The Scottish Parliament
Pàrlamaid na h-Alba

Finance Committee

Report on the Financial Memorandum of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

The Committee reports to the Local Government and Regeneration Committee as follows—

INTRODUCTION

1. The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill was introduced in the Parliament on 26 March 2012.[1] The Bill has three main provisions. The Bill proposes to—

- Allow the Scottish Government to bring forward regulations to alter the level of empty property relief for certain commercial properties under the non-domestic rates regime;
- Enable the Scottish Government to bring forward regulations to allow Scottish local authorities to increase council tax charges on certain long-term empty homes; and
- Abolish the requirement on the Scottish Government to pay housing support grant, currently only paid to Shetland Islands Council.

2. Under Standing Orders Rule 9.6, the lead committee at Stage 1 is required, among other things, to consider and report on the Bill's Financial Memorandum (FM). In doing so, it is required to consider any views submitted to it by the Finance Committee ("the Committee").

3. Rule 9.3.2 of the Standing Orders sets out the requirements for the FM accompanying a Bill. The FM should set out—

> "the best estimates of the administrative, compliance and other costs to which the provisions of the Bill would give rise, best estimates of the timescales over which such costs would be expected to arise, and an indication of the margins of uncertainty in such estimates."

4. The FM must distinguish separately such costs as would fall upon—

[1] http://www.scottish.parliament.uk/S4_Bills/Local%20Government%20Finance%20Unoccupied%20Properties/b12s4-introd.pdf

(a) the Scottish Administration;

(b) local authorities; and

(c) other bodies, individuals, and businesses.

5. At its meeting on 28 March 2012, the Committee agreed to seek written evidence from a series of organisations potentially affected by the Bill. Submissions were received from—

- Aberdeen City Council
- Angus Council
- Business Centre Association
- Clackmannanshire Council
- East Lothian Council
- CBI Scotland
- City of Edinburgh Council
- COSLA
- Glasgow City Council
- Highland Council
- Inverclyde Council
- North Ayrshire Council
- North Lanarkshire Council
- Scottish Property Federation
- Shetland Islands Council
- Western Isles Council

6. All submissions can be accessed from the Committee's website at the link below—

Link to written submissions[2]

7. At its meetings on the 25 April and 2 May the Committee took evidence from the Business Centre Association, the Scottish Property Federation (SPF), Angus Council, North Lanarkshire Council and Shetland Islands Council. The Committee also took evidence from the Bill team. The Official Report of the evidence sessions can be found on the Parliament's website at—

Link to Official Report of meeting 25 April 2012
Link to Official Report of meeting 2 May 2012

8. Following the evidence sessions further submissions were provided by the SPF, the Scottish Government and Shetland Islands Council and these can also be accessed from the Committee's website.

9. A briefing by the Financial Scrutiny Unit (FSU) on the FM was also prepared and this is available on the Committee's website.[3]

[2] http://www.scottish.parliament.uk/S4_FinanceCommittee/Inquiries/Collated_Local_Government_Finance_written_submissions.pdf

10. Given that the Bill will introduce three distinct policy proposals, the relevant costs as set out in the FM and the Committee's consideration of each aspect is considered separately below.

EMPTY PROPERTY RELIEF ON NON-DOMESTIC RATES

FINANCIAL MEMORANDUM

11. The Bill will allow Scottish Ministers, by regulation, to vary the percentage and time span of non-domestic rate relief available for defined classes of empty or unoccupied premises. Currently the amount of liability can only be varied from 0% (which is the default rate, and currently is applied to certain classes only for the first three months) to 50% (which is applied to those classes for an indefinite period thereafter). The Scottish Government is proposing to use the powers in the Bill to make regulations that would introduce from 2013-14 a rate of relief for the classes currently subject to a 50% liability to increase it to 90% liability following the initial 3 month zero-rated period, and that this 90% rate would apply for an indefinite period.[4] Listed properties, industrial properties, and those with a rateable value of less than £1,700 would not be affected by the proposed reforms.

12. The Scottish Government estimates that there are currently around 20,000 properties benefitting from empty property rates relief.[5] The FM states that the current empty property rates relief regime will cost the Scottish Government an estimated £152 million in 2012-13 and is the costliest of all the non-domestic rates relief schemes currently in operation.[6] Other relief schemes include the small business bonus scheme and rates relief for charities.

13. The FM indicates that the proposed reform from 2013-14 onwards would reduce the cost to the Scottish Government of providing the relief by an estimated £18 million per year,[7] which represents 12% of the current cost of relief. The FM states that the reduction in the discount level would therefore lead to a saving in the Scottish Government budget of approximately £18 million per year.[8] This figure would fall as a cost to organisations in receipt of non-domestic empty property relief.

14. Before considering the estimated costs to the Scottish Administration, local authorities and businesses, the Committee comments briefly on the nature of the consultation exercise conducted on the empty property relief proposals.

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[3] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

[4] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 18

[5] Scottish Government, written evidence

[6] Scottish Local Government Financial Statistics 2010-11

[7] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 19

[8] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 21

Consultation on the Bill's proposals

Consultation exercise

15. While the proposals on council tax relief were the subject of a separate formal consultation exercise, the proposals on empty property relief were announced in the Scottish Government's *Scottish Spending Review 2011 and Draft Budget 2012-13*.[9] In particular, the Policy Memorandum (PM) accompanying the Bill states that the Scottish Government announced in its 2011 spending review document its intention to introduce incentives to bring vacant premises back into use, reduce the prevalence of empty properties in town centres and support urban regeneration by reforming empty property relief from April 2013[10] and that the broad policy proposals were consulted on as part of the consultation on the Scottish budget.[11]

16. The PM states that a small number of responses were received to the draft budget which mentioned reform of empty property relief, both in support e.g. to welcome measures to encourage vacant town centre business properties to be filled and in opposition e.g. about the potential impact on future developments. In addition, it reports that engagement with key stakeholders has taken place throughout the process in the course of regular and ad hoc meetings with business groups and business events.

17. The absence of a formal consultation exercise on the empty property relief proposals was raised by several respondents in their submissions to the Committee. For example, the SPF noted that the Committee—

> "may wish to distinguish between the formal consultation exercise run by the Scottish Government on the council tax aspects of the Bill and the business rates aspects, which were part of the Spending Review announcement on 21st September, rather than any specific form of consultation."[12]

18. While Glasgow City Council stated that—

> "We are not aware of a consultation on the other elements in the Bill, in particular the significant changes relating to NDR empty property relief."[13]

19. On the other hand, the Committee notes the comment from Angus Council that it did not "think that in Angus we have significant concerns about the process. The changes were signposted."[14]

20. In its evidence session with the Bill team the Committee sought clarification on the nature of the consultation exercise on the empty property relief proposals

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[9] http://www.scotland.gov.uk/Resource/Doc/358356/0121130.pdf (Accessed 21 May 2012)
[10] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Policy Memorandum, paragraph 4
[11] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 17
[12] Scottish Property Federation. Written submission.
[13] Glasgow City Council. Written submission.
[14] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1035.

that had been conducted via the draft budget document. The Bill team confirmed that information on the Scottish Government's intentions was confined to the statement on page 226 of the spending review 2011[15] which states that—

> "Empty property relief will be reformed to provide strong incentives to bring vacant premises back into use, reducing the prevalence of empty shops in town centres and supporting urban regeneration."[16]

21. The Bill team indicated, however, that in subsequent correspondence more detail was provided on the level of reform being considered.[17]

22. **Given the Committee's lead role in the scrutiny of the draft budget and spending review, the Committee would welcome clarification from the Scottish Government on the nature of the consultation exercise that it undertakes on the annual draft budget and, as appropriate, spending review and the extent to which this exercise follows the Scottish Government's *Consultation Good Practice Guidance*.[18] While it would expect stakeholders to submit their views to the Scottish Government as a normal part of the draft budget process, the Committee is not aware of a formal invitation for views or, for that matter, the publication of a summary and analysis of responses.**

23. **Given that this issue goes beyond consideration of this particular Bill, the Committee will write separately to the Cabinet Secretary for Finance, Employment and Sustainable Growth to seek clarification on this point. However, it highlights it here as a matter that the lead committee may also wish to pursue in its evidence session with the Scottish Government.**

24. **The Committee notes that, in respect of this Bill, the spending review 2011 included only a brief statement regarding the Scottish Government's intentions and contrasts this with the formal consultation exercise conducted on the council tax proposals.**

25. **The Committee further notes that given that financial estimates on the empty property relief proposals were not published in the draft budget document, any submissions following the draft budget relate to the broad principles of reform, rather than to the costings.**

26. **The Committee considers that a separate formal consultation exercise on the empty property relief proposals should have been undertaken, similar to that conducted on the council tax proposals, as this would have been helpful to the Committee's scrutiny and evidence gathering.**

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[15] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1057.
[16] http://www.scotland.gov.uk/Resource/Doc/358356/0121130.pdf (Accessed 21 May 2012)
[17] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1057.
[18]Scottish Government (2008) Consultation Good Practice Guidance
http://www.scotland.gov.uk/Resource/Doc/160377/0079069.pdf (Accessed 21 May 2012)

Business and Regulatory Impact Assessment

27. The Committee further understands that no business and regulatory impact assessment (BRIA) was prepared on the empty property relief proposals. The FSU briefing notes that in his evidence to the Economy, Energy and Tourism Committee on the draft budget 2012-13 the Cabinet Secretary for Finance, Employment and Sustainable Growth stated that—

> "The changes that we are making are at such a level that I do not consider that a regulatory impact assessment is required. We are in a period of consultation on the question of empty property relief and the changes that the Government is proposing to make, so I will listen to the representations that are made to me. I will shortly be seeing the Scottish Property Federation, which has made representations to me on the issue."[19]

28. The Committee sought further clarification on the decision not to prepare a BRIA in its evidence session with the Bill team. The Bill team indicated that it would have been—

> "disproportionate to do one because of the level of savings that we were looking at, which was about £18 million. Overall business rates are paid by about 200,000 properties. There is a tax base of £6.7 billion; business rates generate about £2.3 billion a year, so savings of £18 million are relatively small."[20]

29. The Bill team went on to explain that—

> "It is to do with the proportional impact of £18 million in the wider context. We are forecasting the overall relief to cost £757 million across the five-yearly revaluation cycle. It is about the proportion."[21]

30. The Scottish Government has published guidance on business and regulatory impact assessments[22] which states that the "BRIA process encourages policy makers to identify the problem and then use available evidence to find proposals that best achieve the policy objectives while minimising costs and burdens." It continues that "the BRIA allows those with an interest in the policy to understand—

- Why the Government is proposing to intervene;
- Options the Government is considering, and which one is preferred;
- How and to what extent new policies may impact on them, on business and on Scotland's competitiveness;
- The estimated costs and benefits of the proposed measures."

