RESPONSE TO A SCOTTISH GOVERNMENT CONSULTATION ON PROPOSALS FOR LEGISLATION FOR COUNCIL TAX ON LONG TERM EMPTY PROPERTIES AND THE HOUSING SUPPORT GRANT

JOINT REPORT BY DIRECTOR OF CORPORATE SERVICES AND DIRECTOR OF NEIGHBOURHOOD SERVICES

ABSTRACT: This report sets out Angus Council’s proposed response to the Scottish Government’s consultation on proposals for new legislation in respect of Council Tax on long term empty properties. The consultation also asks for the Council’s views on the abolition of the Housing Support Grant.

1. RECOMMENDATION(S)

It is recommended that the Committee:-

(i) approves the response to the consultation detailed at Appendix 1

2. BACKGROUND TO THIS CONSULTATION

The Scottish Government’s 2011 policy paper “Homes Fit for the 21st Century”, outlining a strategy and vision for housing over the next decade to 2020, confirmed that the Scottish Government proposed to take forward legislation to permit additional Council Tax charges on long term empty homes.

3. CURRENT POSITION

Report no. 425/11, Review of Council Tax Long Term Empty Property Discounts, was approved by the Corporate Services Committee on 9 June 2011.

This report recommended that the level of Council Tax discount on long term empty properties should be reduced from 50% to 10% with effect from 1 April 2012. This brought the discount policy on long term empty properties into line with the 10% discount which has been applied to second homes since 2005.

4. PROPOSALS

Overview of what the Scottish Government is proposing

The Scottish Government proposes to develop and bring forward legislation which will cover two key Housing Finance proposals which both relate to making better use of housing resources. The proposed new legislation will not take effect before 1 April 2013.

The first proposal would 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. The Scottish Government does not believe that the current legislation which prescribe a Council Tax discount on long term empty properties of between 10% and 50%, has provided a significant enough incentive to owners to bring their properties back into use. The proposals for additional Council Tax charges have two main elements:-

a) Discretionary powers to allow Councils to remove Council Tax discount completely and therefore charge 100% of the Council Tax due on long term empty properties.
b) Discretionary powers to allow Councils to add an additional levy of up to 100% on long term empty properties and therefore charge up to double the standard Council Tax due on the property.

Additional discretionary powers are being proposed which would allow Councils to apply the measures described at a) and b) above to different geographical areas within their Council area and to provide flexibility in the timing of application of the increased charges.

The second proposal is 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.

Appendix 1 of this report sets out the consultation questions and the proposed Angus Council response to each question.

The full consultation paper can be found at: http://www.scotland.gov.uk/Publications/2011/10/17105007/0

Comments on the proposals

Council Tax discount proposals

The response to the consultation questions detailed in Appendix 1 is broadly supportive of the proposed new Council Tax legislation as individual Councils will have the discretion to decide whether to implement any or all of the proposed changes according to their local circumstances and levels of housing need.

From 1 April 2012, Angus Council is implementing a change in the level of Council Tax discount for long term empty properties, from 50% to 10%. It would be prudent to monitor the impact of this change both in terms of collection levels and any reduction in the number of empty properties before considering the implementation of any of the new proposals likely to be introduced from April 2013.

To further inform any future decision to be taken, regarding the implementation of new legislation allowing the levy of higher Council Tax charges on long term empty properties, it is proposed that the Revenues and Benefits service and the Housing division collaborate to produce an analysis of where the Council’s long term empty properties are geographically located and how the distribution of long term empty properties corresponds with areas of housing need.

Abolition of Housing Support Grant

The Housing Support Grant was designed to operate when the council housing picture in Scotland was very different to the situation today. Of all the Scottish Councils only Shetland Islands Council still receives a Housing Support Grant. In the interests of making best use of housing resources nationally the Housing Support Grant should be discontinued but in a way that allows the impact on Shetland Islands Council to be acceptably managed.

5. RISKS

This report does not require any specific risk issues to be addressed at this time.

6. FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this report.

7. HUMAN RIGHTS IMPLICATIONS

There are no Human Rights implications arising from this report.

8. EQUALITIES IMPLICATIONS

The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.
9. CONSULTATION

The Chief Executive, Head of Finance and Head of Law & Administration have been consulted in the preparation of this report.

10. CONCLUSION

This report sets out the Angus Council’s response to the Scottish Government’s consultation on proposals to bring forward legislation to allow Councils to levy additional Council Tax charges on long term empty properties and the abolition of the Housing Support Grant.

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NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

FIN/AB/IL
Consultation 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?

Response:

The powers to remove the current Council Tax unoccupied discount should be permissive. This would allow each local authority to take account of local housing and other relevant issues when deciding whether or not to utilise this option. It is important that undue pressure is not brought to bear on local authorities who decide not to remove the discount for legitimate reasons. Angus Council will be moving to a 10% unoccupied discount position from 1 April 2012 and would wish to monitor the impact of this change of policy before considering the adoption of the new proposals.

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?

Response:

The ability to charge an additional Council Tax levy would undoubtedly incentivise some owners to bring long term empty properties back into circulation for sale or letting. If such a power is introduced it is important that Councils are able to determine the level of any additional levy they decide to charge. The additional levy should be capped at a maximum of 100% as any additional increase over and above this level could be seen by affected taxpayers as harsh and unnecessarily punitive as well as reducing the likelihood of recovering the additional Council Tax due. In the current financial climate any level of levy applied may cause hardship and be difficult to collect. The higher the level of any levy applied by a Council the greater the likelihood that some taxpayers will seek to evade the additional amount due.

