
COUNCIL TAX – LONG TERM EMPTY DWELLINGS

Report by Service Director Neighbourhood Services

SCOTTISH BORDERS COUNCIL

11 February 2016

1 PURPOSE AND SUMMARY

- 1.1 The purpose of this report is to summarise the new powers to increase Council Tax on long term empty dwellings up to a maximum of 200% and the positive financial impact from implementing the change which is being captured as part of the 2016/17 Financial Planning process.**
- 1.2 The report outlines the background of the new discretionary powers and the current position within Scottish Borders Council regarding discounts and exemptions applied to long term empty dwellings.
- 1.3 When the new powers were granted Scottish Borders Council was not in a position to implement the increase as the data held was insufficient to apply the regulations. Since then a data gathering and cleansing exercise has begun and is on-going to enable implementation on 1 April 2016.

2 RECOMMENDATIONS

- 2.1 **It is recommended that the Council approves:**
 - a) A levy of 200% to be applied on council tax charges for domestic properties that meet the long term empty property criteria.**
 - b) That a civil penalty of £500 is imposed for non-compliance with the requirement to disclose relevant information on property status.**
 - c) Discretion to modify different classes of dwellings exempt from the additional charge is delegated to the Service Director Neighbourhood Services to be used in exceptional circumstances on a case by case basis.**
 - d) The implementation date will be from 1 April 2016.**

3 BACKGROUND

- 3.1 In 2005 the Scottish Government passed regulations to enhance discretionary powers allowing Councils to vary discounts awarded to long term empty dwellings and second homes between 10% and 50%. This discretion was implemented in Scottish Borders Council from 1 April 2005 resulting in a 90% Council Tax charge to long term empty properties. The increased income generated from charging more than 50% is ring-fenced for affordable housing and a return is submitted to Scottish Government in March each year.
- 3.2 On 1 April 2013 the discretionary powers were enhanced and allow for local authorities to charge up to a maximum of 200% on long term empty dwellings. Currently these dwellings receive a 90% charge.
- 3.3 Under the new legislation, any new income received through reducing the discount on long term empty properties below the previous 10% limit and by increasing Council Tax is not ring-fenced, and can be used as the local authority sees fit.
- 3.4 There will be no effect on the central Government grant – as long-term empty properties are counted as half a dwelling in the calculation of the Council Tax base and this remains unchanged.
- 3.5 The enhanced powers relate to only long term empty properties and owners with second homes will not be affected by this change.
- 3.6 The powers define what constitutes a long term empty property as one which has not been lived in for a period of at least 25 days in any rolling 12 month period.
- 3.7 Owners will still be able to claim existing mandatory discounts and exemptions under the Council Tax (Exempt Dwelling) (Scotland) Order 1997. However where the property is no longer eligible for the exemption, but remains unoccupied it will become eligible for the Council Tax increase after the property has been empty for one year from the date it became unoccupied.
- 3.8 Homes that are being marketed for sale or let, or are undergoing renovation to bring them to a habitable standard, will be exempt from the Council Tax increase until they have been unoccupied for two years or more. These homes will remain liable for Council Tax and will attract a discount of between 50% and 10%. New build properties are also exempt from the increase if they are genuinely being marketed for sale or let at a realistic price.
- 3.9 The legislation gives local authorities discretion to vary the council tax charged for different cases where it considers it appropriate to do so. This could include charging different rates according to the area the dwelling is located in or the length of time the dwelling has been unoccupied. This is intended to recognise that different pressures and factors will affect different areas. However these discretionary powers should not be used to vary Council Tax charges in a way that gives more favourable treatment to unoccupied social rented dwelling.

3.10 It should be noted that whilst implementation of these powers will raise additional revenues for Scottish Borders Council, this is not the overriding aim of the policy - the aim is to encourage owners of long term empty properties to bring these back into use, and it is anticipated income will decline as more properties are brought back into use

4 EXPERIENCE OF OTHER LOCAL AUTHORITIES

Researching the experience of a number of local authorities that have implemented the new discretionary powers revealed the following.

- 4.1 Activities required to implement the new policy included
 - Conducting a data gathering exercise
 - Conducting a data cleansing exercise
 - Developing processes to ensure the correct application of levies on an ongoing basis
 - Developing a 'discretionary' policy
 - Developing monitoring procedures
 - Developing a communications campaign to give owners appropriate notice ahead of the levy
- 4.2 Additional set-up and ongoing costs were incurred that were offset against the income raised.
- 4.3 There is evidence that significant numbers of people are deliberately evading the charge. This is being addressed in different ways including the employment of enforcement officers and use of penalty charges.
- 4.4 Not all local authorities were able to provide information on the recovery level for the additional charge under the new legislation, but those that could indicated a level of approximately 80%.
- 4.5 A significant number of properties have moved from the valuation list to the valuation roll - e.g. Empty properties have been re-designated as holiday lets.
- 4.6 There has been substantial movement of properties back into the rental and homeowner markets, which has had an impact on the projected recovery levels. Experience suggests that revenues plateau when between 40% and 50% of the initial number of properties are removed from long term empty status.
- 4.7 The implementation has not been without difficulties. Generally the Local Authorities have experienced a substantial rise in valuation appeals. The main areas of complaint have been around delays in obtaining planning and building warrants, and also where the levy has been applied to derelict properties on farmland.