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[19] Scottish Parliament Economy, Energy and Toursim Committee, *Official Report, 2 November 2011*, Col. 495.
[20] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1057.
[21] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1057.
[22] http://www.scotland.gov.uk/Topics/Business-Industry/support/better-regulation/partial-assessments/BRIAGuidance/BRIAGuidance

31. The guidance states that if a "Yes" answer is given to any of the following questions then a BRIA is required. The first question is—

> "Does the proposal impose additional cost or reduce existing costs on businesses or the third sector? Have you tested the proposal on relevant businesses?"

32. While the BRIA guidance refers to the application of the proportionality principle this is with reference to the length and detail of the BRIA and not whether a BRIA is required. It states—

> "The content of the BRIA should be proportionate to the problem involved and the size of the proposal. If it is likely to affect only a few firms or organisations, or many firms and organisations but only to a negligible degree, and/or the costs and benefits are likely to be negligible, then the BRIA should be quite short."

33. **The Committee notes the explanation of the Bill team on the reasons why a BRIA was not undertaken. However, it notes that the Scottish Government's guidance on BRIAs does not apparently distinguish between the level of costs and impact on business in deciding whether a BRIA is required.**

34. **The Committee notes that, in any event, the potential impact of the Bill's proposals is not limited to those businesses currently in receipt of empty property rates relief but could extend to any business, individual or other body which owns commercial property that might become empty at some point in the future or which is considering the development of commercial premises.**

35. **The Committee considers it unfortunate that no separate formal consultation exercise was conducted on the empty property relief proposals and that, given the potential impact on businesses, no BRIA of a proportionate level of length and detail was prepared. The Committee suggests that the lead committee pursues this matter in its evidence session with the Scottish Government.**

Costs on the Scottish Administration

36. Paragraph 21 of the FM indicates that no additional costs to the Scottish Administration are expected in relation to the non-domestic rates provisions. Paragraph 22 of the FM states, however, that "any properties in the Scottish Government estate that are empty could also see their rates bill increase as a result. The Scottish Government expects that this will only affect a very small number of properties each year (less than a dozen properties are estimated to be affected)."[23]

37. In its submission to the Committee the SPF expressed surprise that only 12 properties in the Scottish Administration's estate would be liable under the empty

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[23] Local Government Finance (Unoccupied Properties etc.)(Scotland) Bill. Financial Memorandum, paragraph 21.

property relief proposals. It suggested that this did not appear to take account of sponsored government bodies such as Scottish Enterprise which, it understood, had substantial numbers of vacancies in property investments.[24]

38. In its oral evidence to the Committee, SPF explained that, when it had looked at the valuation roll, there were far more than 12 empty properties just for Scottish Enterprise. It pointed out that, other bodies, such as the National Health Service, would also have empty properties.[25]

39. In its evidence to the Committee the Bill team advised that the dozen properties referred to in the FM were confined to those directly owned by the Scottish Government estate. It stated that—

> "Scottish ministers have direct liability for the dozen or so properties within the core Scottish Government estate. We did not include agencies, non-departmental public bodies and so on, but they may have empty properties as well."[26]

40. The Bill team confirmed that where these latter bodies owned empty commercial properties covered by the Bill's proposals that they would also have to meet the costs of any extra charges or bring the properties back into use.[27]

41. The extent to which the estimated costs to public bodies that own empty commercial properties, excepting those directly owned by the Scottish Government, had not been reflected in the FM and, in particular, the figure of £18 million was unclear to the Committee. It therefore sought further information on these figures from the Scottish Government and these costs and the impact that they may have on the estimated revenue to the Scottish budget is examined further below.

Cost on local authorities

42. The FM anticipates that changes to empty property relief will result in a small administrative cost to local authorities in amending the level of discount applied to existing bills for non-domestic rates, and explaining the changes to ratepayers. Several local authorities suggested that the costs might be underestimated.

Enforcement and recovery costs

43. For example, Angus Council noted that there might be an increase in recovery costs arising from the requirement to collect increased rates from businesses.[28] North Ayrshire Council raised a similar concern. It pointed out that currently the Council has 126 empty properties that have been charged 50% rates after the initial three month period. It stated that the imposition of a 50% charge did not appear to have any bearing on a property then becoming occupied. It stated that—

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[24] Scottish Property Federation. Written Submission.
[25] Scottish Parliament Finance Committee. *Official Report, 25 April 2012*, Col.996.
[26] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1054.
[27] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1054.
[28] Angus Council. Written submission.

"If the rates charge is increased to 90% on an empty property then there is the possibility that the same trend will continue and the Council will have to recover more debt. Currently around 10% of ratepayers with a 50% liability reach the Summary Warrant stage and are passed to sheriff officers for collection. If more debt is passed to the sheriff officer then this will increase the Council's agency fee for rates recovered. Based on the current number of empty properties the Council would have to find around £1,000 from existing budgets to pay for the extra commission charge."[29]

Council-owned commercial properties

44. Several local authorities highlighted the impact that the empty property relief proposals would have on council-owned commercial premises. While the FM notes that any properties owned by local authorities that are empty will also be affected by any change to the level of empty property relief offered,[30] it does not provide any figures for the number of local authority-owned properties that might be affected by the empty property relief proposals or information on the estimated costs to local authorities.

45. For example, Glasgow City Council estimated that the changes would result in additional costs in the region of £0.5 million to £1 million per annum, which largely related to units in historically very hard-to-let areas.[31] Angus Council also noted the financial implications in respect of council property which remained empty longer than three months. It estimated that, based on the current position, additional rates charges of £20,000 would be incurred.[32]

46. Shetland Islands Council advised in subsequent correspondence to the Committee that it had nine empty commercial premises, eight of which were in receipt of empty property relief and therefore would be affected by the Bill's proposals.[33] North Lanarkshire Council indicated that at the end of March 2011, the Council owned 216 empty properties, 123 of which were granted 100% empty property relief.[34]

47. Further, the FSU briefing[35] on the FM refers to a written Parliamentary Question answer which suggests that the impact on local authorities could be in the order of £1.8 million—

"Reform of empty property relief will save an estimated £18 million annually across all sectors from 2013-14 onwards, of which, the impact on councils is estimated to be less than 10 per cent of that total." (S4W-06087)

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[29] North Ayrshire Council. Written submission.

[30] Local Government Finance (Unoccupied Properties etc.)(Scotland) Bill. Financial Memorandum, paragraph 23.

[31] Glasgow City Council. Written submission

[32] Angus Council. Written submission

[33] Shetland Islands Council. Additional written submission.

[34] North Lanarkshire Council. Correspondence with the Finance Committee

[35] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

48. In its evidence session with the Bill team the Committee sought further information regarding the number of council-owned properties that might be affected by the Bill's proposals. The Bill team stated that—

> "We think that local authorities own about 2,000 properties that are currently empty. Some of those will not be affected by the reform-for example because they are listed or industrial buildings, or because they have no rateable value or are in the three-month period of 100 per cent standard relief."[36]

49. The Bill team advised, however, that it did not have an estimate that was broken down by council area.[37] It explained that the council property figures used to inform its response to the PQ had not been sought from the individual councils but had been collated from information already in its possession.[38] The Bill team indicated that it was not always clear from that information whether a property was, in fact, council-owned as it depended "on whether the council included properties in its direct estate and on whether it has a lot of trusts and housing associations that have non-domestic properties."[39] The Bill team explained that the "Council might list themselves as being the ratepayer, but councils such as Glasgow City Council have lots of trusts and subsidiaries, such as housing associations." As a result, the Bill team confirmed that it "might have missed some."[40]

50. The Bill team confirmed in supplementary evidence that it estimated that approximately 2,000 council properties were vacant and in receipt of empty property relief at any given point in time. Of this total, it estimated that between 630 and 870 properties would be affected by the proposed reforms, with a reduction in relief awarded between £1.4 million and £1.7 million. The remaining properties were likely to be industrial or listed or in the initial 3 month 100% period and would see no change to the amount of relief awarded.[41]

51. **While the FM acknowledges that there will be costs to local authorities that have empty commercial properties, it does not estimate the numbers or the associated costs. The Committee considers that greater effort should have made to establish the number of local authority-owned empty properties that might be affected by the Bill's proposals and the associated costs. The Committee finds it surprising that having established that it was unable to determine with clarity whether empty commercial properties were local authority-owned that the Bill team did not then seek this information directly from local authorities. The Committee highlights this issue to the lead committee.**

52. **The Committee notes at this stage that the costs to local authorities could impact on the estimated revenue to the Scottish budget and again this is considered below.**

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[36] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Cols.1048-9.
[37] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1049.
[38] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1060.
[39] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1049.
[40] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Cols.1059.
[41] Scottish Government. Supplementary written evidence.

Costs on other bodies, individuals and businesses and revenue to the Scottish budget

Information provided in the FM

53. The FM states that some owners/occupiers of long-term empty premises eligible for non-domestic rates discount will be affected by the regulations that would follow the introduction of legislation. The FM indicates that the total costs to business of the reduced discount would be in the region of £18 million in 2013-14 and 2014-15. The FM states that the impact will fall "solely on businesses who currently take up the discount or who may in the future."[42] As stated above, the FM states that the estimated approximately £18 million per year saving from reducing the empty property relief discount level would accrue to the Scottish Government for reallocation within the Scottish Budget.[43]

54. The FM indicates that the figure of £18 million is a best estimate based on data held on vacant property identified on the valuation rolls and data on properties in actual receipt of empty property relief provided by councils. The FM indicates that the £18 million was estimated first by identifying the total rateable value of properties receiving empty property relief and the proportion of those in receipt of 50% relief. A reduction in the cost of relief as a result of proposed relief changing from 50% to 10% was calculated. A final adjustment was applied to take into account that some properties might switch over to another type of relief, such as the Small Business Bonus Scheme. The FM notes that this will increase the costs of those other reliefs, in turn reducing the net savings from the reform of empty property relief.[44]

55. In its evidence to the Committee, the Bill team confirmed its methodology stating that—

> "We took the amount that we would normally collect. The businesses in question are paying business rates already, at a lower rate. We just calculated the savings to the Scottish budget of increasing their rates bill."[45]

56. The FM provides no further detail on how the figure of £18 million was calculated. In its evidence to the Committee, the Bill team explained that—

> "We get regular data returns and we knew that we were due an updated set of data from the councils in the weeks immediately following the publication of the financial memorandum, so we decided to wait for that data just to make sure. We came back to exactly the same figure, but we wanted to reflect on the most up-to-date data."[46]

[42] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 26
[43] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 21
[44] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 20
[45] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1059.
[46] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1058.

