

Consultation on regulations to enable a council tax increase on long-term empty homes

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Argyll and Bute Council

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3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick **ONE** of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate Yes No

Consultation Questions

Question 1 Do you agree with the proposed definitions of a long-term unoccupied home and an unoccupied home in the draft Variation for Unoccupied Dwellings regulations?

Response:

No.

The draft regulations incorporate the following definitions:

“second home” means a dwelling which is no-one’s sole or main residence, but which a local authority is satisfied is occupied for at least 20 days in any financial year; and

“unoccupied dwelling” means a dwelling, furnished or unfurnished, which has no resident and which is not a second home, and “long-term unoccupied” in relation to such a dwelling means that, for at least a year since becoming unoccupied, the dwelling has not been occupied for a continuous period of over 20 days.

The definition of a second home is sufficiently clear. However it will be difficult to determine occupancy for the 20 day period (see response to question 2 below). Consideration should be given to pro-rating the 20 day period for new owners/tenants who become liable as the council tax payer part way through a year.

It is inconsistent to have “furnished or unfurnished” as part of the definition of “unoccupied dwelling” but not also in the definition of “second home”. Both categories could be furnished or unfurnished from these definitions. The definition for “unoccupied dwelling” should mirror the “second home” definition and state “a dwelling which is no-one’s sole or main residence” rather than “which has no resident”. The concept of “sole or main residence” is well established in council tax case law and this should be retained in both these definitions.

Question 2 Do you agree that:

- a) only homes which owners can demonstrate are used for a minimum of 20 days per tax year should be classed as second homes?
- b) an unoccupied home should need to be reoccupied for more than 20 continuous days before restarting the clock for the purpose of determining whether or not it is a long-term unoccupied dwelling?

Response:

- a) Yes but some modifications should be made.

This council has large numbers of second homes with 3,907 noted as such on the council tax register as at 31 August 2012 which is over 8% of all dwellings in the council’s area. There are also 755 properties currently classed as long-term empty. The change in definition will undoubtedly change the split between these two categories. We agree

that it is important to differentiate as it is only long term empty properties which are available to be brought back into use. We agree also that the difference has to be based on some degree of usage. We would suggest that the requirement for a number of days use should be pro-rated based on the number of days there is liability for that property in the council tax year, otherwise this may be seen as unfair. We are concerned about the ability to ensure that such occupation has actually taken place. We would be reliant on council tax payers maintaining records and certifying this level of occupation retrospectively. Utility bills may not provide much evidence of occupation is mainly in summer months. We would therefore like a requirement for liable parties to be required to maintain records and provide local authorities with an annual report of occupancy of second homes to be built into the regulations.

b) No.

It does not appear to be logical that the required period of occupation should be 20 continuous days before re-starting the clock. If a property is occupied for 20 days within any financial year, then it is classed as a second home and not as unoccupied. The definition should simply be that the dwelling has been classed as an “unoccupied dwelling” for at least a year.

Question 3 Do you agree that Councils should have the discretion to be able to apply a discount of between 10% and 50% for homes which have been unoccupied for between six and twelve months?

Response:

Yes.

At present furnished homes in our council area (being classed as second homes) only receive a 10% discount if unoccupied, whereas unfurnished properties get 6 months exemption followed by 6 months with 50% discount, and then it reduces to 10% discount after a full 12 months. Landlords feel this lack of parity between furnished and unfurnished letting properties is unfair. We would therefore welcome the ability to reduce the discount on homes which have been unoccupied for 6 to 12 months. This would potentially reduce this disparity, and also encourage landlords to get new tenants in more quickly.

Question 4 Do you agree that owners actively seeking to sell or let their home should be protected from a council tax increase for up to two years after the home first becomes unoccupied?

Response:

Yes.

We would like to see the regulations go further and protect landlords of furnished properties from a reduction in the discount of 50% for the first 6 months. Currently if a local authority has decided to reduce the discount on second homes to 10% from 50%, there is no mechanism to distinguish furnished lets from second homes. The new draft regulations may also catch furnished lets within the definition of second homes rather than unoccupied homes where flexibility is offered. Unfurnished properties qualify for a 6 months exemption although they could also fall into the definition of unoccupied dwellings if they remain empty for a full year.

Question 5 Do you think that Councils should be given discretion to apply the council tax increase to certain categories of long-term unoccupied homes, but not others, based on their own local priorities? If so, what should those categories be?

