, but is unable to for certain reasons. The Scottish Government proposes allowing Councils the **flexibility to exempt certain specified groups of owners or properties from the additional levy for a fixed period** of time (up to 12 months after the property becomes liable for Council Tax), although the Council would be given the discretion to decide whether the owner had reasonable grounds to receive the levy exemption. This means owners would still be required to pay some Council Tax for the property, but would be given extra time to bring their home into use before needing to begin paying the additional levy. For example, Councils may feel it is appropriate to offer a discount to owners who have been actively trying to sell their property for some time as long as they are satisfied that the owner has been making efforts to sell. A Council would be likely to decide this was reasonable where the owner provided appropriate evidence that their property was being marketed in line with its value (e.g. a copy of the Home Report, details of estate agent marketing or a letter from the solicitor managing their sale.)

In some areas, there may also be a case for applying a restricted, time-limited exemption for social rented properties which are expected eventually to be demolished, but are in the meantime being used occasionally as temporary accommodation while other homes are built. These homes can often be left empty for significant periods, but may still be required as housing at some stage.

We would be keen to hear your views on circumstances where Councils should provide a time-limited exemption. We would also welcome views on whether Councils should be given a power not to collect or to defer Council Tax levy payments on LTE properties in cases where the Council considers this would cause serious hardship<sup>7</sup>.

### ***Compliance and enforcement***

The great majority of Councils already record details of long-term empty properties on their Council Tax systems. Councils should continue to be able to identify properties becoming empty as the owner registers them to qualify for the initial six month Council Tax exemption. Without this initial exemption, owners may not have a reasonable amount of time to sell or let their property and there would also be the likelihood of long-term empty properties becoming harder to detect as some owners would not declare their properties empty.

While Councils already have to carry out enforcement work in relation to empty properties as some owners are untruthful or do not keep the Council updated in order to evade paying Council Tax or reduce the amount they need to pay, it is likely that more owners will try to evade payment if a Council imposes a levy. To help Councils to make sure owners give them correct information, the Scottish Government proposes that the legislation should impose **a duty on owners to**

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<sup>7</sup> Councils have such a power in relation to non-domestic rates, under section 25A of the Local Government (Scotland) Act 1966 (inserted by the Local Government etc. (Scotland) Act 1994).

**inform the Council by the time their home has been unoccupied for six months.** For these purposes, we propose that a property should be defined as unoccupied where no one has stayed overnight in the property for six months. This duty will not cover owners who confirm that their property is a second home, although to qualify as a second home the owner must confirm that the property is sometimes occupied. Councils can ask owners to provide evidence, such as utility bills, to help them check that homes declared as second homes are not in fact long-term empty.

Many owners are likely to inform the Council earlier than this that their home is unoccupied in order to obtain a Council Tax exemption and this will help make sure that the Council has full details of homes which are empty. We may also consider allowing Councils to **charge an additional fixed penalty fee** if an owner does not declare their home empty within the six month anniversary of it being unoccupied. Councils are already able to charge a £50 fee<sup>8</sup> for failure to provide information to the Council in relation to Council Tax, but a higher fee could be considered in order to provide a more substantial incentive for owners to declare their property empty. This would be in addition to Councils' existing powers to take enforcement action against an owner who makes a false declaration in order to evade Council Tax.

This should make it easier for Councils automatically to begin charging the appropriate amount of Council Tax as soon as it becomes due unless the owner informs them of a change of status of the property in the meantime.

In addition, the Scottish Government proposes to make some minor changes to existing definitions in Council Tax legislation in order to minimise the scope for owners to avoid paying the levy in areas where it is charged.

Properties will continue to need to be unfurnished in order to claim an exemption from Council Tax for the first six months they are empty. However, we propose to **remove the requirement for the property to be unfurnished in order to be classed as 'long-term empty'**. This will mean that Councils will be able to apply the levy to a property regardless of whether or not it is furnished, as long as it is unoccupied. Enforcement of the levy should be simplified as a result. As a result of this, we propose also to make a minor, consequential amendment to the existing definition of a second home<sup>9</sup> in order to ensure there is still a distinction between an LTE property and a second home.