5 FINDINGS FOR SCOTTISH BORDERS COUNCIL

- 5.1 Scottish Borders Council does not currently collect all the detail necessary to apply the levy and applicable exemptions in accordance with the updated powers. Cleansing work is being progressed to identify those properties that fall into the long term empty category as defined by the legislation. Scottish Borders Council is in the process of conducting a data gathering and cleansing exercise to ensure the levy is correctly applied on implementation and thereafter. The last full review was carried out in 2012 but work has been undertaken in the past year to update the data held and is on-going.
- 5.2 The table below sets out the projected Council Tax revenue position following the removal of the 10% discount and the application of a 200% levy.

Band	Properties per report	Annual Council Tax £	Current Charge (90%)	200% Charge	Increased Revenue
A	387	722.70	251,716	559,370	307,653
B	184	843.10	139,617	310,261	170,643
C	106	963.60	91,927	204,283	112,356
D	77	1084.00	75,121	166,936	91,815
E	59	1325.00	70,358	156,350	85,993
F	40	1566.00	56,376	125,280	68,904
G	29	1807.00	47,163	104,806	57,643
H	6	2168.00	11,707	26,016	14,309
	888		743,985	1,653,302	909,316

- 5.3 The property figures are based on 2014-15 figures. Some manual cleansing work has been carried out to identify those properties that fall into the long term empty category as defined by the legislation.
- 5.4 The financial figures are based on 2014-15 figures and are high-end estimates as the results of the data gathering and the potential increased charges are likely to reduce the numbers significantly. Assuming an 80% recovery level, income of £727k would be generated, however this is not sustainable in the longer term as properties are brought back into use.
- 5.5 £500k has been included in the Financial Plan for 2016/17 which allows budget for implementation plus lower than anticipated income from discretionary powers. If any higher savings were realised initially this would be dealt with through normal monitoring procedures.
- 5.6 It is likely that the increase in revenue will decline over time as more properties are brought back into use. However it is difficult to project if the number would be affected by the percentage at which the levy is set. This will be dealt with as part of the financial planning process
- 5.7 Additional resources will be required to deal with ensuing enquiries, for staff training and to monitor and police the system. There will be costs associated with this and potentially for enhancement to the Council Tax system which will be paid from the additional income generated.
- 5.8 The regulations allow for a civil penalty of £500 per breach. Consideration should be given to Scottish Borders Council enforcing the penalty against any

owner who deliberately fails to provide information, fails to report a relevant change of circumstances, or knowingly provides information that is incorrect.

6 IMPLICATIONS

6.1 Financial

The financial implications are set out above in section 5.

6.2 Risk and Mitigations

The proposals in this report are to enable the Council to apply the regulations and utilise discretionary powers now that steps have been taken and are on-going to enable implementation on 1st April 2016.

6.3 Equalities

An Equality Impact Assessment was carried out as part of the Scottish Government's consultation exercise. This demonstrated no negative impact on any particular equality; indeed, the aim of this policy – to increase available housing – is likely to provide positive effects.

6.4 Acting Sustainably

The aim of this policy – to increase available housing – is likely to provide positive effects in respect of economic, social or environmental matters.

6.5 Carbon Management

No direct carbon emissions impacts arise as a result of this report.

6.6 Rural Proofing

The change aims to reduce the number of empty properties subject to Council Tax which should encourage the rental, sale or change of use to holiday lets for current empty properties including those in rural areas. This is likely to create a positive influence on the availability and affordability of properties within rural areas with consequential benefits to the relevant communities.

6.7 Changes to Scheme of Administration or Scheme of Delegation

The proposals in this report require changes to the Scheme of Delegation to give the Service Director of Neighbourhood Operations delegated authority to modify different classes of dwellings exempt from the additional charge on a case by case basis in exceptional circumstances.

7 CONSULTATION

7.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted and their comments have been incorporated into the final report.

7.2 The Group Manager Housing Strategy and Services and the Housing Strategy Manager have also been consulted.

Approved by

Service Director Neighbourhood Services Signature

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Background Papers: Guidance on Local Authority Discretion to Reduce Council Tax Discount on Second and Long-Term unoccupied homes; and Apply an Increase to Long-Term Unoccupied Homes. Scottish Government 21 May 2013

Previous Minute Reference: None

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Les Grant can also give information on other language translations as well as providing additional copies.

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