Response:

We would like the flexibility to exempt certain categories from the proposed council tax increase such as registered social landlords who may be holding hard to let housing stock which is used from time to time for decants, and also to exempting some properties which may be difficult to sell due to particular factors such as a risk of subsidence or difficulties with water and sewerage supplies which may make it hard for a buyer to get a mortgage on the property.

Question 6 Do you think there should be any transitional provisions in the draft Variation for Unoccupied Dwellings regulations so the regulations would come into force on a phased basis? If so, please provide details.

Response:

Local authorities who have previously reduced the discount from 50% to 10% for second home and long-term empty properties will want to implement the new regulations at least to some extent in as smooth a way as possible, and not lose the benefit they have previously enjoyed from these reductions in discount. These new regulations are due to come in from 1 April and these will revoke the 2005 regulations from that date also. It will be important to give council tax payers requisite notice of these changes and to have categorisations as correct as possible in advance of annual council tax billing runs which take place in late February each year. For this reason, transitional provisions should be in place to allow local authorities to continue to bill on the basis of the old regulations for the 2012/13 council tax year.

Question 7 Do you agree with the other provisions set out in the draft Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013? (Please provide any comments on any issues in relation to these regulations which are not covered under questions 1 to 6.)

Response:

There are some minor drafting comments below about these draft regulations.

Regulation 4 a) should be renamed as Regulation 4 (1).

The wording of Regulation 6 paragraph 2 should be re-examined. Whilst the policy intent is clear – that dwellings in Schedule 2 part 2 should continue to receive a minimum discount of 10% and not be subject to an additional council tax charge even if these are long term unoccupied – and we are content with this, it is difficult to follow the drafting and may be confusing to members of the public.

We understand that regulation 6 (3) aims to allow additional council tax of up to 100% to be charged for long-term unoccupied properties of a class not specified in Schedule 2 part 2. Whilst pleased to have this flexibility, we would ask that you look again at the drafting of this in relation to regulation 5 to ensure this has the desired effect. Regulation 5 (a) allows the discount to be varied but makes no reference to levying an additional charge which is necessary for regulation 6(3).

Schedule 1 paragraph 2 (5) (a) is missing the word “or” after “director;”

Question 8 Do you agree with the proposed requirements in the draft Council Tax (Administration and Enforcement) (Scotland) Amendment Regulations that:

- a) owners, residents or managing agents should have to provide information to a Council if it is requested about whether or not a home is occupied?
- b) owners should have to inform their Council if they have reason to believe they have been undercharged because the Council has misunderstood the occupation status of the home?

Response:
Yes.

However, we would also like a requirement for liable parties to be required to maintain records and provide local authorities with an annual report of occupancy of second homes to be built into these regulations – see response to question 2 above.

Question 9 Do you think there should be any transitional provisions in the draft Administration and Enforcement Amendment regulations so the regulations would come into force on a phased basis? If so, please provide details.

Response:
No. We don't think these would be necessary.

Question 10 Do you agree with the other provisions laid out in The Council Tax (Administration and Enforcement) (Scotland) Amendment Regulations 2013? If not, please provide comments.

Response:

Yes – these seem appropriate.

Question 11 Do you agree with the provisions laid out in The Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2013? If not, please provide comments.

Response:

Yes we agree with these proposals although we have not had many cases of people misusing this exemption.

Other comments

The Council would like to re-iterate its comments to the previous consultation that any additional revenue from these policy changes should not be ring fenced. Councils 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. Councils may well wish to utilise these monies to support a broad range of housing initiatives aimed 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 help to make many more properties available at better value to the community.

Shelter Scotland, who is currently hosting the Scottish Empty Homes Partnership, has written to councils pointing out the key role that empty homes officers within councils can play in maintaining detailed records of empty homes, supplying help, advice and incentives to owners who genuinely need such support and indeed being the portal for receiving evidence that homes are indeed second homes rather than empty homes.

This Council supports their position, and has recently approved the appointment of an Empty Homes Officer to take forward the wide range of work required to effectively tackle the issue and to ensure that specialist information and advice is available to assist owners through the process of bringing their homes back into effective use. It has also approved the utilisations of the Strategic Housing Fund to provide refurbishment grants and loans to owners of empty properties on certain conditions.