At present, an owner (or their relatives or friends) can reoccupy an empty property for a six week period, after which, if furnishings are removed, the property can then be registered as empty again to qualify for a further period of empty property exemption. We are considering **extending this six week period to a minimum period of three months** to discourage owners from taking advantage of this condition to claim a further six month exemption and avoid paying the levy just by moving into the property for a very short time. We would be interested in hearing your views on this.

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<sup>8</sup> This is provided through the Local Government Finance Act 1992, Schedule 2, paragraph 2

<sup>9</sup> A second home is currently defined in the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005 as 'a dwelling which is no one's sole or main residence and is not an empty dwelling'.

## ***Implementation and running costs***

We hope that Councils will be able to build applying a levy into their established processes for collecting and enforcing Council Tax generally. However, the Scottish Government recognises that, in implementing the levy, Councils may incur upfront costs to change systems and processes (this depends on which IT provider a Council uses and the amount of flexibility built into their current IT systems). Costs will also be incurred on an ongoing basis to cover expected additional enforcement work to ensure that owners who should be paying the levy do so. The level of cost will vary from Council to Council depending on the extent to which they decide to use the new powers, their existing IT provision and the level of extra enforcement the Council judges will be required.

It is for each Council to consider whether the extra revenue and incentive to bring empty homes back into use is worth the investment in extra set up and administration costs and whether a levy is justifiable in their area.

## ***How the revenue raised should be used***

We propose that Councils should continue to be able to keep additional revenue raised from reduced discounts and/or levies on the Council Tax on LTE homes. We also propose that this additional revenue should be 'ring-fenced' for Councils to spend on providing affordable housing. This will not form part of the proposed legislation, but the Scottish Government would propose to agree with Councils and CoSLA revised guidance setting out a range of types of initiatives this funding could be used for.

There are already a wide range of types of initiative this revenue can be used for – such as Council house building, housing association homes for rent or shared equity, support for self builders, funding for site infrastructure, buying completed homes from developers and helping bodies to buy land for affordable housing. In addition, this revenue can also be used to help bring empty homes back into use, for example by providing loans or grants to owners to help them repair their homes so they can be let. This will both help Councils and also help demonstrate to empty home owners that their extra charges are being used to make up for their homes being left empty, either by providing support to empty home owners or to help make additional housing available. In addition to this, we are keen to hear from Councils if they would like flexibility to use this revenue to fund anything else that it is not included in the current guidance, which was issued to Councils in February 2009<sup>10</sup>.

We estimate that if all 32 Councils were to use the new powers and charge the maximum levy, this could raise **up to £30 million per year** of additional revenue to be spent on affordable housing. Councils currently raise approx. £19.5m per year from reduced discounts on LTE and second homes. The actual amount raised would be dependant on how many local authorities use the new powers, what level of extra charges they implement and how many empty home owners decide to bring their homes back into use.

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<sup>10</sup> See <http://www.scotland.gov.uk/Topics/Government/local-government/17999/counciltax/Secondhomes>

### ***Support available for empty home owners***

The Scottish Government would encourage Councils to introduce the proposed Council Tax levy alongside other measures to help empty home owners bring their properties back into use. The Scottish Government is providing funding for a Scottish Empty Homes Partnership<sup>11</sup>, led by Shelter Scotland, which aims to provide support to local authorities and others, such as land owners and housing associations, to help them work with and advise empty home owners.

The Partnership provides guidance on a number of tools for Councils to use, both to provide support and encouragement for owners and also, where necessary, to take enforcement action to avoid an empty home attracting crime or becoming a safety risk. Councils who choose to use the new levy powers will want to consider what sort of advice and/or support they can provide to help owners who are keen or willing for example to let their property in order to avoid paying the levy.

