

**COUNCIL TAX ON EMPTY PROPERTIES**

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**1.0 SUMMARY**

- 1.1 There have been a number of recent legislative changes to the rules in respect of council tax and non-domestic rates charges for empty premises which come into effect on 1 April 2013.
- 1.2 In November 2004 and December 2004, Council decided to exercise its discretion to reduce the discount for council tax on long term empty and second homes across the whole council area from 50% to 10%. The legislation under which this was done is repealed with effect from 1 April 2013. The new legislation defines new categories of unoccupied properties which differ from the previous categories, and there are new discretions for charging council tax for these new categories. For 2013-14 the Council agreed to mirror the previous arrangements for charging as far as possible to allow time to ascertain which properties fall within each of the new categories and to defer more significant changes to 2014-15 onwards. This would then allow reasonable notice of such changes to be given to council tax payers.
- 1.3 Currently c. 3% of all domestic dwellings across Argyll and Bute are lying unoccupied. The paper proposes to utilise the new discretions and to charge double council tax on unoccupied properties which have been unoccupied for over 12 months for 2014-15 and onwards. For those properties which are being actively marketed for sale or for let, double council tax would only be charged after they have been continuously unoccupied for two years or more. This is being recommended as it will help to encourage owners to bring back these properties into use.

**2.0 RECOMMENDATIONS**

- 2.1 Council exercises its discretion under regulation 4 The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 to increase the council tax charge on unoccupied properties which are not being actively marketed for sale or for let under appropriate conditions and which have been unoccupied for over 12 months by 100% across the whole of the council area with effect from 1 April 2014.
- 2.2 Council exercises its discretion under regulation 4 The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 to increase the council tax charge on unoccupied properties which are being actively marketed for sale or for let under appropriate conditions and which have been unoccupied for over 24 months by 100% across the whole of the council area with effect from 1 April 2014.

- 2.3 Council exercises its power to charge a civil penalty of £500 under Schedule 3 Local Government Finance Act 1992 where a person fails to supply information as to occupancy or fails to correct an assumption about occupancy.

### **3.0 DETAIL**

- 3.1 The Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 received Royal Assent on 5 December 2012. This provided enabling powers for further regulations to modify council tax discounts such that there can be variations allowing for up to a doubling of the council tax charge. Further regulations were laid in February 2013 entitled The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013.
- 3.2 In November and December 2004, Council decided to exercise its discretion to reduce the discount for council tax on long term empty and second homes across the council area from 50% to 10%. The legislation under which this was done was repealed with effect from 1 April 2013. The new legislation is the Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 and affects the council tax bills for 2013-14. The new legislation defines new categories of unoccupied properties which differ from the previous categories, and there are new discretions for charging council tax for these new categories
- 3.3 Previously a second home was a domestic dwelling which was no-one's sole or main residence and was furnished. A long-term empty dwelling was a domestic dwelling which was no-one's sole or main residence and had received a period of empty unfurnished exemption. Both categories received a 10% discount from council tax.
- 3.4 A second home is now defined as a domestic dwelling which is no-one's sole or main residence and is furnished, but has also been lived in other than as a sole or main residence for at least 25 days in a rolling 12 months' period. An unoccupied dwelling is a domestic dwelling which is no-one's sole or main residence but which is not a second home. The other change is that local authorities are allowed to increase the council tax charge on certain unoccupied dwellings by up to 100%. Purpose-built holiday homes and job-related dwellings must still be given a 50% discount as previously, as must dwellings undergoing major repair work for a 6 month period from date of purchase.
- 3.5 In March 2013 Council agreed to mirror the previous arrangements for charging for 2013-14 as far as possible, to allow time to ascertain which properties fall within each of the new categories and to defer more significant changes to 2014-15 onwards. This would then allow reasonable notice of such changes to be given to council tax payers. Council agreed to exercise its discretion under The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 (SSI 2013/45) to reduce the discount for council tax on unoccupied dwellings and second homes across the council area from 50% to 10%. This mirrored the decisions made in November and December 2004.
- 3.6 The council tax section have since contacted all owners of properties classed as second homes to determine whether they meet the new requirement for a minimum of 25 days occupancy in the last 12 months. Further reminders were issued on 8 May to the remaining 672 and they were informed that if they did not reply within 21 days a civil penalty of £200 would be added to their council tax account and they will be re-classified as unoccupied dwelling. By 5<sup>th</sup> June the £200 civil penalty was

applied to 175 accounts who still had not responded and these accounts were re-classified as unoccupied dwellings rather than as second homes.

