

**Council Tax on Long Term Empty Properties.****Report by Eibhlin McHugh, Joint Director, Health and Social Care****1. Purpose of the Report**

- 1.1** The report outlines the background of the discretionary powers and the current position within Midlothian Council regarding discounts and exemptions applied to long term empty dwellings.
- 1.2** Empty properties are a wasted asset that can be costly to both the owner and the local community; they can deteriorate rapidly and become targets for vandalism or crime, and can have a negative impact on the appearance of a street and the values and saleability of neighbouring properties. Also, empty homes can cost owners thousands of pounds each year through continuing Council Tax, liabilities, Insurance, security (e.g. boarding up windows) and maintenance. Bringing homes back into use not only saves these costs to the owner, it also provides rental income or a lump sum through sale. With 4,846 households currently on the Council's Housing List it is recognised that making use of empty homes could help address the need for more affordable housing in Midlothian.
- 1.3** The purpose is to summarise the 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 2017/18 Financial Strategy planning process.

**2. Background**

- 2.1** 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 Midlothian 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.
- 2.2** 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 in Midlothian receive a 90% charge.

- 2.3** 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.
- 2.4** 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.
- 2.5** The enhanced powers relate to only long term empty properties and owners with second homes will not be affected by this change.
- 2.6** The powers define what constitutes a second home as one which has been lived in for a period of at least 25 days in any rolling 12 month period.
- 2.7** 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.
- 2.8** Homes that are being marketed for sale or let 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.
- 2.9** 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 an unoccupied social rented dwelling. It should be noted that there are currently no social rented properties in Midlothian that are long term empty in Midlothian so these will most often be privately owned properties.
- 2.10** Although implementation of these powers will raise additional revenues for Midlothian Council, it is not the overriding aim of the policy, which is to encourage owners of long term empty properties to bring these back into use. It is anticipated income will decline as more properties are brought back into use.

### **3 Other Local Authorities Experience**

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

- 3.1** Additional set-up and ongoing costs were incurred that were offset against

the income raised.

- 3.2 Significant numbers of people deliberately evade the charge, which is addressed in different ways including the employment of enforcement officers and use of penalty charges.
- 3.3 Information on the recovery level for the additional charge under the new legislation indicates a level of approximately 80%.
- 3.4 There is movement of properties back into the rental and homeowner markets, which has an impact on the projected recovery levels. Experience in other authorities suggests that revenues plateau when between 40% and 50% of the initial number of properties are removed from long term empty status.
- 3.5 The Local Authorities have experienced a substantial rise in valuation appeals and activities.

#### 4 Existing Treatment of Unoccupied Properties in Midlothian

- 4.1 In accordance with the provisions of existing legislation and policies previously agreed by Members, unoccupied domestic properties may be entitled a reduction. Amongst the reductions to which they may be entitled are:
  - a) **properties which are unoccupied and unfurnished:** an entitlement to six months" exemption from the date of last occupation, followed by six months" entitlement to fifty per cent discount, followed by ten per cent discount;
  - b) **properties which are unoccupied and furnished:** ten per cent discount;
  - c) **properties which are holiday homes:** ten per cent discount;
  - d) **properties which are undergoing repairs or structural alteration:** an entitlement to twelve months exemption from the date of last occupation, followed by ten per cent discount;
  - e) **properties which are in need of repair at purchase:** an entitlement to six months fifty per cent discount from the date of purchase, followed by ten per cent discount.

There is also provision within legislation for a property to be exempted from the payment of Council Tax if it satisfies statutory criteria (e.g. a property which was formerly occupied by an agricultural worker, a property which was occupied by a person now in receipt of residential care, or a property which was last occupied by a person who is now deceased and whose estate is not subject to a grant of confirmation, etc.).

Midlothian Council does not currently collect all the detail necessary to apply a levy and applicable exemptions in accordance with the updated powers. A

data gathering and cleansing exercise would be progressed to ensure the levy is correctly applied on implementation and continue thereafter.

- 4.2** The projected Council Tax revenue position has been based on removal of the 10% discount and the application of a 200% levy. An interrogation of the Council Tax database in the course of the preparation of this report recorded that as at 1 April, 2016, Council Tax was levied on 38,973 dwellings.
- 4.3** The property figures are based on 2015 figures. Some work has been carried out to identify those properties that fall into the long term empty category as defined by the legislation.
- 4.4** The financial figures are based on 2015-16 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 £320,624 would be generated, however this is not sustainable in the longer term as properties would be brought back into use.
- 4.5** £300,000 has been included as part of the measures to address the 2017/18 budget gap as reported elsewhere on today's agenda in the Financial Strategy 2017/18 to 2021/22 report. This sum 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 financial monitoring procedures.
- 4.6** It is likely that the increase in revenue will decline over time as more properties are brought back into use and this is reflected in the financial strategy projections. However it is difficult to project if the number would be affected by the percentage at which the levy is set.
- 4.7** Additional resources will be required to deal with ensuing enquiries, for staff training and to monitor and review 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.
- 4.8** The regulations allow for a civil penalty of £500 per breach. Consideration should be given to Midlothian 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.
- 4.9** In the interests of providing Council Taxpayers with an adequate period of notice and permitting the council's Revenues Services sufficient time to implement any change, it is proposed that any change come into force on 1 April 2017.