57. The Bill team indicated, however, that it would be happy to provide a breakdown of how it had arrived at this figure.[47] A summary of this information is set out below.[48]

Additional information from the Scottish Government

58. According to the Scottish Government, there are 21,425 vacant properties. It calculated that 7,285 of these (around 34-35%) were in receipt of 50% empty property relief and therefore affected by the Bill's proposals. It calculated that the remaining two-thirds were currently getting 100% rates relief. This includes properties that pay no rates because they are listed properties, industrial properties, or have a rateable value of less than £1,700, as well as properties that are paying no rates because they have been empty for less than three months.

59. For the 7,285 properties, the proposed changes would mean a reduction in rates relief from 50% to 10%. The Scottish Government estimates that the reduction in rates relief to 10% for properties currently on 50% relief, as well as the impact of those moving to 10% relief during the year once they have been empty for at least three months, would reduce the cost of empty property rates relief by £22 million per year.

60. However, it then estimated the number of vacant properties eligible for each level of the Small Business Bonus Scheme (SBBS) and reduced the figure of affected properties to around 5,500 properties and the estimated savings by £4 million to a total of £18 million.

61. The Scottish Government also provided a table which sets out a breakdown of the costs of Scottish business rates relief from 2010-2011 to 2014-15.[49]

62. **The Committee welcomes this additional information from the Scottish Government. However, it considers that this information should have been included in FM, even if it had been caveated that further analysis was underway and that, as a result, the figures might change.**

Margins of uncertainty and assumptions

63. In its opening remarks to the Committee, the Bill team stated that—

> "We recognise that there are margins of uncertainty in each of the proposals."[50]

64. However, while the margins of uncertainty relating to the costs associated with council tax proposals are set out in the FM, little information is provided regarding the margins of uncertainty for the costs arising from the empty property relief proposals, even though the cost of the relief can vary considerably from year to year. The FSU briefing provides figures for the cost of empty property rates relief in earlier years, as well as forecast costs for the period to 2014-15. The figures show that the costs of empty property rates relief fluctuate from year to

[47] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1058.
[48] Scottish Government. Supplementary written submission.
[49] Scottish Government. Supplementary written submission.
[50] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1044.

year, as properties move in and out of use. There was a particularly sharp rise in 2009-10, when the cost of empty property rates relief rose by 20%, coinciding with a sharp decline in economic growth and the onset of the recession.[51]

65. The FM acknowledges that the figure of £18 million may vary as property is built/demolished, existing property moves in and out of use or changes occupier.[52] However, the FM does not give details of the assumptions made, or what the impact of varying these assumptions would be on the overall estimate of savings to the Scottish Government or the cost to businesses.

66. The FSU briefing notes that a range of assumptions underpin the estimate presented in the FM and notes that any revisions to the underlying assumptions would affect the overall estimate of savings to the Scottish Government (and the costs to businesses).[53] A number of these assumptions were also challenged in evidence to the Committee and are therefore considered below.

The number of properties affected by the proposals

67. The FSU briefing notes that if the total number of current recipients of empty property rates relief is higher or lower than estimated in the FM, the resulting savings could be higher or lower than currently estimated, depending on the characteristics of those properties. Likewise, if the split between different types of properties, in particular, if there are more properties currently benefitting from 50% rates relief than estimated in the FM, then the cost to businesses (and the revenue accruing to the Scottish Government) would be higher than the £18 million given in the FM.[54]

68. In its evidence to the Committee the SPF suggested that the overall figure of £18 million appeared to be an underestimate. It referred to a sample of 1,500 properties, which it suggested represented around 10% of the estimated total of vacant properties that would face an increase in liability from April 2013 should they remain vacant. From this sample, it calculated a total rateable value of around £70 million, which, it calculated, would lead to an increased empty rates liability of just over £14 million.[55]

69. The SPF also indicated that it had divided the £18 million between the 6,500 properties that the Scottish Government suggested would be affected by the proposals and indicated that this would lead to a rateable value of £6,000. It indicated that most premises in its sample had a rateable value significantly above that figure.[56]

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[51] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

[52] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 26

[53] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

[54] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

[55] Scottish Property Federation. Written submission.

[56] Scottish Parliament Finance Committee. *Official Report, 25 April 2012*, Col.1009.

100% collection rate

70. The FM also appears to assume a 100% collection rate and that property owners currently paying 50% property rates will be financially able to pay 90% rates.

The number of properties empty for three months

71. It is not clear from the FM what assumption has been made regarding the numbers of standard commercial properties moving from 100% to 50% rates relief during the year because they have been empty for more than three months. The FSU briefing points out that any variation in this would affect the overall savings and costs to businesses.[57] In its evidence to the Committee the SPF stated that—

> "We are suspicious about the figures on the movement of properties into and out of 100 per cent relief. Somehow, those properties appear to have been excluded from the wider figure that has been provided to the committee. When we looked through our sample, we found that most of the properties appeared to have been empty for considerably longer than three months, as far as we could tell from the valuation roll."[58]

Eligibility for other forms of relief

72. According to information provided by the Scottish Government to the FSU during preparation of its briefing, the FM assumes that 5,000 properties will be eligible for other types of relief if they cease to be eligible for empty property rates relief.[59] In its subsequent evidence to the Committee the Scottish Government identified up to 2,500 properties that might be eligible for the SBBS, although it also notes that the net bill would remain the same for up to 2,000 of these properties.[60]

73. If fewer properties are able to claim other types of relief, the savings to the Scottish Government would be higher than £18 million, and the cost to businesses correspondingly higher. In its evidence to the Committee the SPF pointed out that—

> "The Government alluded to the fact that small businesses with empty properties will be able to benefit through the small business bonus scheme, but small businesses will not often have more than one premise or property—if they still exist at all—so I wonder how many businesses will benefit in that way."[61]

Increased demolition of properties

74. The FM notes that the figure of £18 million may vary as buildings are demolished/built but provides no further detail on how this might impact on its calculations. A number of respondents indicated that the proposals might lead to

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[57] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

[58] Scottish Parliament Finance Committee. *Official Report, 25 April 2012*, Col.989.

[59] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

[60] Scottish Government. Supplementary written submission.

[61] Scottish Parliament Finance Committee. *Official Report, 25 April 2012*, Col.989-90.

an increase in demolition of properties that could not be regenerated. For example, CBI Scotland stated that—

> "certain firms have indicated that the estimated costs and savings outlined in the Bill's accompanying financial memorandum may end up being inaccurate, as affected parties may choose to explore steps aimed at mitigating the impact of the increased charges (such as demolition of empty premises, for example)."[62]

75. Glasgow City Council also suggested that any decrease in empty property relief could lead to an increase in the number of rundown properties being demolished rather than regenerated.[63] A similar point was made by the Business Centre Association (BCA) which commented on the position in England and Wales, stating that—

> "Older buildings are being demolished sooner than intended. Buildings nearing the end of their life are being demolished which previously may well have been let at modest rents on a short term basis, prior to redevelopment."[64]

76. Research undertaken by the Royal Institute of Chartered Surveyors and Lambert Smith Hampton in England found that over 80% of respondents stated that empty property rates liability was a factor in determining whether a property should be demolished, and was a more important factor than location, age or size.[65]

77. However, in their oral evidence to the Committee both Angus and North Lanarkshire councils suggested that only a small percentage of properties would be demolished.[66] In particular, Angus Council pointed out that—

> "It is difficult to demolish a shop that is in a row of shops and leave a gap site on the high street. I do not think that many businesses will do that."[67]

78. In its evidence to the Committee the Bill team indicated that it had exempted industrial properties from its empty property relief proposals because evidence of the experience in England suggested that the majority of demolitions had been of industrial properties.[68] It went on to state that—

> "We will monitor the level of vacancy rates across Scotland and will report on those as appropriate, looking to see where the properties are being demolished."[69]

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[62] CBI Scotland. Written submission.
[63] Glasgow City Council. Written submission.
[64] Business Centre Association. Written submission.
[65] http://www.rics.org/site/scripts/download_info.aspx?fileID=387&categoryID=354
[66] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1031.
[67] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1031.
[68] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1052.
[69] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1054.

79. In addition to the assumptions discussed above, the BCA suggested that there could a growth in "dubious EPR [empty property relief] avoidance schemes"[70] and in its oral evidence the BCA expanded on this suggestion, indicating that—

> "One method is not genuinely occupying buildings. People will occupy a building for 28 days, move their stuff out so that they get benefit of three months rates free, then move their stuff back in again."[71]

80. **The Committee notes that the figure of £18 million savings to the Scottish Government and cost to businesses appears to be based on a range of assumptions and therefore subject to a margin of uncertainty. It notes that whereas the FM provides useful detail regarding the modelling and margins of uncertainty in connection with the council tax proposals provides, the same detail has not been provided in respect of the empty property relief proposals.**

81. **The Committee considers that the FM should have set out the margins of uncertainty on the figure of £18 million, how assumptions had impacted on its calculations and provided a range of financial estimates based on those assumptions, particularly given the volatility of the costs of empty property rates relief to date.**

Policy objectives

82. In its evidence to the Committee, the Bill team confirmed that—

> "The policy has two purposes, which are to introduce a new incentive that encourages properties back into commercial use in empty high streets with a lot of empty shops and to raise revenue."[72]

83. The Committee considers both of these objectives below.

Encouraging properties back into use
84. Despite the fact that encouraging owners to bring vacant properties back into use is one of the primary aims of the reforms, the FM costs do not appear to assume that any such behaviour will result. That is, there does not appear to be any assumed reduction in the overall number of empty properties as a result of the reforms.[73] This is in contrast to the council tax aspect of the FM, where a reduction of 10% per annum in the number of empty properties is assumed.

