The Scottish Parliament
Pàrlamaid na h-Alba

FINANCE COMMITTEE

AGENDA

12th Meeting, 2012 (Session 4)

Wednesday 25 April 2012

The Committee will meet at 10.00 am in Committee Room 2.

1. **Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill:** The Committee will take evidence on the Financial Memorandum of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill from—

   David Melhuish, Director, Scottish Property Federation;

   Tom Stokes, past chairman, Business Centre Association.

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The papers for this meeting are as follows—

Agenda Item 1

Paper by the clerk	FI/S4/12/12/1
Written submissions	FI/S4/12/12/2

Finance Committee

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

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill Financial Memorandum

Introduction

1. The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill was introduced in the Parliament on 26 March 2012.

2. 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 have been 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
- Western Isles Council

3. These submissions are contained in a separate paper.

4. The Financial Scrutiny Unit has produced a briefing on the Financial Memorandum and this is attached at Annexe A. A copy of the FM is attached at Annexe B.

5. The Committee will take evidence from representatives from the business/property sector at its meeting on 25 April. At its meeting on 2 May the Committee plans to take evidence from local authority representatives, to be followed by an evidence session with the Bill team.

6. The purpose of this paper is to provide background information on the Bill and FM and highlight issues raised in the written submissions.

THE BILL

7. The Policy Memorandum (PM) states that the Bill covers two subjects. The first is the treatment of empty property, under non-domestic rating legislation and council tax legislation (considered in two parts). For this subject, the Bill will provide powers to the Scottish Government by regulations to amend the arrangements for charges in relation to unoccupied commercial properties and homes. Under the second subject, the Bill provisions will abolish the Housing Support Grant.[1]

8. The three parts of the Bill are summarised below.

Empty property relief on non-domestic rates

9. The PM 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.[2]

10. Paragraph 17 of the PM states that the broad policy proposals have been consulted on as part of the consultation on the Scottish Budget. 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, 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.

11. The Bill will allow Ministers, by regulation, to vary the percentage and time span of non-domestic rate relief available for defined classes of empty or unoccupied premises.

12. 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.[3]

13. The FM states that the Bill would also allow the Scottish Ministers flexibility to make regulations that would decrease liability. However, it states that there is no intention to use the powers for this purpose at present.

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[1] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Policy Memorandum, paragraph 2

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

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

Council tax increase on long-term empty homes

14. The PM states that proposals for increased council tax charges for long-term empty homes were originally set out in the 2010 discussion document *Housing: Fresh Thinking, New Ideas*[4]. The PM indicates that, as the outline plans were broadly welcomed, in February 2011 the Scottish Government's strategy and action plan for housing in the next decade, *Homes Fit for the 21st century*[5] confirmed that the Scottish Government proposed to take forward primary legislation to permit additional council tax charges on certain long-term empty homes to encourage better use of existing housing stock and to raise additional revenue for local authorities to spend on their local priorities.[6]

15. The FM states that 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.

16. 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 (100%) was applied, the owner would pay double the standard rate of council tax for the applicable council tax band.[7]

17. The FM states that 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.

Housing Support Grant

18. The Housing Support Grant (HSG) is currently payable to one local authority in Scotland, Shetland Islands Council, largely for historical reasons. The Scottish Government is planning to abolish the grant in 2013-14.

[4] See http://www.scotland.gov.uk/Resource/Doc/1125/0112794.pdf
[5] See http://www.scotland.gov.uk/Publications/2011/02/03132933/0
[6] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Policy Memorandum, paragraph 19
[7] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 28

THE FINANCIAL MEMORANDUM

Empty property relief on non-domestic rates

Revenue estimate

19. The FM states that the cost to the Scottish Government of non-domestic rates income foregone in 2012-13 is estimated to be over £150 million. 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.[8]

Costs on the Scottish administration

20. The FM indicates that no additional costs to the Scottish Administration are expected in relation to the non-domestic rates provisions. The FM states that the reduction in the discount level would lead to a saving in the Scottish Government budget of approximately £18 million per year.[9]

21. The FM explains that the Scottish Government guarantees the figure that each local authority receives via the annual local government settlement, which is calculated through a combination of non-domestic rate income (NDRI) and general revenue grant (GRG) from the Scottish Budget. Any drop in NDRI is compensated for by the Scottish Government providing additional GRG and conversely any increase in NDRI leads to the Scottish Government reducing the level of GRG accordingly. The FM states that, as a result, the amount of NDRI collected by an individual authority has no direct impact on its total funding allocation. The approximately £18 million per year saving from reducing the empty property relief discount level would therefore accrue to the Scottish Government for reallocation within the Scottish Budget.[10]

Cost on local authorities

22. 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. It notes that any properties occupied by local authorities that are empty will also be affected by any change to the level of empty property relief offered.

