

Directors of Finance of Scottish Local Authorities

9 April 2018

## REVISED SUPPLEMENTARY 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**

### Introduction

1. This supercedes the [supplementary guidance note](#) issued on 31 March 2015. It is in similar terms to that note and has the same purpose namely providing clarification on local authorities' ability to exercise flexibility in applying a council tax increase on long-term empty homes. However paragraph 2 has been updated to reference relevant primary and subordinate legislation, and paragraph 7 has been reworded to clarify the extent of the local authorities' discretion.

2. [The Council Tax \(Variation for Unoccupied Dwellings\)\(Scotland\) Regulations 2013](#) (S.S.I. 2013/45) came into force on 1st April 2013. These Regulations were made by the Scottish Ministers in exercise of the powers conferred by section [33\(1\) to \(4\)](#) of the [Local Government in Scotland Act 2003](#)(1). They have subsequently been amended by the [Council Tax \(Variation for Unoccupied Dwellings\)\(Scotland\) Amendments Regulations 2016](#) (S.S.I 2016/369). These Regulations as amended ("the Regulations") allow local authorities to charge increased council tax on certain homes that have been empty for 1 year or more.

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## Purpose of the Regulations

3. The power contained in the Regulations is intended as an additional tool to help local authorities encourage owners to bring empty properties back into use, both to increase the supply of housing for those who need homes and to reduce the blight on communities caused by houses being left empty and allowed to fall into disrepair.

4. We issued guidance to councils on 21 May 2013 ([Guidance on second homes and long term empty properties](#)) and indicated that it would be kept under review. Based on feedback received to date, we are issuing additional guidance in relation to the allowable flexibility available to authorities in charging any increase to exempt properties to not unfairly penalise owners who are justified in leaving their dwelling unoccupied or where there are reasons why the dwelling could not be lived in, sold or let.

## Mandatory exemption from the increase

5. The Regulations provide for a mandatory exemption from any increase for those homes that are being actively marketed for sale or rent. This exemption from the increase applies until those homes have been unoccupied for two years.

## Power to vary increase

6. Regulation 4 of the Regulations provides a local authority with the power to apply an increase and determine the circumstances in which that increase is to apply. This flexibility is referred to in paragraph 6.3 of the 21 May 2013 guidance and can be applied on a case by case basis. It could include charging different rates according to: the area the dwelling is in; the length of time that the dwelling has been unoccupied and such other types or characteristics of dwelling, or circumstances relating to why they are unoccupied, as a local authority considers appropriate.

7. It allows a local authority, should it so choose, to take the circumstances of individual owners into account when e.g. applying an increase. This flexibility was included so that local authorities can modify provision by not charging a council tax increase, charging a reduced level of increase or offering a higher level of discount, though this is subject to the limits in the Regulations and exemptions from council tax. It allows a local authority to avoid charging a council tax increase (or charge a lower level of council tax than for other unoccupied dwellings) where it considers there are reasons why the owner is justified in leaving the dwelling unoccupied and/or reasons why the dwelling could not be lived in, sold or let.

8. This level of flexibility could be used in a wide range of scenarios and it would not be possible for Scottish Government to provide an exhaustive list. However, based on feedback to date, the following circumstances would merit flexibility in terms of not charging the council tax increase where the property has been empty for over a year and:

- The owner is finishing renovations prior to moving in/selling/letting and can demonstrate that these works are progressing.
- A long-term second home where the owner was unable to meet the 25 day occupancy criteria in the previous 12 months due to personal circumstances but where a history of 25 day occupancy can be shown in previous years.
- A property that is taking a long time to sell/let in a stagnant market despite being priced appropriately.
- Any other circumstances where the owner has agreed with an Empty Homes Officer to take positive steps to re-occupy their property and it is in the view of the Empty

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Homes Officer that a time-limited council tax increase “holiday” would encourage the property to be brought back into use sooner.

9. Scottish Government officials are happy to discuss application of the increase, including full or partial exemptions. E-mails can be directed to [Council Tax Empty Homes@scotland.gsi.gov.uk](mailto:Council_Tax_Empty_Homes@scotland.gsi.gov.uk).

10. The Scottish Empty Homes Partnership (funded by Scottish Government and hosted by Shelter Scotland) is happy to provide advice on engaging with empty home owners [https://scotland.shelter.org.uk/empty\\_homes](https://scotland.shelter.org.uk/empty_homes).



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