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<sup>11</sup> See Shelter's website: [http://scotland.shelter.org.uk/housing\\_issues/more\\_homes/empty\\_homes](http://scotland.shelter.org.uk/housing_issues/more_homes/empty_homes)

## **SECTION 2 – THE HOUSING SUPPORT GRANT**

### ***Introduction***

The second area we would like to consult on is the abolition of Housing Support Grant (HSG) from April 2013. HSG originated (as a separate housing subsidy) in the Housing (Financial Provisions) (Scotland) Act 1978 and was modified in the Housing (Scotland) Act 1987. The grant is payable when a local authority cannot balance its council housing account (referred to as the Housing Revenue Account or HRA) by either putting rents up or cutting management and maintenance expenditure on its housing stock or both.

This imbalance has usually occurred in the past when HRAs have taken on too much debt over too short a space of time for the accounts to adjust properly<sup>12</sup>. Such a debt situation actually developed in the 1960s and 1970s when a number of Scottish councils built extensive council housing estates consisting of thousands, or even tens of thousands, of properties often on the periphery of towns and cities in Scotland. HSG gradually rose and then exceeded £200m per year in the early 1980s as a result of a significant number of authorities across Scotland claiming very large amounts (tens of millions of pounds per year in some cases), such was the scale of the housing debt problem. It is therefore a grant that was designed to operate when the council housing picture, and indeed the entire housing market picture in Scotland, was very different to the one we see today.

### ***Current position***

The Grant is currently payable to one local authority in Scotland (Shetland Islands Council), largely for historical reasons. It has fallen away (or not re-occurred) in mainland Scotland year after year for various reasons (Central Government debt reduction measures, stock transfer, prudential borrowing by Local Government) and is now less than £1 million/year. This is still a significant sum in the Shetland Islands as there are only around 1,800 properties, but the Grant makes up about 15% of total council house income. The level of HSG paid to the Council is already decreasing and discussions are ongoing with Shetland Islands Council as to how their HRA can adjust to a removal of HSG.

Councils in the rest of the UK receive no HRA subsidy from the Government, although some have, for more than 20 years, been recipients of HRA subsidy from other councils. This system is about to end due to the reform of the HRA system in England and Wales. From April 2012, the UK Parliament will abolish the subsidy system and replace it with a system of self-standing HRAs in England, much as we have in Scotland. This effectively means that all councils in the UK that continue to own Council housing will have to ensure that the housing service is financially independent by making sure that their debt interest and other costs are all met from income from the Council's homes (mainly from rents, but also potentially sales of land or homes).

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<sup>12</sup> This occurs when local authorities' interest and/or running costs increase and the available rental income cannot be used to pay for the additional debt/running costs.

## ***Overview of what the Scottish Government is proposing***

The Scottish Government is proposing to abolish HSG as, apart from the historical legacy in Shetland which is fading over time, it has no role (and should have no role) in the council housing finance system. The arrangements for local authority borrowing, more technically referred to as the prudential regime, place the responsibility for ensuring that levels of borrowing and debt are prudent and financially sustainable in the hands of the local authorities themselves. Under such a financial regime, HSG creates a perverse incentive for local authorities to borrow more money for housing. It is conceivable that the extra costs of paying interest on debt from this borrowing could be claimed under HSG.

While the Scottish Government is committed to assisting councils with financial capacity to build new council housing by providing limited subsidy to help unlock prudential borrowing capacity, the Scottish Government believes that the solution to housing shortages in a modern economy is not to recreate the housing policies (and the associated debts) of the 1960s and 1970s. Today people can, and should, be able to choose between different housing tenures according to their preferences and the resources they have available to them. These proposals on HSG will not affect the Hostels Grant.

## ***The costs of implementing the abolition of HSG***

HSG does not currently impact on any Scottish local authorities other than Shetland. Its abolition should not impose any direct administrative costs on them. Shetland Islands Council would, as things stand today, lose a dwindling stream of revenue which currently stands at under £1 million per year. Given that the grant is in decline and this transition period will be the subject of ongoing discussions with Shetland Islands Council, the decision to abolish HSG in April 2013 still leaves over two years to manage that process. There may be a small administrative gain associated with the Shetland Islands Council not having to claim for the grant, but this may be offset by the one-off administrative indirect adjustment to budgets that would be required without (the dwindling level of) HSG.