Costs on other bodies, individuals and businesses

23. 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 2013-13 and 2014-15.

24. Further information on the costs associated with proposals on empty property relief on non-domestic rates is provided in paragraphs 18 to 26 of the FM.

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

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

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

Issues raised in written evidence

Consultation exercise

25. A number of submissions commented on the way in which the Scottish Government had consulted on its proposals on empty property relief. As noted above, paragraph 17 of the PM states that the broad policy proposals have been consulted on as part of the consultation on the 2011 Spending Review.

26. In its submission the Scottish Property Federation (SPF) notes 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 21 September, rather than any specific form of consultation."

27. While Glasgow City Council states 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."

Costs on the Scottish Administration

28. The SPF expressed surprise in its submission that only 12 properties in the Scottish Administration's estate would be liable under the empty 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.

Costs on local authorities

Implications for council-owned properties

29. Several local authorities highlighted the impact that the empty property relief proposals would have on council property. For example, Glasgow City Council estimated that the changes would result in the region of £0.5m to £1m per annum, which largely related to units in historically hard-to-let areas. Angus Council also noted the financial implications in respect of council property which remained empty longer that 3 months. It estimated that, based on the current position, additional rates charges of £20,000 would be incurred.

30. The SPF also commented on this issue, noting that while the FM infers that the full £18m 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."

31. Glasgow City Council suggested that the pressure on public sector budgets would lead to greater property rationalisation by public sector organisations in order to make property-related savings. The Council considered that there should be provisions in the Bill that enabled exemption for all long term properties in public ownership.

Enforcement and recovery costs

32. Angus Council noted that there might be an increase in recovery costs arising from the requirement to collect increased rates from businesses. 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 3 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—

> "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."

Costs on other bodies, individuals and businesses

Financial assumptions

33. A number of submissions commented on the financial implications for businesses of the empty property relief proposals. CBI Scotland indicated that several of its members had expressed concerns regarding some of the financial assumptions made in the Bill. It 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)."

34. 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. 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. "

35. The SPF considered that there would be considerable additional costs to its members with unforeseen consequences for the market, including an increase in businesses being placed into administration. The SPF stated that—

> “The SPF is concerned that the additional costs impact on ratepayers will be potentially higher than the forecast figure of £18m per annum. Indeed 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.”

36. The SPF referred in its submission 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 £70m, which, it calculated, would lead to an increased empty rates liability of just over £14m.

37. The SPF also challenged some of the assumptions made in the FM, particularly regarding the interplay of empty property rate relief with other forms of rate relief and the movement of properties from 100% relief to 50% relief.

Increase in re-occupation rates

38. CBI Scotland noted that the proposals are intended to act as an incentive to “re-occupy” premises. However, it indicated that commercial premises were rarely left empty 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.

39. 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. 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.

40. This was confirmed by the BCA, which 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.”

41. The SPF indicated that prior to introducing the policy in England, the relief was worth around £1.3bn per annum. It noted that it is still worth some £1.1bn, explaining that—

> “This buoyancy in relief costs point 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.”

Additional burden

42. Several respondents indicated 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”. 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.”

43. COSLA pointed out in its submission that many commercial properties are owned by absentee landlords, some are in very poor condition and therefore difficult to re-let or sell and are also possibly in negative equity. It indicated that—

> “There is a risk therefore that the proposed changes will increase the administrative burden with very little impact on the non-domestic rates income recovered and therefore the forecast savings to the Scottish Government may well not materialise.”

Impact on the broader economy

44. CBI Scotland suggested that the measures run “contrary to the Scottish Government’s own stated intention of both encouraging new investment in Scotland and boosting economic growth.” For example, it suggested that the proposals might prompt many investor to reconsider any developments or regeneration activities they may have planned. 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.”

45. 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.

46. The BCA referred to the situation in England and Wales and suggested that empty property relief policy could have a negative effect on the economy. It stated that—

> “Operators of flexible space promote entrepreneurs who benefit local economics as they generate new employment opportunities. In today’s fragile economy the benefits of developing and stimulating the growth of small business has never been more acute – local economies cannot survive without the provision of space on flexible terms in dedicated professional business environments offering business advice and support.”

Council Tax increase on long-term empty homes

Revenue estimate

47. 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 properties liable for council tax, a maximum of £33.9 million per year could be collected.[11]

48. It 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.[12] 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. It estimates that the maximum projected revenue would therefore reduce to approximately £22.3-23 million per year.[13]

Costs on Scottish administration

49. Paragraph 37 of the FM states that minimal additional costs are expected on the Scottish Administration.

Costs of local authorities

50. The FM indicates that the main costs to local authorities will be in enforcing the increase. 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 increase in its area is estimated to be a one-off cost of approx £5,000 to £10,000.[14]

51. 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.[15]

52. 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.