85. A number of submissions suggested that a financial incentive already existed to bring back commercial properties back into use in the form of rental income. For example, CBI Scotland indicated that commercial premises were rarely left empty

[70] Business Centre Association. Written submission.
[71] Scottish Parliament Finance Committee. *Official Report, 25 April May 2012*, Col.1011.
[72] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1052.
[73] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, Table 1

on purpose, as they did not generate an income for their owners and, in most cases, non-domestic buildings were unoccupied simply due to lack of demand.[74]

86. The SPF reaffirmed this in its oral evidence to the Committee, stating that—

> "The prospect of landlords not taking up potential rental income, which is the meat and drink of their businesses—it is what keeps them in business—is extremely surprising. We cannot deny that there may be odd examples around the country of properties being held on to in the way that you describe, but in the vast majority of cases we would find it astonishing that landlords would give up potential rental income at this stage."[75]

87. Likewise, the BCA pointed out that—

> "Business centres do not deliberately keep their units empty; in fact, they do the exact opposite. I would say that 90 per cent of their time is spent looking at how they can let and continue to keep their space let."[76]

88. Glasgow City Council indicated that experience of similar reform to non-domestic rates in England and Wales suggested that the intention to bring empty properties back into use had been largely undermined by the economic climate, and the resulting substantial reduction in demand for commercial buildings.[77] CBI Scotland also pointed to the experience in other areas of the UK which suggested that similar policies had little effect on reducing the number of unused non-domestic premises.[78]

89. Empty property rates relief was reformed in England in April 2008. In 2008-09, properties could only claim 100% relief for the first three months (or six months for industrial properties) of being empty, after which they were liable for full rates. As such, the reforms in England went further than those proposed for Scotland. Some concessions were introduced for smaller properties in 2009-10, whereby properties with a rateable value of less than £15,000 received 100% rates relief. In 2010-11, the threshold was raised to £18,000 but was then reduced to £2,600 in 2011-12.[79]

90. Figures provided in the FSU briefing set out the cost of empty property rates relief in England for the period 2006-07 to 2010-11. These figures show that the cost of the relief scheme more than halved in 2008-09, the first year following reform of the relief scheme. However, in 2009-10, the cost of the scheme rose by 86% to £1.1 billion – almost as high as the pre-reform cost.[80] Commenting on these figures in its evidence, the SPF indicated that prior to introducing the policy

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[74] CBI Scotland. Written submission.
[75] Scottish Parliament Finance Committee. *Official Report, 25 April May 2012*, Col.987.
[76] Scottish Parliament Finance Committee. *Official Report, 25 April May 2012*, Col.990.
[77] Glasgow City Council. Written submission.
[78] CBI Scotland. Written submission.
[79] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
[80] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

in England, the relief was worth around £1.3 billion per annum. It noted that it is still worth some £1.1 billion, explaining that—

> "This buoyancy in relief costs points to the economic recession and consequent lack of demand for commercial property as the causes of relief costs, not as implied in the financial memorandum the existence of a fiscal incentive to keep properties empty."[81]

91. The SPF went on to state that "the introduction of a similar policy in England has coincided with an increase in retail vacancy rates from 3% in 2007 to over 14% in 2011."[82]

92. While in its evidence to the Committee the BCA stated that—

> "It has been argued that EPR will encourage landlords to let space and attention has been drawn to the number of empty town centre retail units in Scotland. EPR has been in existence in England since 2008 yet there are many English towns which also have a similar problem."[83]

93. The Committee also notes research undertaken by the Royal Institution of Chartered Surveyors and Lambert Smith Hampton[84] following the reforms in England found that over a third of respondents stated that the reforms to empty property rates relief had had no effect on the number of vacant properties and that over a quarter said that the reforms had led to an *increase* in the number of vacant properties. This latter point may reflect a comment on the more general impact of recession and the difficulties of disentangling the effects of recession from the effects of the empty property rates reforms.

94. The Committee further notes that data from the Department for Communities and Local Government show that the proportion of non-domestic properties that are empty has risen from 14% prior to reform of empty property rates relief to 16% in 2011.[85]

95. Given the evidence presented to the Committee apparently indicating that a similar policy change in England had been unsuccessful in encouraging commercial properties back into use, the Committee sought to identify the evidence on which the Bill's policy proposals had been based.

96. In its evidence to the Committee, the Bill team suggested that it was not possible to rely on the evidence from England as there was no "control situation"[86] and "the global recession means that it is hard for smaller firms to get access to funding through banks."[87] In other words, it was impossible to determine from the experience in the England whether vacancy rates had been affected by the new regime or were as a result of the global recession.

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[81] Scottish Property Federation. Written submission.
[82] Scottish Property Federation. Written submission.
[83] Business Centre Association. Written submission.
[84] http://www.rics.org/site/scripts/download_info.aspx?fileID=387&categoryID=354
[85] http://www.communities.gov.uk/publications/corporate/statistics/nondomesticrates201011
[86] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1052.
[87] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1052.

97. The Bill team went on to state, that it had "not seen any evidence that isolates the impact of empty rates relief compared with the impact of all the other factors that will impact on the number of empty commercial properties."[88]

98. In subsequent correspondence with the Committee, the Bill team stated that—

> "It has not been possible to find a valid international comparison in order to assess the impacts of lowering the amount of rates relief that empty properties enjoy in Scotland. Tax systems vary greatly between nations, and as such only a minority of nations levy taxes based on rental value of commercial properties. In the nations that do, it is relatively rare for any provisions for empty property relief schemes to be changed so that empty properties receive less relief. However the biggest difficult in finding a valid comparison is the availability of robust evidence as to whether or not a change in empty property rates relief was effective or not."[89]

99. The Bill team was also unable to provide the Committee with information as to how many properties it anticipated would come back into use as a result of the Bill's proposals. It stated that—

> "we will have to monitor the number that come back into use. That will take time. After we reform the relief in 2013, there will be a period in which the incentive-we hope-might start to work and encourage properties back into use."[90]

100. **While the Committee notes that the relief scheme in England differs from that proposed in Scotland no evidence was presented to the Committee that showed that re-occupation rates among standard empty commercial properties had increased as a result of increases to non-domestic rates.**

101. **As noted above, the Committee considers it unfortunate that the Bill's proposals were not subject to a formal consultation exercise and a BRIA. Such exercises would have provided an opportunity for the Scottish Government to set out the evidence in support of the Bill's proposals and which demonstrated that the proposed changes would act as an incentive to owners to re-occupy commercial premises.**

102. **Such exercises would also have provided an opportunity for the Scottish Government to set out the alternatives to the Bill's proposals which it had considered and/or was planning to encourage the re-occupation of empty commercial premises.**

103. **The Committee further notes that without baseline information, it will not be possible to ascertain whether any improvement in occupation rates of commercial properties in the future has occurred because of a growth in the economy or as a result of the Bill's proposals.**

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[88] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1062.
[89] Scottish Government. Supplementary written submission.
[90] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1069.

104. **While recognising that it is difficult to disentangle the effects of rates reform from wider economic factors, the Committee finds it surprising that the FM makes no attempt to estimate the number of commercial properties that will be brought back into use as a result of the Bill's empty property relief proposals.**

Revenue raising

105. As noted above, the second objective of the Bill's proposals is revenue raising. The FM states that the approximately £18 million per year saving from reducing the empty property relief discount would accrue to the Scottish Government for reallocation within the Scottish budget.[91]

106. The Committee has noted above that the realisation of the £18 million is based on a number of assumptions and, as such, is subject to a margin of uncertainty. However, a further factor impacting on the amount accruing to the Scottish budget will be the costs to public sector bodies that own empty commercial properties, which will either act to partially off-set the estimated savings, or might imply a different distribution of the public sector costs between local authorities and the Scottish administration. These figures were not provided in the FM and the Committee therefore sought this information from the Scottish Government.

107. As the SPF stated in its evidence to the Committee, while the FM infers that the full £18 million cost is attributed to business, a significant portion of this cost, it estimated between at least 10-20%, would actually come from the public sector. The SPF referred to analysis that it was undertaking to assess who would be liable for the additional rates incurred. It stated that—

> "We have found some considerable costs from even this small sample of the public sector and a considerable impact for investors, including many pension funds (including public sector pension funds). From this perspective the policy is something of an own goal as liabilities will increase significantly for a number of public bodies including Scottish Enterprise, Dundee and Glasgow City Councils."[92]

108. In supplementary evidence, the Bill team confirmed the estimated cost to local authorities (as noted in paragraph 50 above) and provided information on the estimated costs to Scottish Enterprise and the NHS. It estimated that there were around 200 Scottish Enterprise vacant properties and the proposed reforms to EPR could reduce the rates relief awarded by up to a maximum of £0.4 million. However, the Bill team indicated that some properties might be industrial or listed or in the initial three month 100% period and would see no change to the amount of relief awarded, meaning actual change might be significantly lower.[93]

109. In respect of the NHS, the Bill team estimated that there were less than 40 vacant NHS properties. It indicated that the proposed reforms to EPR could reduce the rates relief awarded by up to a maximum of £0.3 million. However, it

[91] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 21.
[92] Scottish Property Federation. Written submission.
[93] Scottish Government. Supplementary written submission.

indicated that some properties might be industrial or listed or in the initial three month 100% period and would see no change to the amount of relief awarded, meaning actual change might be significantly lower.[94]

110. In subsequent correspondence, the Bill team confirmed that the £18 million costs to businesses, as set out in the FM, included the estimated costs to public sector bodies that own empty commercial properties.[95] As noted above, the costs to public sector bodies of these proposals will therefore reduce the projected savings of £18 million accruing to the Scottish budget and the costs to businesses will also be reduced by the same amount.

111. **The Committee notes that, on the basis of the Bill team's estimates, the projected net savings to the Scottish budget of £18 million could be reduced by up to £2.4 million. Furthermore, this figure only covers local authorities, NHS Scotland and Scottish Enterprise. While these are likely to account for the majority of empty properties, there may be other bodies and agencies that would also need to be taken into account in a full assessment of the public sector impact.**

112. **The Committee recommends that the financial impact of the increased non-domestic rate charges on public sector bodies is accurately determined in order that this can be properly reflected within the projected savings. The Committee considers that information on the numbers of vacant public sector-owned commercial properties should be sought directly by the Scottish Government from local authorities, Scottish Enterprise, NHS bodies and any other public sector bodies that own such properties and the costs provided to Parliament. The Committee notes that for this exercise to be effective, local authorities will need to adopt a standardised, robust system of recording all properties.**

113. **The Committee suggests that these matters are pursued by the lead committee in its evidence session with the Scottish Government.**

114. The Committee also considers that the estimated savings to the Scottish budget from the Bill's proposals need to be considered in the broader context of the Scottish Government's overarching purpose and that of its budget. In its spending review 2011 the Scottish Government states that—

> "Our fundamental priorities of this Budget are:
>
> to accelerate economic recovery, to create the jobs our people need and to secure new opportunities through the low carbon economy;"[96]

115. In its evidence to the Committee, CBI Scotland suggested that the Bill's proposals run "contrary to the Scottish Government's own stated intention of both encouraging new investment in Scotland and, relatedly, boosting economic growth."[97] It suggested that the proposals might prompt many investors to

[94] Scottish Government. Supplementary written submission.
[95] Correspondence with the Scottish Government.
[96] http://www.scotland.gov.uk/Resource/Doc/358356/0121130.pdf (Accessed 21 May 2012)
[97] CBI Scotland. Written submission.

reconsider any developments or regeneration activities they may have planned.[98] A similar point was made by the SPF which indicated that—

> "If a sufficient supply of speculative commercial property new build is to be encouraged, then high empty rates charges after as little as three months, is hardly likely to be incentive."[99]