## ***What will Scottish council housing finance look like following abolition of HSG?***

Given the limited significance of the HSG at national level and its decreasing projected level (HSG accounted for 0.1% of total HRA rental income in 2010-11 and benefits 0.6% of council tenants in Scotland), the aggregate financial landscape for Scottish council housing will look very similar without HSG as it would with it. Going forward, Scottish Government would prefer to use the resources it has to subsidise new build council housing rather than to pay the interest costs on historic debt, which is effectively the role of HSG.

## ***What will be the impact of the abolition of HSG on council tenants?***

Given the grant is restricted to one council, there should not be any impact on tenants in Council areas other than Shetland. The effect on tenants in Shetland will depend on how the Council chooses to manage its housing debt levels (the amount

of HSG required would be likely to be very modest in 2013 anyway). We do not believe that withdrawing the HSG in 2013 should have a significant negative impact on Shetland Islands Council tenants, although the potential impact of this will be discussed in more detail with the Council over the coming months.

The abolition would remove the potential for the Scottish Government to be required to provide any future subsidy for Councils' housing budgets if at some point a local authority returned to levels of debt that would be regarded (under most definitions) as not being prudent. This should be a situation which local authorities seek to avoid, and should be encouraged to avoid. However, as set out above, authorities should not be given a perverse incentive to enter into excessive borrowing through the continuing availability of the HSG. For these reasons, Scottish Government believes that, ultimately, the abolition of HSG will prove to be a positive thing for Council tenants. It will help ensure across the 26 authorities that run a council housing service that their landlord operates the housing budget with a proper degree of financial discipline and with a view to (sustainably) developing additional new housing.

## Consultation Questions

We would be grateful for your views on any aspects of these proposals, along with the attached draft Equality Impact Assessment and Business and Regulatory Impact Assessment. In particular, we are keen to seek feedback on the following 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?
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?
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?
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?
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.
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?
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?
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?
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.

## *Question on the Housing Support Grant*

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

### **How to feed in your views**

You can respond to this consultation in a number of ways, either using the online form, by sending your response to the Scottish Government or by attending one of our consultation events. A number of questions which we would like views on are set out above. We would also like comments on how the proposals might impact on equalities groups and businesses and whether there is anything else we need to bear in mind in relation to this (please see the draft Equalities Impact Assessment and the draft Business and Regulatory Impact Assessment for further information).

However, please feel free also to provide any other comments that you feel are relevant to the two proposals being considered here if you wish to. If you are providing written comments (either by e-mail or by post), please ensure your response reaches us by **10 January 2012**.

E-mail responses should be sent to:

[CouncilTaxEmptyHomes@scotland.gsi.gov.uk](mailto:CouncilTaxEmptyHomes@scotland.gsi.gov.uk) or [lesley.dyker@scotland.gsi.gov.uk](mailto:lesley.dyker@scotland.gsi.gov.uk) – please use the online form if possible to provide your response.

If you wish to send a hard copy of your response, please send this to:

Lesley Dyker  
Scottish Government  
Housing Supply Division  
50-54 Rose Street  
Johnstone House  
Aberdeen AB10 1UD

Please make sure you send a copy of your respondent information form with any responses so that we have your details and know if you are happy for your response to be made publicly available.

We will be holding consultation events to explain our proposals and gather your views in person; these are likely to take place in November. Further information will be available shortly on the Scottish Government website at:

<http://www.scotland.gov.uk/emptyhomes>.