## **5 Report Implications**

### **5.1 Resource**

The financial implications are set out above in Section 4. Resource would be providing within existing Finance and Revenues services for the preparatory works required to implement the new policy including.

- 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 notice ahead of the levy

The additional income generated if the proposals are approved assist in addressing the budget gap for 2017/18 and are reflected in the Financial Strategy 2017/18 to 2021/22 also on today's agenda.

### **5.2 Risk**

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 2017.

It is likely that the exercise of any statutory powers which increase the amount due to be paid may as a consequence result in some taxpayers trying to avoid payment. This will create an increased workload for the council which will make Council Tax collection more difficult and thereby more expensive. The impact of this will be seen in an increase in the cost of collection, as additional recovery measures require to be taken to collect arrears. This may also impact adversely on collection rates,

### **5.3 Key Priorities within the Single Midlothian Plan**

Midlothian Council and its Community Planning Partners have made a commitment to treat the following areas as key priorities under the Single Midlothian Plan:

- ☐ Early years and reducing child poverty
- ☐ Economic Growth and Business Support
- ☐ Positive destinations for young people.

The provisions of this new legislation, in encouraging the owners of long-term empty properties to bring them back into use, helps to fulfil the objectives of the council's Local Housing Strategy (LHS). This strategy recognises that there can be a number of reasons why properties are empty (e.g. a property may be empty because it is in a poor state of repair and the owner cannot afford the

cost of the repairs, or it may be empty because the owner cannot sell it on the market due to limited demand) and may therefore need more than the levy of an additional Council Tax charge to successfully bring it back into occupation.

- ☐ Community safety
- ☐ Adult health and care
- ☐ Getting it right for every Midlothian child
- ☐ Improving opportunities in Midlothian
- ☒ Sustainable growth and housing
- ☐ Business transformation and Best Value
- ☐ None of the above

#### **5.4 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 group; indeed, the aim of this policy to increase available housing is likely to provide positive effects.

#### **5.5 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.

#### **5.6 Impact on Performance and Outcomes**

The recommendations in this Report impact positively upon achieving the following Local Housing Strategy outcomes:

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

#### **5.7 Adopting a Preventative Approach**

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 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.

#### **5.8 Involving Communities and Other Stakeholders**

Finance Services, Revenues Services and Housing Services have been consulted and their comments have been incorporated into the final report. The proposal was included in the public consultation exercise *Shaping our Future* with a significant majority of over 82% in favour.

#### **5.9 Ensuring 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.

### **5.10 Supporting Sustainable Development**

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

Since empty homes impact negatively on the community and the surrounding homes, investing and bringing back empty homes will:

- Ensure the well-being and provide a better quality of life for people living in surrounding properties whilst also improving the natural and built environment;
- Help free up time and costs by Police and Environmental Health Services.
- Ensure that Midlothian remains an attractive place of choice for living and working.

### **5.11 IT Issues**

There are no IT issues.

## **6 Summary**

The general aims and principles of the Scottish Government's proposals to allow local authorities to levy an additional charge on long-term empty properties facilitates the raising of additional revenue and may, as the Scottish Government intends, act as an incentive to encourage owners of these properties to bring them back into use.

The liability of an owner of an unoccupied domestic property for the payment of Council Tax is established by primary legislation. This legislation makes provision for an unoccupied property to receive an award of fifty per cent discount, which would remain in place until there is a change in the property circumstances.

The Scottish Government subsequently introduced legislation permitting local authorities to reduce to a minimum of ten per cent the discount awarded on long term-empty properties and second homes.

Additional income raised by implementation of this measure is "ring-fenced" for the provision of affordable housing.

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. Additional income raised by this measure is not ring fenced and can be spent on any council priority.

The report proposes an additional Council Tax Charge on long-term empty properties from 1 April, 2017.

## **7 Recommendation**

It is recommended to Council to approve:

- 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 Director Resources to be used in exceptional circumstances on a case by case basis.
- d) The implementation date will be from 1 April 2017.

**Date:** 22 November 2016

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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

<http://www.gov.scot/Resource/0042/00423158.pdf>

[http://www.legislation.gov.uk/ssi/2013/45/pdfs/ssi\\_20130045\\_en.pdf](http://www.legislation.gov.uk/ssi/2013/45/pdfs/ssi_20130045_en.pdf)