116. In its oral evidence the BCA stated that—

> "Development stopped because of the recession, but there is evidence that when the threshold was reduced in England to £2,600, the development of new business centres also dried up. It is difficult to persuade a property owner to invest in property that might take two or three years to be let at an optimum amount when they have that additional tax to pay during the letting process."[100]

117. Similar points were echoed by Glasgow City Council which suggested that the Bill might lead to a negative impact on speculative development of commercial property and could act as a significant disincentive to property investors to invest in anything but the safest income streams.[101]

118. The Committee further notes the *Call for Evidence – Summary of Responses* regarding the Business Rates Policy Review being undertaken in Wales, which stated that—

> "Empty Property Rates…in its current form is unpopular and is perceived as a barrier to growth."[102]

119. In its evidence to the Committee, the Bill team referred to the position in England and responded that—

> "We do not have any solid evidence for what the main factor was in any reduction in development—whether it was the recession, the global downturn or whatever."[103]

120. Several respondents considered that the tax could negatively impact on businesses already in difficulty. For example, CBI Scotland described the proposals on empty property relief as a "tax on distress".[104] It stated that—

> "property owners are facing the prospect of having to pay increased charges for buildings that are not earning them any money in the first instance, compounding the financial repercussions of holding a property which isn't providing a return."[105]

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[98] CBI Scotland. Written submission.
[99] Scottish Property Federation. Written submission.
[100] Scottish Parliament Finance Committee. *Official Report, 25 April 2012*, Col.997.
[101] Glasgow City Council. Written submission.
[102] http://wales.gov.uk/docs/det/policy/120328bratesen.pdf
[103] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1055.
[104] CBI Scotland. Written submission.
[105] CBI Scotland. Written submission.

121. **While the Committee supports the general principle of the Bill's objectives of bringing back into use empty commercial properties, it is concerned that the Bill's proposals may impact detrimentally both on individual businesses and the broader economy.**

122. **Given the above, the Committee considers it essential that the financial impact of the Bill on business and the broader economy is regularly monitored and intends to conduct this through its annual scrutiny of the draft budget.**

123. The Committee understands from comments by the Bill team that there may still be some flexibility in the proposals for empty property relief. In its evidence to the Committee the Bill team indicated that—

> "Ministers have said that there is flexibility in the policy and have made an open offer to various sectors to suggest how the policy can be refined, provided that it achieves its objectives, which are to save £18 million and to encourage empty properties back into use."[106]

124. The Bill team confirmed that the exact percentage of relief would be set out in the future regulations, but continued—

> "We have said that the relief will be 10 per cent, but ministers have indicated that, given the questions that have been raised by external parties about the £18 million figure, they will be flexible over the reform if we raise significantly more than that."[107]

125. However, given the volatility of empty property rate relief and the difficulties highlighted in respect of disentangling the impact of reforms from wider economic factors, it is unclear how the Scottish Government would intend to assess the level of savings attributable to the reforms.

126. **A number of proposals were put forward by stakeholders which might go some way to ameliorating the potential impact of the Bill's proposals on businesses, on property development and on the public sector (in cases where commercial properties are owned). The Committee highlights these to the lead committee for its consideration. These include—**

- **A higher threshold before owners would become liable for 90% rates;**
- **A longer exemption period for properties that are new to the market; and**
- **An exemption for all long term properties in public ownership.**

[106] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1064.
[107] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1068.

COUNCIL TAX INCREASE ON LONG-TERM EMPTY HOMES

THE FINANCIAL MEMORANDUM

General

127. As noted above, the second part of the Bill's proposals relates to council tax payments on long-term empty (LTE) homes. The Bill will enable the Scottish Government, by regulations, to vary the level of council tax charges for unoccupied dwellings, by either allowing, or requiring, local authorities to increase the level of charges or to increase the level of discount. However, the FM indicates that the Scottish Government does not presently intend to make regulations providing for increased discounts.[108]

128. The FM states that the Scottish Government's present intention is that the new regulations will have the following practical effect: as currently, there will be no charge for the first six months a home is empty provided it is unfurnished, followed by a council tax discount of between 10% and 50% for the next six months, whether the home is furnished or unfurnished. After that, owners could be subject to a council tax increase if the local authority chooses to apply such an increase. If the maximum increase intended to be permitted through regulations of 100% was applied, the owner would pay double the standard rate of council tax for the applicable council tax band.[109]

129. The Bill and subsequent regulations will also impose a duty on property owners to report changes of occupancy status to the local authority and enable local authorities to impose a charge of up to £200 on owners who fail to meet the requirements to provide information set out in the regulations or supply false information in relation to those requirements.[110]

Costs on the Scottish administration

130. The FM states that minimal additional costs are expected on the Scottish Administration and the Committee notes that the principle comments received from stakeholders relate to the estimated costs and savings to local authorities and costs to home owners.[111]

Costs on and savings to local authorities

Estimated costs

131. The FM indicates that the main costs to local authorities will be in enforcing the increase in council tax for owners of LTE homes. The FM indicates that, based on the information provided by two local authorities, it estimates that the average cost of IT system updates where an authority decides to apply a council tax

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[108] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 28.

[109] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 28

[110] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 30.

[111] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 37.

increase in its area is estimated to be a one-off cost of approximately £5,000 to £10,000.[112] It calculates that additional set-up staffing costs would be in the range of £7,125 for one member of staff to £21,373 for three.[113]

132. In terms of ongoing costs, the FM estimates that the average additional staffing costs for a local authority are estimated at approximately £28,500 to £85,500 per year.[114]

Revenue estimate
133. The FM indicates that the Scottish Government has created a model to estimate the potential revenue that could be generated as a result of the council tax increase. The FM estimates that if all local authorities charge a maximum of 100% revenue for all long-term empty properties liable for council tax, a maximum of £33.9 million per year could be collected.[115] It explains that this estimate also includes revenue which is already received through reduced council tax discounts of less than 50% on LTE homes, which is about £7 million per year.[116]

134. The FM explains, however, that the Scottish Government proposes that the increase should only be charged after a property has been empty for at least one year.[117] The Scottish Government also proposes a mandatory exemption from the increase for up to one year after the initial six month period of a home being classed as long-term empty for homes actively being marketed for sale. The FM states that the maximum projected revenue would therefore reduce to approximately £22.3 to £23 million per year.[118]

135. The FM estimates that the proposed changes to council tax on LTE homes would result in net additional revenues of £12.6 million to £15.1 million per year (excluding one-off set up costs).[119] The FM states at paragraph 48 that, as with all council tax revenue, any revenue raised from a council tax increase would be retained for spending by the local authority.

136. The savings accruing to local authorities would fall as costs to property owners.

[112] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 41
[113] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 42.
[114] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 47
[115] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 32
[116] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 32.
[117] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 33
[118] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 54.
[119] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 48.

Costs on other bodies, individuals and businesses

137. The FM states that all owners of long-term empty homes could be liable for the council tax increase unless they qualify for an existing exemption from council tax or for one of the new exemptions from the increase which will be proposed through regulations.[120] The FM explains that the actual additional cost that an owner would be expected to pay will depend on several factors—

- whether or not the local authority has decided to implement the increase and, if so, at what level up to the proposed maximum of 100% increase;
- if the increase is not applied, the level of discount they choose to apply, if any (between 0% and 50%);
- the council tax band of the property; and
- whether or not the owner is eligible for any exemptions at that time.[121]

138. The FM states that the total maximum increase in costs to individuals, businesses and public sector bodies who own long-term empty homes would be up to £15.33 million to £16.05 million per year based on the Scottish Government's intentions for regulations.[122]

COMMITTEE CONSIDERATION

Costs on local authorities

139. While the majority of local authorities did not have significant comments on the costs associated with the council tax relief proposals as set out in the FM, several respondents suggested that certain aspects had been underestimated. For example, Angus Council indicated that the FM did not recognise that rural councils would have additional costs involved in the monitoring of long-term empty properties given the dispersed nature and locations of long term empty properties.[123] In its oral evidence to the Committee, Angus Council stated that—

> "[I]n Angus we have about 1,000 long term properties. A significant proportion of those will not be in town centres-they could be on farm estates or in rural locations. Because of the number of miles that a visiting officer might have to travel, a rough estimate is that it would take us twice as long to cover our inspections as an urban authority."[124]

140. Angus Council also commented on the costs to local authorities of publicising the proposals. It did not accept that such changes could simply be notified in the next council tax bill as suggested in the FM, stating in oral evidence that—

[120] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 49.
[121] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 51.
[122] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 54
[123] Angus Council. Written submission.
[124] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1021.

> "If a levy is added on to a bill of £1,000, the first instalment for people who pay by direct debit will be double.
>
> It would not be acceptable to the general resident of Angus to get a significantly increased council tax bill out of the blue without any prior warning."[125]

141. The Committee understands that, should councils decide use the powers under the Bill, they will wish to undertake suitable publicity beyond notifying owners in the next council tax bill. It notes that this will incur additional costs and highlights this to the lead committee.

142. A number of councils emphasised, however, that the costs of implementing the Bill could be met providing that the costs could be deducted from the additional revenue raised.[126] Likewise, COSLA indicated that councils might choose to offset any increased administration costs off the revenue raised.[127] Angus Council suggested that a "percentage of any additional revenue raised as a result of adopting increased council tax charges on long term properties should be ring fenced to meet the additional costs of setting up and administering the arrangements."[128]

143. A key issue therefore for local authorities is the extent to which the estimated revenue as set out in the FM can be achieved. The Committee notes at this stage that if, as suggested above by certain local authorities, costs to local authorities have been underestimated then net revenue gains will be correspondingly lower.