## DRAFT EQUALITIES IMPACT ASSESSMENT

Title of policy	Proposed Council Tax Levy on Empty Homes and Housing Support Grant Bill
Name of Branch or Division	Housing Supply Division
Department or Agency	Scottish Government, DG Governance and Communities

What is the purpose of the proposed policy (or changes to be made to the policy)?	<p>There are around 25,000 <b>long-term empty homes</b> in Scotland; these are normally homes which have been left unoccupied for six months or more. 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. 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.</p> <p>The Scottish Government (SG) wishes to encourage owners to bring their empty homes back into use and increase the resources available to fund additional affordable housing. We are already working closely with Shelter Scotland to fund a Scottish Empty Homes Partnership, which helps Councils provide advice and support to owners.</p> <p>We propose bringing forward legislation to give Councils the power to charge empty home owners a levy equivalent to up to 100% of the Council Tax for the property. This would mean that owners choosing to leave their property long-term empty would have to pay up to double the Council Tax compared to a household occupying the property. It is hoped that this levy will encourage owners of long-term empty properties to bring their properties back into use.</p> <p>The SG is proposing to give Councils the power to charge a levy, but leave it to 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 a problem empty homes are in their area, the reasons why homes are empty and also the level of demand for affordable housing.</p> <p>The Scottish Government also proposes to abolish the <b>Housing Support Grant</b>, which is currently paid to one Scottish Council. The Grant was originally</p>
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	<p>designed to support Councils whose housing debts reach a certain level, but current ‘prudential borrowing’ rules mean Councils should only borrow money for housing projects where they can afford to repay their loans. We do not feel that abolishing the Grant would have any differential impact on equalities groups. The removal of the grant is a Housing Revenue Account financing issue. Twenty five councils in Scotland already provide housing services without the need for this grant. As a result, we have not considered this element of the legislative proposals further in this draft Impact Assessment.</p>
<p>Who is affected by the policy or who is intended to benefit from the proposed policy and how?</p>	<p>Owners of empty properties who do not decide to rent or sell their home could be affected by this policy (if their Council decides to introduce a levy) as they would need to pay more Council Tax. The levy is expected to increase the Council Tax revenue available for affordable housing and also increase housing supply as owners of long-term empty properties bring them back into use.</p> <p>The beneficiaries of the levy will be those families struggling to obtain appropriate housing. Currently, there are over 150,000 households on social housing lists in Scotland. As housing supply is increased, pressure on these waiting lists should be eased. 54% of long-term empty properties are in the lowest two council tax bands – as these properties come back into use, it is likely that they will be priced at affordable levels and will be suitable for first time buyers or renters on low to moderate incomes.</p>
<p>How have you, or will you, put the policy into practice, and who is or will be responsible for delivering it?</p>	<p>Councils will be responsible for introducing the levy in their areas. It will be up to them to decide whether or not the levy is appropriate and, if so, at what level it should be applied.</p>
<p>How does the policy fit into our wider or related policy initiatives?</p>	<p>The Scottish Government is committed to delivering sustainable economic growth. Making better use of existing housing (rather than needing to build as many new houses) will help support economic growth. The Council Tax levy would also provide additional revenue to fund new affordable housing, which will both make more homes available for those who need them and also support jobs in the construction industry and wider economy.</p> <p>The SG also wants to develop strong, resilient and</p>

	supportive communities. Properties lying empty attract all sorts of misuse including vandalism, fly-tipping and arson. Instances of these activities should reduce as more long-term empty properties are brought back into use and, as a result, perception of the affected neighbourhoods should improve.
Do you have a set budget?	No. It will be for individual Councils to decide whether or not implementing the levy is the correct option for them. When that decision has been made, they will be responsible for any necessary amendments to their systems and processes to enable them to collect the levy. They will also be responsible for allocating funds from the revenue raised.

**What do you already know about the diverse needs and/or experiences of your target audience?**

Do you have information on?				
Age	Yes		No	X
Disability	Yes		No	X
Gender	Yes		No	X
Lesbian, Gay, Bisexual & Transgender	Yes		No	X
Race	Yes		No	X
Religion and Belief	Yes		No	X

We do not have any data on the characteristics of owners of long-term empty properties so it is not possible to tell how many of them are likely to be from an equalities group. The Scottish Government does not have access to Council Tax records. It is hoped that the forthcoming consultation will give us more information on any equalities groups who could be affected. We will contact equality groups to invite them to respond to the consultation.