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?

Response:

The flexibility to apply different levels of Council Tax charge in different geographic parts of a Council area may be useful if there are areas which have a greater identified housing need than others thus allowing a targeted application of increased Council Tax charges. Periodic monitoring of the housing needs position would be required, as areas of the greatest housing need could change over time, requiring changes to be made to the charging policy. A further down side to this approach is that it makes administrative arrangements more difficult to administer and explain to taxpayers. It could also give rise to complaints of unfairness and generate appeals if only some taxpayers are subject to higher Council Tax charges solely on the basis that they happen to have an empty property in a designated area. The costs associated with ongoing monitoring of the suitability of the selected geographical criteria and dealing with complaints and appeals from taxpayers may outweigh any of the advantages of adopting different levels of Council Tax charge in different locations.

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?

Response:

Councils should have flexibility when deciding when increased charges would apply. For example, removing or reducing the level of discount on an unoccupied property which the owner is actively trying to market for sale or let or is under renovation with a view to occupation, might be treated more favourably than a case where the owner is holding an empty property with no intention of taking any steps to bring it back into occupation. The state of the local rental/property market could influence how long it would be considered reasonable before increasing the Council Tax charge.
Progressively increasing the level of Council Tax due over time may help to incentivise owners with empty property to take action more quickly than they otherwise might. If, however, an owner does not have the means to upgrade a property or the local property market is depressed then increasing the Council Tax charge may not have the desired effect and could also impact adversely on Council Tax collection performance.

The administrative arrangements for dealing with staged charges and any differentials in the timing of application of additional charges would be complex and resource intensive and potentially difficult to explain to taxpayers.

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.

Response:

There should be exemptions from the levy as follows:

- Properties which are being marketed for sale or let – 2 years from the date the dwelling became empty but there should be some discretion to periodically amend the exemption period if local property market conditions warrant such a change.
- Properties which require major repair or renovation – 2 years from the date the repairs or renovation commenced

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?

Response:

Most property owners will continue to advise Councils that a property is vacant so that they can claim the 6 months full exemption. Under the new proposals the level of charge to be levied at the expiry of that 6 month exempt period could range from 200% to 50% depending on the decisions taken by the Council. Administratively it would be preferable if an assumption could be made at the end of the exempt period that a property remained unoccupied and thus attracted the relevant increased charge until the owner advises that the property has been reoccupied. This would avoid the need for owners in most cases to tell us that a property was still empty.

If the level of charge set for long term empty property is more than 100% some taxpayers may be willing to forgo the initial 6 months exemption to avoid future additional Council Tax charges. The duty to inform the Council that a property was unoccupied would be relevant in these cases.

Although current Council Tax legislation currently contains provisions which allow a penalty charge to be levied if a request for information about Council Tax liability is ignored the powers are very rarely, if ever, used. This is because it is difficult to enforce and collect this type of charge.

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?

Response:

Since the purpose of the proposed changes is to free up properties for occupation it would make sense to treat properties which have been unoccupied for a long period as being long term empty whether or not they are unfurnished. This would avoid owners moving sparse furnishings into a property to avoid increased Council Tax. There could be an adverse impact on landlords who have furnished lets which remain empty for a long period.

Care would need to be taken with the definitions of second home and long term empty so that the two categories of dwelling can be clearly differentiated. This will not be straightforward. It will be very difficult in most cases for Councils to verify whether a property has been occupied over a specified period of time and is therefore to be treated as a second home as opposed to a property which has
remained furnished but unoccupied and should be treated as long term empty and subject to a potentially higher level of Council Tax charge.

At the moment most Councils will have arrangements to check the status of unfurnished properties to ensure that any ongoing entitlement to exemption or discount is correct. It is much easier to confirm a property is empty during an inspection visit if it is unfurnished.

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?

Response:

Extending the occupation period to more than 6 weeks would not significantly help the situation unless the requirement is added that there needs to be an actual occupation of the property by someone for whom it is their sole or main residence for a period of at least three months.

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.

Response:

We believe that all additional revenue raised from Council Tax on long-term empty homes should be used to help increase the provision of affordable housing. It should however be up to individual authorities as to what form this assistance should take. Ideally the additional revenue should be held in a single affordable housing account so that there is transparency and a clear audit trail. The type of work that funds could be used for include:

- New build housing by Councils
- New build housing by Registered Social Landlords.
- New build affordable housing, regeneration and conversion of existing buildings by private developers
- Providing financial incentives to owners of long term empty dwellings which need upgrading to make them suitable for habitation.
- Mortgage loan schemes
- A small percentage, say between 1% and 2% should be allocated from the additional income collected to cover a Council’s increased implementation and ongoing administration costs

Question on the Housing Support Grant

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

Response:

The Housing Support Grant was designed to operate when the council housing picture in Scotland was very different to the situation today. Shetland Islands Council is the only local authority in Scotland which still receives a grant. In the interests of making best use of housing resources nationally the Housing Support Grant should be discontinued but in a way that allows the impact on Shetland Islands Council to be acceptably managed.