Costs to owners of LTE homes and revenue to local authorities

144. As noted above, the revenue accruing to local authorities is linked directly to the costs to owners of LTE homes. The FM recognises that "there are significant margins of uncertainty in relation to these estimates".[129] In its evidence to the Committee, Glasgow City Council commented the margin of uncertainty regarding the costs stating that "the potential costs on local authorities depend on the actual regulations that are brought forward, the behaviours and reactions of local tax payers and discussions with ICT suppliers."[130]

145. The main assumptions that affect the costings (and therefore estimated revenue) are considered below.

Whether councils will use the new powers

146. The main estimates presented in the FM make the assumption that local authorities will apply the 100% increase, while noting that there is "uncertainty

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[125] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1039.
[126] See, for example, the written submissions from Clackmannanshire, City of Edinburgh and Aberdeen City councils
[127] COSLA. Written submission.
[128] Angus Council. Written submission.
[129] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 36.
[130] Glasgow City Council. Written submission.

about whether and to what extent local authorities will use the new powers, which could lead to very significant variations in the revenue raised".[131]

147. For example, the FM presents an alternative scenario where all councils shift to a 'no discount' position after 12 months (compared to the current 10% discount offered by the majority of councils). This would reduce estimated revenues, before allowing for enforcement costs, from £15.3 million to £16.0 million to only £0.4 million to £0.7 million. The FSU briefing therefore suggests that assuming that all local authorities would charge the maximum 100% increase in council tax risks overstating the potential revenue gains to local authorities.[132]

148. Most local authorities have not yet given any indication of their likely response to any new regulations, but Angus Council suggested that there needed to more work into examining why such properties were empty.[133] Neither Angus nor North Lanarkshire Council, for example, considered that there was a significant problem of property owners holding on to empty properties for speculative reasons. As NLC stated—

> "It appears from our property database that a large number of the empty properties reside with the local authority in its role as landlord and with a number of registered social landlords. Neither the local authority nor the RSLs are in it for speculative purposes."[134]

149. Likewise Angus Council stated that—

> "The issue that we have is that a significant number of properties are probably not up to a marketable standard and the individuals concerned do not have the funding to bring them up to standard. As I understand it, I do not think that there is evidence in Angus that people are holding on to properties to see whether there will be a rise in the market."[135]

150. North Lanarkshire Council suggested that the focus should be on supporting owners of such properties to bring such homes into use rather than penalising them. It commented that—

> "There appears to be no recognition that the focus of the proposal is tax-raising rather than determining the need for funding to bring empty property into use and then assessing how to release/raise the necessary level of funding. In essence the tax is possibly a penalty rather than a solution to the problem."[136]

151. And in its oral evidence to the Committee, the Council emphasised that—

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[131] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 36.
[132] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
[133] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1023.
[134] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1023.
[135] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1023.
[136] North Lanarkshire Council. Written submission.

"We have a team that looks at how we can assist owners of properties in bringing those properties back into use. I would view the bill's proposals more as a penalty on those owners whose properties are not in use."[137]

152. For its part, Shetland Islands Council indicated that it would "certainly support moves to incentivise people to return those that are empty rather than look to penalise them financially."[138]

153. In its evidence to the Committee the Bill team indicated that there were a range of reasons why domestic properties were empty. It stated that—

"In some cases, it is deliberate, but on other cases some people would like to bring them back into use but are struggling to let or sell the property, or might not have the means to bring it up to standard."[139]

154. The Bill team indicated that it encouraged councils to survey empty home owners to find out why the home are empty and whether owners are willing to engage with the councils to try to bring their property back into use.[140] It stated that—

"we would encourage local authorities that are thinking of imposing council tax increases to examine why properties are empty……in order to help them to determine whether a council tax increase would be appropriate or fair in the area, and whether it would achieve the desired outcome of bringing more empty homes back into use."[141]

155. It confirmed, however, that it did not have any figures for the proportion of people who are deliberately leaving their properties empty.[142]

156. The Bill team went on to state that the Scottish Government had encouraged local authorities to offer, where appropriate, loan schemes to enable owners to bring their properties back up to standard.[143] It suggested that local authorities could "use some of the revenue that they would raise from any council tax increase to fund such loan schemes, which could be helpful."[144]

157. **The Committee notes the comments of the Bill team and recognises that there are a range of reasons why homes are left empty. It would have welcomed further research to have been undertaken and presented in the Bill's accompanying documents on the reasons why such homes have been left empty before introducing proposals that might be perceived by LTE owners as being punitive.**

[137] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1022.
[138] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1029.
[139] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1049.
[140] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1045.
[141] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1047.
[142] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1046.
[143] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1051.
[144] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1051.

158. **While it acknowledges that funding to local authorities as a result of the Bill's proposals could be used to assist home owners to renovate homes, the Committee can foresee cases where the Bill and its powers will make it more difficult for home owners to regenerate their homes. As Angus Council pointed out—**

> **"If a significant number of empty properties need to be refurbished or repaired to bring them up to standard and the owners do not have the funds, imposing an extra costs will not necessarily produce the desired outcome. In the absence of financial support for such people, the bill may make it more difficult for them to spend money on bringing their property up to standard-in other words, it may have a perverse effect."[145]**

Whether councils will apply the maximum levy

159. Even if local authorities ultimately decide to make use of the powers to be provided in the regulations, there appeared to be little appetite at this stage for imposing the maximum levy. Angus Council wanted an opportunity to assess how the current council tax regime was working. It explained that in April it had reduced the discount for empty properties to 10% and wished to monitor the impact of this before introducing additional charges.[146] It indicated that "If we charge owners an extra 100 per cent, we might drive many of them into debt."[147] While North Lanarkshire Council stated that it was "unconvinced that a penalty of an additional £1,000 would necessarily drive such owners to put their properties back on the market. The issue is probably more about the economic balance."[148]

160. Angus Council commented that—

> "The difficulty with a 100 per cent levy is that it will be perceived by some taxpayers as punitive and unfair-there is no doubt that it represents a big increase in the amount of debt that they will incur. That may incentivise people to try to evade the charge but, for those who do not, there are significant issues relating to the financial situation out in the real world-people just do not have an unlimited amount of disposable income to meet increased debt."[149]

161. North Lanarkshire Council did not consider that "we will raise as much money as we anticipate. I think that fewer properties will be identified than the current quantification suggests. I have no doubt that currently, for arguments sake, there are 400 empty properties, but I do not think that all 400 will be classified as requiring the additional levy of, for argument's sake, £1,000 per annum."[150]

162. In its evidence to the Committee the Bill team acknowledged that the potential costs to homeowners and in the turn the revenue for councils will

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[145] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1040.
[146] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1026-7.
[147] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1027.
[148] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1040.
[149] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1026.
[150] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1042.

"depend heavily on whether councils choose to use the new powers and, if so, the extent to which they do so."[151] It indicated that most councils did not yet have a firm position on that. Therefore it had based its modelling on the potential revenue if all councils choose to apply the maximum increase. It stated, however, that it realised that "that will not happen in practice."[152]

163. **Given the acknowledgement by the Bill team that councils will not all apply the maximum levy for which the proposals would allow, the Committee finds it surprising that this figure was used as the basis for its modelling in the FM.**

Whether councils will achieve a 100% collection rate

164. Angus Council suggested that using a 100% collection rate to estimate savings was not a "realistic approach particularly as these charges may be harder than average to collect. For example many owners may not reside in the area or even in the UK."[153] North Ayrshire Council shared this view. It indicated that collection of the levy would be difficult, as many of the owners were not in a financial position to pay the current council tax on a long term property and a 100% levy would only exacerbate the problem. It stated that—

> "The Council expects that recovery action will increase and more debt may be passed to the sheriff officer increasing the amount of commission payable by the Council. For example, if long term empty properties reached the summary warrant stage and were collected by the sheriff officer then the Council would need to pay around £68K in commission."[154]

165. **The Committee highlights this issue to the lead committee.**

The extent of tax evasion

166. Several local authorities suggested that the potential revenue estimated would be affected by evasion. For example, North Lanarkshire Council indicated that the "bill would also introduce an incentive to owners to avoid the tax."[155] North Lanarkshire Council expanded on this view suggesting that a "property will not end up being billed for an additional £1,000, because it will become more attractive for individuals to say that somebody is living in it, or that it is a second home or something else."[156] This view was shared by North Ayrshire Council which considered that evasion would be a "major factor".[157]

167. COSLA noted that while the Bill provided for a duty on owners of unoccupied properties to notify their local authority in practice the power to impose a penalty of £200 for failure to notify might be ineffective and not widely applied, particularly where there was a significant risk of non-payment.[158]

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[151] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1045.
[152] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1045.
[153] Angus Council. Written submission.
[154] North Ayrshire Council. Written submission.
[155] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1028.
[156] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1042.
[157] North Ayrshire Council. Written submission.
[158] COSLA. Written submission.

168. **The Committee highlights this issue to the lead committee.**

Number of LTE homes being actively marketed
169. The FM assumes that 3-6% of LTE homes would fall into the category of being actively marketed sale and thereby be exempt from increased council tax.[159] The FSU briefing notes that if the actual number is higher than this, then the revenue gains would be correspondingly lower.[160]

170. The Committee also sought clarification from the Bill team on how the exemption for properties that were being actively marketed would work in practice and, in particular, how councils would determine what constituted "a reasonable price".

171. The Bill team explained that—

> "we were trying to ensure that, if a purchaser came along and wanted to buy a property, the owner would sell it. We included the bit about ensuring that a reasonable price has been set for the property to ensure that properties are not being marketed at an unrealistic level—at say, double their value—meaning that no one will buy them."[161]

172. **The Committee notes that this will place a responsibility on local authorities to determine what is a reasonable price.**

Number of homes being "reoccupied"
173. The FM assumes that 10% of LTE homes would be brought back into use as a result of the changes and appears to assume that this rate of return to use would continue year-on-year.[162] It is unclear how this has been reached. However, it could be that, as the stock of LTE homes reduces, the rate of return to use would also fall, which would have an impact on the estimated revenues.[163] Additionally, the FM assumes no new LTE homes being added to the current stock.[164]

174. For example, Angus Council suggested that—

> "The estimates have been compiled on the data that is currently available, but there is a lot of uncertainty about some of the figures. I suspect that we will not collect the additional revenue that is outlined in the best-case scenario. In particular, in the case of council tax, it is assumed that over time the revenue will be maintained. Perversely, if the additional levy has the

[159] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 34.
[160] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
[161] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1055.
[162] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 32.
[163] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
[164] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 32.

desired effect, the revenue will drop over time because, for example, properties will no longer be empty."[165]

175. **The Committee suggests that the lead committee seek clarification on how the figure of a 10% increase in occupancy rates was reached in its evidence session with the Scottish Government.**

Flexibility at local level

176. COSLA noted in its submission that the Bill only refers to general provisions and that greater clarity on cost implications would be determined through subordinate regulations once the Bill is passed.[166] In terms of the margins of uncertainty it stated that—

> "Critical to these estimates is the extent to which Councils will use the new powers and….. this must be for Councils to determine locally the appropriateness of applying the policy and to what extent. A more detailed understanding of the costings will emerge through the discussion on the regulations."[167]

177. Glasgow City Council reported that a key aspect of its response to the Scottish Government's consultation on council tax empty property relief was that local authorities should have the freedom and flexibility over whether and how to implement any change. However, it noted that paragraph 9 of the Explanatory Notes implied that this power would reside with Scottish Ministers or local authorities. The Council suggested that the absence of local flexibility was also suggested at paragraphs 28 and 34 of the FM.[168]

178. In its submission COSLA indicated its expectation that the Scottish Government would set out in regulation the boundaries for varying discount/applying charges. However, it indicated that local authorities would have local flexibility to apply the powers and to determine the degree of variation to be applied within the set boundaries.[169]

179. **The Committee notes the concerns of Glasgow City Council regarding local flexibility and suggests that the lead committee seek clarification on this point from the Scottish Government.**

Council-owned LTE homes

180. Finally, the FM notes that there may be costs to public sector bodies that own LTE homes. North Lanarkshire Council stated that—

> "As a provider of the social rented sector (Council Houses) it is an unfortunate consequence of the legislation that the Housing Rent Account (HRA) and by default tenants, should bear the added cost of any properties which are unoccupied and would then be liable for the additional charge. The Government should exempt such properties and address any

[165] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1042
[166] COSLA. Written submission.
[167] COSLA. Written submission.
[168] Glasgow City Council. Written submission.
[169] COSLA. Written submission.

difficulties it feels exist in the social rented sector as part of its oversight of the Housing Strategy."[170]

181. In oral evidence it emphasised that—

"Across most of the local authority sector, we have been addressing the issue of voids for a number of years by trying to reduce them, but we will always have void properties.