We also do not have information on those households who would benefit from the Council Tax levy as it would be up to Councils to decide what types of affordable housing to spend the additional revenue on. Councils' decisions are likely to be based on evidence from their Housing Need and Demand Assessments. Where owners decide to rent or sell their empty property, it will also be up to the owner to decide who they rent or sell their property to.

**Do you have enough information to help you understand the diverse needs and/or experiences of your target audience?**

**If not, what else do you need to know?**

As noted earlier, we hope that the consultation process will provide further information on whether any particular equalities groups are likely to be affected by the levy because they own empty homes.

**What does the information you have tell you about how this policy might impact positively or negatively on the different groups within the target audience?**

Age	We have no information on this, although, where the local Housing Need and Demand Assessment identifies housing for older people as a priority, the Council may choose to use some of the additional revenue raised to provide additional housing for this group.
Disability	We have no information on this, although, where the local Housing Need and Demand Assessment identifies housing for disabled people as a priority, the Council may choose to use some of the additional revenue raised to provide additional housing for this group.
Gender	No information available as yet.
Lesbian, Gay, Bisexual & Transgender	No information available as yet.
Race	No information available as yet.
Religion and Belief	No information available as yet.

**Will you be making any changes to your policy?**

Please identify:

- what action you will take,
- who will take that action, and
- when that action will be taken

We will await feedback from this consultation before deciding whether any changes need to be made to the policy in order to support equalities groups.

**Does your policy provide the opportunity to promote equality of opportunity or good relations by altering the policy or working with others?**

Age	Yes	X	No	
Disability	Yes	X	No	
Gender	Yes		No	
Lesbian, Gay, Bisexual & Transgender	Yes		No	
Race	Yes		No	
Religion and Belief	Yes		No	

Age	As noted previously, the additional revenue provided could be used to provide affordable housing for older people, although it would be up to each Council to decide on priority projects, based on its own evidence of housing needs and demands in its area.
Disability	As noted previously, the additional revenue provided could be used to provide affordable housing for disabled people, although it would be up to each Council to decide on priority projects, based on its own evidence of housing needs and demands in its area.
Gender	Not specifically, although people from both genders could potentially benefit from additional housing (both affordable and market housing) being made available.
Lesbian, Gay, Bisexual & Transgender	Not specifically, although lesbian, gay, bisexual and transgender households could potentially benefit from additional housing (both affordable and market housing) being made available.
Race	Not specifically, although people from black and minority ethnic groups could potentially benefit from additional housing (both affordable and market housing) being made available.
Religion and Belief	Not specifically, although people from all religions and faith groups could potentially benefit from additional housing (both affordable and market housing) being made available.

**Based on the work you have done - rate the level of relevance of your policy**

	Age	Disability	Gender	LGBT	Religion and belief	Race
<b>High</b> <ul style="list-style-type: none"> <li>• There is substantial evidence that people from different groups or communities are (or could be) differently affected by the policy.</li> <li>• There is substantial public concern about the policy, or concerns have been raised about the policy's potential impact by relevant bodies.</li> <li>• The policy is relevant to all or part of the respective general duty In the case of race, disability and gender.</li> </ul>						
<b>Medium</b> <ul style="list-style-type: none"> <li>• There is some evidence that people from different groups or communities are (or could be) differently affected.</li> <li>• There is some public concern about the policy.</li> <li>• The policy is relevant to parts of the respective general duty In the case of race, disability and gender.</li> </ul>						
<b>Low</b> <ul style="list-style-type: none"> <li>• There is little or no evidence that some people from different groups or communities are (or could be) differently affected.</li> <li>• There is little or no evidence of public concern about the policy.</li> <li>• The policy has little or no relevance to the respective general duty In the case of race, disability and gender.</li> </ul>						
<b>Unknown</b> No evidence or data has been collected therefore an assessment cannot be made.	X	X	X	X	X	X

On the basis of feedback from this consultation, the SG hopes to be able to indicate in the final Impact Assessment the level of likely impact on each equalities group.