- 3.7 Second home owners will be encouraged to maintain records of occupancy as a second home from 1 April 2013 onwards so that they can produce the necessary evidence as required by the new legislation.
- 3.8 The regulations allow the council to determine that, instead of a reduced discount of a minimum of 10%, no discount, or an increase in council tax of up to 100% may apply. An increase in council tax can only apply where the dwelling has been continuously unoccupied for over 12 months. There are exemptions for properties that are being actively marketed for sale or let provided that the period of continuous inoccupation is for less than 2 years. If the council were to exercise such powers, this could result in further income which would undoubtedly be welcome.
- 3.9 Previous income from the reduction in the 50% discount has been ring-fenced to the Strategic Housing Fund and will continue to be ring-fenced in this way. New income from the new legislation through reducing the discount on long-term empty properties below the previous 10% limit or through increasing the council tax charge by up to 100% is not ring-fenced in the same way and can be used as the local authority sees fit on housing or other priorities. This has been confirmed by updated guidance produced by the Scottish Government on 21 May 2013.
- 3.10 As at 5 June, there are 1,470 properties now classed as unoccupied dwellings. It is proposed to charge double council tax on all these properties from 1 April 2014 unless they have been occupied within the last 12 months or are being actively marketed for sale or let under appropriate conditions. If they are being actively marketed for sale or let under appropriate conditions, then we would defer the charge to double tax until they have been unoccupied for 2 years or more. This means that if at 1 April 2014 they had been unoccupied since at least 1 April 2012, they would immediately be charged double council tax from 1 April 2014. If they are not being marketed for sale or let and have been unoccupied continuously since 1 April 2013, then they would also be charged double council tax from 1 April 2014.
- 3.11 Currently it is difficult to make an accurate estimate of the additional income that would be gained from choosing to charge double council tax on unoccupied dwellings due to on-going uncertainties about the numbers. However, a rough guide can be obtained using the following assumptions:
  - Assume 25% of unoccupied properties are either being actively marketed for sale or let and have been unoccupied for less than 2 years; or have been unoccupied for less than 12 months
- 3.12 We are also aware that the number of properties classed as a second homes or an unoccupied dwelling in total has dropped by c 400 properties since September 2012. It is possible that some of these are not being lived in as someone's sole or main residence and they are happy to lose the 10% discount now in order to avoid a potential increase in future years. A further exercise will be carried out to review all properties where we have no details of named occupants and this will have the potential to further increase the numbers classed as unoccupied dwellings. Overall our best estimate of the potential increase in council tax income is £1.2m of which c £1.1m should be collectable. It is however expected that the additional income could vary from as little as £0.7m to as much as £1.55m.
- 3.13 The increased charge is expected to drive some changes in behaviour of people who may seek to avoid the charge. Some people will sell or let their properties

rather than have to pay an increased charge. Others may make them available for short-term self-catering lets. Some will furnish their properties and use them as second homes. Whilst these behaviours will reduce the income to the council, they will directly benefit the economy of the area and reduce the number of long term empty properties which are in a poor condition and a target for vandals. Owners will have more of an incentive to work with the council's empty homes officer to help bring these properties back into use.

- 3.14 In September 2004, the number of properties receiving a 50% discount was 4,716. In the following April, the discounts were reduced to 10% and this number, which includes both second homes and unoccupied dwellings, fell to 3,806 by September 2005. However by September 2012, the number has risen virtually back to the 2004 levels and is sitting at 4,674 – nearly 10% of all properties. The reduction in discount to 10% is clearly no longer acting as a driving force to bring these properties back into full use. Whilst many of them are used as second homes, it is estimated that c 3% are long term unoccupied and bring no benefit to the area.
- 3.15 The increase in council tax charge is therefore recommended for both the potential to reduce the number of empty properties as well as the potential to increase council resources. It is proposed to bring in this change from 1 April 2014. The increase in council tax income could be used to provide further resource for housing for our area or for other matters. It is not ring fenced unlike the reduction in council tax discount.

#### CHANGES TO CIVIL PENALTIES

- 3.15 The Council Tax (Administration and Enforcement) (Scotland) Amendment Regulations 2012 (SSI 2012/338) came into force on 9 February 2013 and allow a civil penalty of up to £500 to be levied on a person who fails to provide information within 21 days as to occupancy about a council tax dwelling when this has been requested by a local authority. The person must appear to the local authority to be a resident, owner or managing agent in respect of that dwelling. The information must have been requested for the purpose of ascertaining whether the council tax chargeable should be subject to variation because there was or will be no-one resident in that dwelling.
- 3.16 This new civil penalty recognises the necessity for local authorities to have accurate information about residents should they wish to utilise the new powers to charge up to double council tax on unoccupied dwellings which are not second homes. This new civil penalty replaces previous civil penalties of £50 for a first failure and £200 for a subsequent failure to provide information to correct assumptions about discounts.
- 3.17 This council has, in common with most other councils, generally not levied civil penalties as these can be difficult to collect. However, we have already seen a high non-response rate to second home owners when we wrote out in March to ascertain if their property was correctly classified as a second home under the new definition. Some 6 weeks later c 22% had still not replied. Reminders were issued to all of these advising that if they did not reply within 21 days, the council would levy a civil penalty of £200. £200 was chosen as the previous civil penalties were for £50 for a first failure and £200 for a subsequent failure to respond and this was a second request.
- 3.18 The new legislation allows a first penalty of up to £500 and the same again for a subsequent penalty. Both apply not just to a failure to respond, but also to the

deliberate giving of inaccurate information. The previous levels had remained unchanged since 1992. This also has to be considered in relation to the potential levels of income that would be foregone by the council if the information provided is inaccurate. £500 is equivalent to the potential increase for 7.5 months' council tax for a Band A property or just 2.5 months' for a Band H property. The recommendation is now made to charge the full £500 for a first failure and for a subsequent failure to provide information, or for deliberately providing inaccurate information.