The issue is that, whatever the number is—X hundred empty properties—the landlord, which is the council, will bear the additional charge."[171]

182. No information is provided in the FM regarding the number of council-owned LTE homes that would be affected by the proposals or the estimated associated costs.

183. **The Committee notes that this cost will need to be off-set against the savings accruing to local authority budgets and is therefore likely to be a factor for councils in determining whether to use the powers under the Bill.**

184. **The Committee highlights this issue to the lead committee.**

HOUSING SUPPORT GRANT

POLICY PROPOSALS

185. The Housing Support Grant (HSG) is currently payable to one local authority in Scotland, Shetland Islands Council, largely for historical reasons.[172] The Scottish Government is planning to abolish the grant in 2013-14. Section 4 of the Bill would remove the requirements in the Housing (Scotland) Act 1987 on the Scottish Ministers to pay HSG to local authorities.[173]

186. HSG is payable when a local authority has difficult balancing its council housing account (known as the housing revenue account (HRA)) without resorting to substantially increasing rents or cutting management and maintenance expenditure.[174]

187. The need for HSG has declined for various reasons including central government debt reduction measures e.g. requirements on the use of a proportion of council house receipts to redeem debt, council house stock transfers which have allowed councils to clear, or reduce, outstanding debt and the introduction of

[170] North Lanarkshire Council. Written submission.
[171] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1033.
[172] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 55.
[173] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum
[174] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

the prudential borrowing framework where councils self-regulate their borrowing levels.[175]

188. The Policy Memorandum (PM) argues that, "the continuing availability of Housing Support Grant leaves open the possibility, and indeed creates a theoretical incentive, for local authorities to increase their Housing Revenue Account debt levels to unsustainable levels and receive on-going Scottish Government subsidy for doing so".[176]

189. According to the PM, the Scottish Government "would prefer to increase the supply of housing through the provision of capital grant for social housing rather than using scarce resources to service historic debt on an on-going basis".[177]

FINANCIAL MEMORANDUM

190. In 2012-13, Shetland Islands Council will receive £0.76 million in HSG.[178] Although the level of HSG to the Council has decreased over the years, it still makes up about 15% of Shetland's total council house rental income. Projected payments for the period to 2016-17 are shown in Table 6 in the FM.

Costs on the Scottish Administration

191. The FM states that no additional costs are expected on the Scottish Administration.[179]

Costs on local authorities

192. The FM indicates that the abolition of the grant from 2013-14 onwards would involve a reduction in income to Scottish local authorities' Housing Revenue Accounts of approximately £0.840 million. However, the FM explains that this would be concentrated on the sole recipient of the grant, Shetlands Islands Council, unless other councils were to begin claims for the Grant.[180]

Costs on other bodies, individuals and businesses

193. The FM states that an alternative view of HSG is that it is not in fact a subsidy to local government, but a subsidy to individual tenants who, without receipt of the grant, might face higher weekly rental payments. The FM states that, if the grant is considered in this way, the individual impact of removal per of the

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[175] Financial Scrutiny Unit (2012) Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill: Financial Memorandum

[176] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Policy Memorandum, paragraph 63.

[177] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Policy Memorandum, paragraph 64.

[178] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 57

[179] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 58

[180] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 60

grant per tenant would, at most costs tenants an average of £3.04 per week over 3 years.[181] Further information is provided in paragraphs 64 to 68 of the FM.

COMMITTEE CONSIDERATION

Costs on local authorities

194. As noted above, the costs associated with this proposal will fall either on Shetland Islands Council or on its tenants. The primary issues raised in evidence focused on this issue.

Transitional arrangements

195. COSLA indicates in its submission that negotiations are ongoing with the Scottish Government with regard to a transitional arrangement with Shetland Island Council.[182] However, in its submission to the Committee, the Council indicated that it does "not believe that the financial implications for Shetland Islands Council have been accurately reflected."[183] In particular, it states that "no details of any transitional arrangements have been issued".[184] It emphasised that—

> "The absence of any transitional arrangements will result in a direct impact of 1800 tenants, for example to fund the value of the current years Housing Support Grant allocation would either mean a loss of service/investment of £760,950 or an increase in rent of £8.13 per week on average rents."[185]

196. In oral evidence to the Committee, the Council indicated that it was not necessarily opposing the abolition of the housing support grant but emphasised that it "hinged on there being satisfactory transitional arrangements."[186]

197. It further stated that—

> "We are looking for some recognition that the debt came as a result of the pressure to get oil into Sullom Voe back in the 1970s. At that time, the islands population increased by 40 per cent and we ended up borrowing £50 million on the housing revenue account across two decades. Some years later, we face the prospect of 1,800 tenants shouldering that debt burden."[187]

198. In response to questions from the Committee the Bill team stated that—

> "Shetland Islands Council has presented quite a range of options to us, which we are still considering with ministers. Some of the options are more expensive than others. We have not reached a conclusion, but it should not

[181] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 66.
[182] COSLA. Written submission.
[183] Shetland Islands Council. Written submission.
[184] Shetland Islands Council. Written submission.
[185] Shetland Islands Council. Written submission.
[186] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1029.
[187] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1024.

be long before we do, after which we will return to the council to discuss the situation."[188]

199. **The Committee highlights this issue to the lead committee and the need for early satisfactory resolution of the transitional arrangements for Shetland Islands Council.**

Use of council reserves

200. The FM states that the financial impact of the abolition of the HSG "could be further moderated by Shetland Islands Council reviewing the terms of its own loan arrangements or the use of its wider portfolio of reserves."[189]

201. The Council commented on the proposal to use its reserves in its evidence stating that—

> "The Financial memorandum fails to capture the fact that Shetland Islands Council's Housing Revenue Account is burdened with such a level of rent that approximately 40% of housing rents income is used to finance debt repayment charges. The Housing Support Grant has alleviated this somewhat, but even that did not fully address the underlying issue of the sustainability of the Housing Revenue Account."[190]

202. In its oral evidence to the Committee Shetland Islands Council provided a breakdown of its current reserves. It explained that it had about £196 million, £130 million of which was council tax money that could not be used to prop up the housing revenue account. It indicated that of the remaining £65 million, £25 million was required for the decommissioning of the Sullom Voe harbour. It explained that this left £36 million.[191]

203. In subsequent correspondence to the Committee, Shetland Islands Council provided further information on its Usable Reserves. It explained that in its 2010/11 audited financial statements the Council disclosed a Usable Reserves balance of £269 million. Of this balance, £55 million had been issued as loans, and specifically £41.5 million had been issued as loans to the HRA, meaning that the actual cash available in reserves to the Council totalled approximately £213.7 million.[192]

204. It provided further detail in an accompanying table and stated that—

> "The conclusion to be drawn from this analysis is that by March 2013, the Reserve Fund will have an uncommitted balance of £14m based on information available in May 2012. However, it should be noted that it is anticipated that there will be further draw down on the Reserve Fund in 2013-14 in order to balance the revenue budget, and there is a risk that the 2012-13 savings targets will not be met, which would require further draws on the

[188] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1053.
[189] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 63.
[190] Shetland Islands Council. Written submission.
[191] Scottish Parliament Finance Committee. *Official Report, 2 May 2012*, Col.1025.
[192] Shetland Islands Council. Additional written submission

Reserve Fund in the current financial year. As a result of this uncertainty, and expected future commitments on this fund, the Council is not in the position to prudently use the Reserve Fund to address the debt issue on the HRA."[193]

205. In its evidence session with the Bill team, the Committee sought further information from the Scottish Government on the following—

- The housing revenue account debt burden being faced by Shetland Islands Council in relation to the 25 other local authorities with housing revenue accounts and/or the debt burden of Registered Social Landlords

- The level of financial reserves per capita at the Shetland Islands Council available for housing revenue account purpose relative to the other 25 local authorities in Scotland with an HRA

206. Data from the Scottish Government shows that at 42.5% Shetland Islands Council has the highest housing revenue account debt burden as measured by total debt servicing payments.[194]

207. In terms of the second request the Scottish Government indicated that it had also provided the total reserves available to HRA divided by the number of council dwellings at the same point in time, on the basis that the majority of council reserves cannot be used to benefit the HRA. This data shows that Shetland Islands Council has the highest housing reserve per dwelling at £6,720.[195]

208. **The Committee highlights this information to the lead committee.**

209. **The Committee agrees with the Scottish Government's proposal to abolish the HSG and the Committee understands that transitional arrangements are currently being discussed between the Council and the Scottish Government.**

SUMMARY OF CONCLUSIONS

Proposals on empty property relief

Consultation exercise

210. **The Committee notes that, while the proposals on council tax relief were the subject of a separate formal consultation exercise, the proposals on empty property relief were announced in the Scottish Government's spending review 2011. Given the Committee's lead role in the scrutiny of the draft budget and spending review, the Committee would welcome clarification from the Scottish Government on the nature of the consultation exercise that it undertakes on the annual draft budget and, as appropriate, spending review and the extent to which this exercise follows the Scottish Government's *Consultation Good Practice Guidance*. While it would expect stakeholders to submit their views to the Scottish Government as a normal part of the draft budget process, the Committee is not aware of a formal**

[193] Shetland Islands Council. Additional written submission.
[194] Scottish Government. Supplementary written submission.
[195] Scottish Government. Supplementary written submission.

invitation for views or, for that matter, the publication of a summary and analysis of responses.