**Is a further impact assessment required?**

Age	Yes		No	
Disability	Yes		No	
Gender	Yes		No	
Lesbian, Gay, Bisexual & Transgender	Yes		No	
Race	Yes		No	
Religion and Belief	Yes		No	

We will confirm in the final Equality Impact Assessment whether we feel a further Impact Assessment or review will be required, based on the feedback and evidence provided.

**Please explain how you will monitor and evaluate this policy/function or strategy to measure progress?**

Scottish Councils will continue to have responsibility as the strategic housing authority for their area to monitor the levels and suitability of housing provided in their area. They will therefore be responsible for ensuring that any additional revenue raised from the Council Tax levy is appropriately targeted to help people with housing needs. The Scottish Government will request an overview from Councils on how their revenue has been spent, although this is not expected specifically to monitor how funds have been targeted at equalities or other groups as Councils are well placed to determine which groups have priority housing needs in their area.

The SG expects to monitor with Councils to what extent the levy powers are being used. If any significant issues arise in implementing the policy or there are unforeseen impacts on any particular equalities group, the SG will discuss with Councils the most appropriate way forward.

## DRAFT PARTIAL BUSINESS AND REGULATORY IMPACT ASSESSMENT

### Title of Proposal

Council Tax on long-term empty properties and Housing Support Grant Bill

### Purpose and intended effect

- **Background**

There are around 25,000 long-term empty (LTE) homes in Scotland<sup>13</sup>; these are homes which have been left unoccupied for six months or more. 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 currently 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. It is likely that some empty homes are owned by rural estate businesses or housing associations, although a number of properties that might fall into these categories are already likely to be exempt under existing provisions for agricultural properties or for social rented properties due for demolition. 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. It is hoped that the forthcoming consultation will give us more information about whether or not any other businesses own LTE properties which are liable for Council Tax.

The Scottish Government also proposes to abolish the requirement for Housing Support Grant (HSG). HSG was introduced in its current form in 1978 to tackle local authority housing debt, but has become an anachronism under the new system of local authority housing finance in place in Scotland (since April 2004), which places the responsibility of keeping debt levels sustainable squarely on the local authorities themselves. Currently, the grant costs under £1m/year and paid to one local authority (Shetland Islands Council) to fund a shortfall on their Housing Revenue Account. It therefore has no direct (or even any discernible indirect) impact on Scottish business as they do not benefit from it in any way. Given the insignificant impact of changes to HSG on Scottish business we have not referred to it individually in the following sections of this Impact Assessment.

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<sup>13</sup> Data as at September 2010, based on Local Government Council Tax returns data

- **Objective**  
The Scottish Government (SG) wishes to encourage owners to bring their empty homes back into use and to increase the resources available to fund additional affordable housing.

- **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 owners, many Councils feel that advice and encouragement alone will only work for some owners. Therefore, where appropriate an empty homes levy 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 a levy, 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 demand for affordable housing.

The SG also wishes to enable Councils to raise additional revenue to spend on providing much needed affordable housing, which could partly help to make up for the shortage of supply caused by existing housing being left empty.

### Consultation

- **Within Government**  
Housing officials have worked closely with colleagues working on Local Government policy and with Legal Directorate, along with Analytical Services, to develop workable proposals to implement the commitment to permit a Council Tax levy on LTE properties.
- **Public Consultation**  
Partial – This BRIA forms part of the public consultation on the proposals. We have already 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 three meetings with Council officers in August/ September 2011 to discuss and help us to develop the proposals for consultation on a Council Tax levy.
- **Business**  
We have not yet had face to face discussions with any businesses about the Council Tax levy proposals, although we have had a meeting with Scottish Land and Estates in July 2011 to discuss the proposals, as some of their members own empty homes and would be affected if their Councils decided to introduce a levy.

### Options

The following options have been considered to tackle the problem of empty homes in Scotland and raise revenue for affordable housing:

**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% (the great majority 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 likely be a limited impact on businesses from this option. As noted above, few businesses are likely to own LTE homes which would be liable for Council Tax and where they do, economic incentives already exist to encourage occupancy.

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 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. This option would also give local authorities access to limited further funds to support affordable housing, which would have some additional benefit to construction firms and housing professionals (surveyors, architects, lawyers, etc.) and the wider economy in due course.