53. Further information on the costs to local authorities is provided in paragraphs 38 to 48 of the FM.

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[11] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 32

[12] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 33

[13] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 34

[14] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 41

[15] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 47

Costs on other bodies, individuals and businesses

54. 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. 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.

55. 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 £15.33-16.05 million per year based on the Scottish Government's intentions for regulations.[16]

Issues raised in written evidence

General

56. The majority of local authorities did not have significant comment on the costs associated with the council tax relief proposals as set out in the FM. A number of councils emphasised, however, that the costs of implementing the Bill could be met providing that they could be deducted from the additional revenue raised.[17] COSLA indicated that while it did not disagree with the costings in the FM, it highlighted that councils would need to consider where it is worthwhile applying the policy and that they might choose to offset any increased administration costs off the revenue raised.

57. Angus Council noted that no budget was set aside to fund additional set up and ongoing costs. It therefore 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." For its part, Highland Council sought a contribution from the Scottish Government towards updating the IT system.

58. As a general point, North Lanarkshire Council 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

[16] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 54

[17] See, for example, the responses from Clackmannanshire, City of Edinburgh and Aberdeen City councils

> funding. In essence the tax is possibly a penalty rather than a solution to the problem."

Collection rate of 100%

59. Angus Council, amongst others, 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." 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."

60. In addition, 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.

Flexibility at local level

61. 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.

62. 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.

Margins of uncertainty

63. 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. 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."

64. A similar point was made by Glasgow City Council which agreed that the FM accurately reflected the margins of uncertainty, but stressed 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.”

65. Angus Council raised a number of factors about which there was uncertainty, including the number of properties and the speed with which they are likely to be brought back into use as a result of the proposed measures. It also indicated that there was uncertainty around the level of evasion that might be deployed by tax payers subject to additional charges. This view was shared by North Ayrshire Council which considered that evasion would be a “major factor”.

Implications for council houses

66. North Lanarkshire Council commented on the implications for council houses of the proposed changes. It 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 difficulties it feels exist in the social rented sector as part of its oversight of the Housing Strategy.”

Notification penalties

67. 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 is a significant risk of non-payment.

Housing Support Grant

68. As noted above, HSG is currently payable only to Shetland Islands Council, which at 2012-13 was standing a £0.761 million. The FM notes that this is still a significant sum locally.

Costs on the Scottish Administration
69. The FM states that no additional costs are expected on the Scottish Administration.[18]

Costs on local authorities
70. 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.[19]

Costs on other bodies, individuals and businesses
71. 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 grant per tenant would, at most costs tenants an average of £3.04 per week over 3 years.[20] Further information is provided in paragraphs 64 to 68 of the FM.

Issues raised in submissions

72. COSLA indicates in its submission that negotiations are ongoing with the Scottish Government with regard to a transitional arrangement with Shetland Island Council.

Conclusion

73. The Committee is invited to consider the above issues in its evidence sessions.

Lucy Scharbert
Assistant Clerk to the Finance Committee

[18] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 58
[19] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 60
[20] Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill. Financial Memorandum, paragraph 66

Annex A

Finance Committee

Local Government Finance (Unoccupied Properties Etc.)(Scotland) Bill: Financial Memorandum

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The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill was introduced in the Scottish Parliament on 26 March 2012. 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 empty 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
- Abolish the requirement on the Scottish Government to pay housing support grant, currently only paid to the Shetland Islands Council.

It is anticipated all measures would take effect from April 2013, subject to the passage of the Bill and associated regulations.

Each part of the Bill is covered separately below.

Empty property relief on non-domestic rates

Current empty property rates relief regime

At present, owners of unoccupied non-domestic properties are eligible for a reduction on their non-domestic rates bill. The current empty property relief regime entitles all property owners to 100% rates relief for the first 3 months for which the property is empty. After 3 months, standard commercial properties are entitled to a 50% discount on their rates bill until the occupancy status of the property changes. The property must be occupied for at least six weeks before eligibility for the discount ceases. Certain types of property continue to receive 100% empty property rates relief indefinitely. These are:

- Listed properties

- Industrial properties

- Properties with a rateable value of less than £1,700

The Scottish Government estimates that there are currently between 19,000 and 20,000 properties benefitting from empty property rates relief[21]. The current empty property rates relief regime will cost the Scottish Government an estimated £152m in 2012-13 and is the costliest of all the non-domestic rates relief schemes currently in operation.[22] Other relief schemes include the small business bonus scheme and rates relief for charities.