211. **Given that this issue goes beyond consideration of this particular Bill, the Committee will write separately to the Cabinet Secretary for Finance, Employment and Sustainable Growth to seek clarification on this point. However, it highlights it here as a matter that the lead committee may also wish to pursue in its evidence session with the Scottish Government.**

212. **The Committee notes that, in respect of this Bill, the spending review 2011 included only a brief statement regarding the Scottish Government's intentions and contrasts this with the formal consultation exercise conducted on the council tax proposals. The Committee further notes that given that financial estimates on the empty property relief proposals were not published in the draft budget document, any submissions following the draft budget relate to the broad principles of reform, rather than to the costings.**

213. **The Committee considers that a separate formal consultation exercise on the empty property relief proposals should have been undertaken, similar to that conducted on the council tax proposals, as this would have been helpful to the Committee's scrutiny and evidence gathering.**

BRIA

214. **The Committee notes that the empty property relief proposals were not subject to a Business and Regulatory Impact Assessment (BRIA).**

215. **The Committee notes the explanation of the Bill team that the preparation of a BRIA would have been disproportionate due to the level of impact of the Bill's proposals on businesses. The Committee notes, however, that the Scottish Government's guidance on BRIAs indicates that if a proposal imposes additional costs or reduces existing costs on businesses then a BRIA should be prepared and does not apparently distinguish between the level of costs and impact on business in deciding whether a BRIA is required.**

216. **The Committee notes that, in any event, the potential impact of the Bill's proposals is not limited to those businesses currently in receipt of empty property rates relief but could extend to any business, individual or other body which owns commercial property that might become empty at some point in the future or which is considering the development of commercial premises.**

217. **Committee considers it unfortunate that no separate formal consultation exercise was conducted on the empty property relief proposals and that, given the potential impact on businesses, no BRIA of a proportionate level of length and detail was prepared.**

218. **The Committee suggests that the lead committee pursues this matter in its evidence session with the Scottish Government.**

Costs to local authorities
219. **While the FM acknowledges that there will be costs to local authorities that have empty commercial properties, it does not estimate the numbers or the associated costs. In its evidence session with the Bill team the Committee sought to establish the level of costs that might fall on local authorities which own empty commercial properties. The Bill team explained the difficulties in identifying correctly from the information it held whether a property was local-authority owned.**

220. **The Committee considers that greater effort should have made to establish the number of local authority-owned empty properties that might be affected by the Bill's proposals and the associated costs. The Committee finds it surprising that having established that it was unable to determine with clarity whether empty commercial properties were local authority-owned that the Bill team did not then seek this information directly from local authorities. The Committee highlights this issue to the lead committee.**

Costs to businesses/savings to the Scottish budget
221. **The Committee notes that the FM contains only limited information on how the figure of the £18 million costs to businesses and revenue to the Scottish budget was calculated. At the request of the Committee, the Bill team subsequently provided further information. While the Committee welcomes this additional information it considers that it should have been included in FM, even if it had been caveated that further analysis was underway and that, as a result, the figures might change.**

222. **The Committee notes that, in any event, the figure of £18 million savings to the Scottish Government and cost to businesses appears to be based on a range of assumptions and therefore subject to a margin of uncertainty. It notes that whereas the FM provides useful detail regarding the modelling and margins of uncertainty in connection with the council tax proposals, the same detail has not been provided in respect of the empty property relief proposals.**

223. **The Committee considers that the FM should have set out the margins of uncertainty on the figure of £18 million, how assumptions had impacted on its calculations and provided a range of financial estimates based on those assumptions, particularly given the volatility of the costs of empty property rates relief to date.**

224. **The Committee notes that a further factor impacting on the savings accruing to the Scottish budget will be the costs to public sector bodies that own empty commercial properties, which will act to partially off-set the estimated savings. These figures were not provided in the FM. Estimates were subsequently provided to the Committee by the Bill team in connection with properties owned by local authorities, Scottish Enterprise and the NHS.**

225. **The Committee notes that, on the basis of the Bill team's estimates, the projected net savings to the Scottish budget of £18 million could be reduced by up to £2.4 million. However, this figure only covers local authorities, NHS Scotland and Scottish Enterprise. While these are likely to account for the**

majority of empty properties, there may be other bodies and agencies that would also need to be taken into account in a full assessment of the public sector impact.

226. **The Committee recommends that the financial impact of the increased non-domestic rate charges on public sector bodies is accurately determined in order that this can be properly reflected within the projected savings. The Committee considers that information on the numbers of vacant public sector-owned commercial properties should be sought directly by the Scottish Government from local authorities, Scottish Enterprise, NHS bodies and any other public sector bodies that own such properties and the costs provided to Parliament. The Committee notes that for this exercise to be effective, local authorities will need to adopt a standardised, robust system of recording all properties.**

227. **The Committee suggests that these matters are pursued by the lead committee in its evidence session with the Scottish Government.**

Evidence that properties will be re-occupied

228. **While the Committee notes that the relief scheme in England differs from that proposed in Scotland no evidence was presented to the Committee that showed that re-occupation rates among standard empty commercial properties had increased as a result of increases to non-domestic rates.**

229. **As noted above, the Committee considers it unfortunate that the Bill's proposals were not subject to a formal consultation exercise and a BRIA. Such exercises would have provided an opportunity for the Scottish Government to set out the evidence in support of the Bill's proposals and which demonstrated that the proposed changes would act as an incentive to owners to re-occupy commercial premises. Such exercises would also have provided an opportunity for the Scottish Government to set out the alternatives to the Bill's proposals which it had considered and/or was planning to encourage the re-occupation of empty commercial premises.**

230. **The Committee further notes that without baseline information, it will not be possible to ascertain whether any improvement in occupation rates of commercial properties in the future has occurred because of a growth in the economy or as a result of the Bill's proposals.**

231. **While recognising that it is difficult to disentangle the effects of rates reform from wider economic factors, the Committee finds it surprising that the FM makes no attempt to estimate the number of commercial properties that will be brought back into use as a result of the Bill's empty property relief proposals.**

Impact on the broader economy

232. **While the Committee supports the general principle of the Bill's objectives of bringing back into use empty commercial properties, it is concerned that the Bill's proposals may impact detrimentally both on individual businesses and the broader economy.**

233. **Given the above, the Committee considers it essential that the financial impact of the Bill on business and the broader economy is regularly monitored and intends to conduct this through its annual scrutiny of the draft budget.**

234. **The Committee understands from comments from the Bill team that there may still be some flexibility in the proposals for empty property relief. A number of proposals were put forward by stakeholders which might go some way to ameliorating the potential impact of the Bill's proposals on businesses, on property development and on the public sector (in cases where commercial properties are owned). The Committee highlights these to the lead committee for its consideration. These include:**

- **A higher threshold before owners would become liable for 90% rates;**
- **A longer exemption period for properties that are new to the market;**
- **An exemption for all long term properties in public ownership.**

Council tax increase on long-term empty homes

Whether councils will use the Bill's proposals

235. **The Committee recognises that there are a range of reasons why homes are left empty. It would have welcomed further research to have been undertaken and presented in the Bill's accompanying documents on the reasons why such homes have been left empty before introducing proposals that might be perceived by LTE owners as being punitive.**

236. **While it acknowledges that funding to local authorities as a result of the Bill's proposals could be used to assist home owners to renovate homes, the Committee can foresee cases where the Bill and its powers will make it more difficult for home owners to regenerate their homes. As Angus Council pointed out:**

> **"If a significant number of empty properties need to be refurbished or repaired to bring them up to standard and the owners do not have the funds, imposing an extra costs will not necessarily produce the desired outcome. In the absence of financial support for such people, the bill may make it more difficult for them to spend money on bringing their property up to standard-in other words, it may have a perverse effect."**

Whether councils will apply the maximum levy

237. **In its evidence to the Committee the Bill team acknowledged that the potential costs to homeowners and, in the turn, the revenue for councils will "depend on whether councils choose to use the new powers and, if so, the extent to which they do so." It indicated that most councils did not yet have a firm position on that. Therefore it had based its modelling on the potential revenue if all councils choose to apply the maximum increase. It stated, however, that it realised that "that will not happen in practice."**

238. **Given the acknowledgement by the Bill team that councils will not all apply the maximum levy for which the proposals would allow, the Committee finds it surprising that this figure was used as the basis for its modelling in the FM.**

100% collection rate
239. **Several local authorities suggested that the assumption of 100% collection rate was unrealistic. The Committee highlights this issue to the lead committee.**

Risk of tax evasion
240. **Several local authorities suggested that the potential revenue estimated would be affected by evasion. The Committee highlights this issue to the lead committee.**

Determination of a reasonable rent
241. **The Committee notes that the FM assumes that 3-6% of LTE homes would fall into the category of being actively marketed sale and thereby be exempt from increased council tax. The Committee notes that this aspect of the Bill's proposals will place a responsibility on local authorities to determine what is a "reasonable price".**

Reoccupation rates
242. **The Committee notes that the FM assumes that 10% of LTE homes would be brought back into use as a result of the changes and appears to assume that this rate of return to use would continue year-on-year. The Committee noted that it was unclear how this figure has been reached and suggests that the lead committee seek clarification on this figure in its evidence session with the Scottish Government.**

Local flexibility.
243. **In its evidence to the Committee, Glasgow City Council raised concerns regarding the level of freedom and flexibility that would rest with local authorities in determining in whether and how to implement any changes resulting from the Bill's powers. The Committee suggests that the lead committee seek clarification on this point from the Scottish Government.**

Council-owned empty properties
244. **The Committee notes that no information is provided in the FM regarding the number of council-owned LTE homes that would be affected by the proposals or the estimated associated costs. The Committee notes that this cost will need to be off-set against the savings accruing to local authority budgets and is therefore likely to be a factor for councils in determining whether to use the powers under the Bill. The Committee highlights this issue to the lead committee.**

Housing Support Grant

245. **The Committee highlights the need for early satisfactory resolution of the transitional arrangements for Shetland Islands Council resulting from the abolition of the Housing Support Grant.**

246. **The Committee agrees with the Scottish Government's proposal to abolish the HSG and the Committee understands that transitional arrangements are currently being discussed between the Council and the Scottish Government.**

ANNEXE A: ORAL AND WRITTEN EVIDENCE

12th Meeting, 2012 (Session 4), Wednesday 25 April 2012

ORAL EVIDENCE
David Melhuish, Director, Scottish Property Federation
Tom Stokes, past chairman, Business Centre Association

13th Meeting, 2012 (session 4), Wednesday 2 May 2012

ORAL EVIDENCE
Ann Bain, Senior Service Manager (Revenues and Benefits), Angus Council
Sam Baker, Policy Manager (Housing Supply Division), Scottish Government
Brian Cook, Head of Revenue Services, North Lanarkshire Council
Marianne Cook, Policy Manager (Local Government Finance), Scottish Government
James Gray, Executive Manager (Finance), Shetland Islands Council
Jamie Hamilton, Policy Manager (Housing Supply Division), Scottish Government
Anita Jamieson, Executive Manager (Housing), Shetland Islands Council
Stuart Law, Senior Policy Advisor (Housing Supply Division), Scottish Government.

WRITTEN EVIDENCE