### Implementation

- 3.19 If this policy is approved, it is proposed to write out as soon as practical to all owners of properties currently classed as unoccupied to advise them of the proposed increase in council tax charge for such properties from 1 April 2014. They would also be given details of the exemptions from the increase for properties being actively marketed for sale or let provided they have not been unoccupied for more than 2 years. They would be given details of the council's empty homes policy and the assistance available under that policy to bring homes back into use.
- 3.20 Then in late December 2013 or early January 2014, a further mailshot would be issued to all properties which are likely to be unoccupied for over one year by April 2014 but under two years, to see if they should be exempted from double council tax on the grounds that they are being actively marketed for sale or let with appropriate conditions. This would be done in time to ensure records are updated prior to council tax annual billing in mid February 2014.

## **4.0 IMPLICATIONS**

- 4.1 Policy: This proposes the council exercises new powers to increase council tax by 100% on certain unoccupied dwellings. This will provide additional council tax income and also provide incentives to bring these properties back into use. It also proposes to levy a civil penalty of £500 for failing to provide information about a property's occupancy or deliberately giving inaccurate information.
- 4.2 Financial: Potential increase in recurring council tax income of £0.7m to £1.55m. This increase will not be ring-fenced and will be available to council to spend as it sees fit.
- 4.3 Legal: Proposals are in accordance with new legislation for council tax which came into effect from 1 April 2013
- 4.4 HR: None
- 4.5 Equalities: Scottish Government completed an equalities impact assessment as part of their consultation into these changes. Owners of unoccupied property are not expected to fall disproportionately into any particular equalities group.

4.6 Risk: Potential for non-payment of the increased charge/  
civil penalty.

4.7 Customer Service: Will need to give as much notice as possible to  
owners of long term unoccupied property.

Appendix 1: Overview of impact on council tax charges by type of property

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Background papers

Consultation on the regulations on council tax charges on long-term empty homes:  
Council 20 September 2012

Strategic Housing Finance Review – Increasing Access to suitable, affordable  
housing: Council 23 August 2012

Consultation on proposal for council tax on long term empty homes: Executive 15  
December 2011

Council tax discount on second homes and long term empty homes: Council 21  
December 2004

Council tax discount on second homes and long term empty homes: Council 24  
November 2004

Council tax and non-domestic rates on empty properties: Council 21 March 2013

**Appendix 1: Overview of impact on council tax charges by type of property**

| <b>Type of property</b>   | <b>Position</b> | <b>0 to 6 months</b>  | <b>7 to 12 months</b> | <b>13 to 24 months</b> | <b>Over 24 months</b> |
|---|-----------------|---|-----------------------|------------------------|-----------------------|
| Unoccupied and unfurnished, not being marketed for sale or let  | Current         | 100% Exemption  | 10% discount          |                        |                       |
|   | Proposed        | 100% Exemption  | 10% discount          | 100% increase          |                       |
| Unoccupied and unfurnished, being actively marketed for sale or let   | Current         | 100% Exemption  | 10% discount          |                        |                       |
|   | Proposed        | 100% Exemption  | 10% discount          |                        | 100% increase         |
| Unoccupied and furnished, not being marketed for sale or let  | Current         | 10% discount  |                       |                        |                       |
|   | Proposed        | 10% discount  |                       | 100% increase          |                       |
| Unoccupied and furnished, being actively marketed for sale or let   | Current         | 10% discount  |                       |                        |                       |
|   | Proposed        | 10% discount  |                       |                        | 100% increase         |
| Unoccupied and undergoing major repairs. Occupied prior to start of works   | Current         | 100% exemption for duration of works up to 12 months, then 10% discount | 10% discount          |                        |                       |
|   | Proposed        | 100% exemption for duration of works up to 12 months, then 10% discount | 100% increase         |                        |                       |
| Unoccupied property purchased by new owner which needs major repairs.   | Current         | 50% discount  | 10% discount          |                        |                       |
|   | Proposed        | 50% discount  | 10% discount          | 100% increase          |                       |
| Second home occupied for at least 25 days p.a.  | Current         | 10% discount  |                       |                        |                       |
|   | Proposed        | 10% discount  |                       |                        |                       |
| Purpose built holiday homes, or job related accommodation or 2 <sup>nd</sup> homes of those living in job-related accommodation | Current         | 50% discount  |                       |                        |                       |
|   | Proposed        | 50 % discount   |                       |                        |                       |