- **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.**

- **Sectors and groups affected**

As noted above, few businesses are likely 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 a levy 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 a levy of less than full Council Tax rate.

We propose that Councils should also be able to offer time-limited exemptions from the levy to certain groups of people, for example people who are actively trying to sell their homes, if they feel it is appropriate so this may offer an opportunity for those who are genuinely trying to bring their home back into use not to be penalised. However, there will be a need to balance this flexibility with issues associated with policing any exemptions and the need not to allow owners to use loopholes to avoid paying the levy if they are not genuinely seeking to bring the property back into use.

- **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 affordable housing demand. 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 a levy 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 longer than six months as it imposes significant ongoing costs on owners for doing so. It would also allow Councils to raise significant additional revenue to support affordable housing if Councils agree to keep the existing ringfencing in place.

- **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 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 a levy. The level of cost increase per property will vary depending on:

- a) the level of levy the Council imposes (e.g. no levy (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 (54% fall into band A or B) so the additional cost per year to the owner if the maximum levy was applied compared to a current 10% discount would be in the region of £840 to £1,120 (based on current Council Tax rates). We do not propose that additional water and sewerage charges should be applied by Scottish Water alongside the levy.

### **Scottish Firms Impact Test**

Face to face interviews with businesses that could be affected will be carried out as part of the consultation process. However, as noted above, the main businesses likely to be affected are those acting as professional landlords. The Scottish Association of Landlords has previously commented as part of the Scottish Government's Private Rented Sector review<sup>14</sup> that their members were unlikely to leave their properties empty as this would not be profitable. Therefore very few businesses are likely to be 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 has 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.

In the social sector, there are a small number of housing associations with LTE properties that could be affected by the levy. The Scottish Government will be discussing with the affected Councils and housing associations whether there is a case for a limited exemptions from the levy for housing association homes that are not yet due to be demolished (due to new build work being undertaken), but are likely to be demolished in future.

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 levy. 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.

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<sup>14</sup> See <http://www.scotland.gov.uk/Publications/2009/03/23135229/20>

- **Test run of business forms**

There will not be any new forms under any of the three options. For options 2 and 3, we would propose that home owners should 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 the Council a property is empty and can back this duty up with the power to impose an additional 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 prosecute owners 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 are suspected of seeking to avoid paying the Council Tax levy by not being honest about the property's status, although a Council would only be likely to introduce a levy where the benefits from empty homes brought into use and additional revenue raised sufficiently outweighed any additional ongoing costs of enforcing the levy.

**Implementation and delivery plan**

Subject to the outcome of the consultation, Councils should be able to implement the new Council Tax levy 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 a levy (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**

On balance, the Scottish Government proposes that **option 3** should be 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 and providing extra funding for affordable housing. However, feedback from businesses and other

stakeholders will be taken into account as part of the consultation process and will allow the SG to consider further whether this is the best option to pursue.

### Summary costs and benefits table

It is difficult to provide cost estimates for some of the options being considered in advance of receiving consultation feedback from businesses, individuals and local authorities. However, the table below indicates potential costs for each option relative to the others.

<b>Option number</b>	<b>Total benefit per annum: economic, environmental, social</b>	<b>Total cost per annum: economic, environmental, social, policy and administrative</b>
<b>1</b>	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 (except in the few cases where Councils move from a 50% to a 10% discount).
<b>2</b>	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 to support affordable housing (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 for each empty home would be approx. £80-£110/year, depending on the area and Council Tax band.
<b>3</b>	Offers significant benefits in providing a strong incentive for empty home owners to bring their properties back into use and raising up to £30m/year in revenue for affordable housing (although this is where all Councils charged the maximum levy and assumes only 10% of empty homes are brought back into use each year so the actual level of revenue is likely to be significantly 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.	The maximum additional cost to businesses that own an empty home(s) and do not bring it back into use would be in the region of £840 to £1,120/year for each home where a Council chose to impose the maximum 100% Council Tax levy.



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