Figures for the cost of empty property rates relief in earlier years, as well as forecast costs for the period to 2014-15 are shown in Table 1. As the figures show, the cost of empty property rates relief fluctuates from year to 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 recession. In 2012-13, the Scottish Government is forecasting a 5% increase in the cost of empty property rates relief, followed by rises of 2% and 5% in 2013-14 and 2014-15 respectively. This will reflect a combination of economic factors, the impact of appeals and changes in the non-domestic poundage rate.

Table 1: Cost of empty property rates relief

	Cost (£m)	% change on previous year
2006-07	130	..
2007-08	120	-8%
2008-09	127	6%
2009-10	153	20%
2010-11	146	-5%
2011-12	145	-1%
2012-13	152	5%
2013-14	155	2%
2014-15	162	5%

Note: figures for 2006-07 to 2009-10 are audited figures; figures for 2010-11 and 2011-12 are estimates; figures for 2012-13 to 2014-15 are forecasts
Source: Scottish Government

[21] Scottish Government, personal communication
[22] Scottish Local Government Financial Statistics 2010-11

Changes proposed

The Bill's provisions would allow the Scottish Government to introduce regulations to alter the level of empty property relief from April 2013. The Government's intention to amend the empty property rates regime was first signalled in the Scottish Spending Review 2011 and Draft Budget 2012-13, which stated:

> "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."

According to the Bill's Policy Memorandum, the proposed changes to the empty property rates relief regime will:

- Discourage property owners from leaving properties empty; and
- Raise additional revenue

Under the new proposals, all properties would continue to benefit from 100% rates relief for the first 3 months in which they are empty. However, after 3 months, standard industrial properties would only be entitled to 10% relief, rather than 50%. The current exceptions would continue to apply i.e. listed properties, industrial properties and those with a rateable value of less than £1,700 would continue to benefit from 100% rates relief for an indefinite period while they are empty. Table 2, taken from the Bill's Financial Memorandum (FM), summarises the changes proposed. The only category of property affected is highlighted – standard commercial properties that have been empty for more than 3 months.

Table 2: Empty property relief current and proposed rates in Scotland

	Current position	**Intended position post-legislation**
Standard or "commercial" empty property relief first 3 months	100% relief (i.e. no rates payable)	100% relief (i.e. no rates payable) – **NO CHANGE**
Standard or "commercial" empty property relief after 3 months	50% relief (until occupancy status changes)	10% relief (until occupancy status changes)
Exceptions:		
Listed property	100% relief	100% relief – **NO CHANGE**
Industrial property	100% relief	100% relief – **NO CHANGE**
Low rateable value property (rateable value less than £1,700)	100% relief	100% relief – **NO CHANGE**

Financial implications

The FM summarises the costs relating to the Bill and associated regulations as shown in Table 3.

Table 3: Costs and savings associated with changes to empty property rates relief, £m

	Scottish administration	Local authorities	Other bodies, individuals and businesses	Total
Estimated costs (+) or savings (-)	-18.0 (per year)	0.0	+18.0 (per year)	0.0

Scottish Government

The Scottish Government estimates that the proposed reforms would result in a saving to the Scottish Government of £18m due to the reduced cost of relief. This represents 12% of the current cost of relief (£152m). The estimated savings are relatively modest compared to the overall cost of relief because many properties would not be affected, or would be eligible for other forms of relief if they were no longer eligible for empty property rates relief.

According to the Scottish Government, roughly 13,000 properties (around two-thirds of the 19,000-20,000 properties currently benefitting from empty property rates relief) are 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 3 months. The first group (listed properties, industrial properties, and those with a rateable value of less than £1,700) would not be affected by the proposed reforms. The second group (those which are receiving 100% rates relief because they have been unoccupied for less than 3 months) would be affected once the three months expires, at which point they would receive a 10% discount rather than the current 50% discount.

The Scottish Government estimates that the remaining third of properties currently benefitting from empty property rates relief are getting 50% rates relief because they have been empty for more than 3 months (this equates to roughly 6,500 properties, according to Scottish Government estimates). For these 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 3 months, would reduce the cost of empty property rates relief by £23m per year. However, the changes proposed are likely to result in some properties currently benefitting from empty property rates relief switching to different forms of rates relief e.g. the small business bonus scheme, thereby reducing the overall savings delivered by the reforms. The Scottish Government estimates that around 5,000 properties might switch to different forms of rates relief, reducing the estimated savings by £5m to a total of £18m.

The savings delivered by the proposed changes to the empty property rates relief scheme will accrue to the Scottish Government. The Scottish Government guarantees an agreed level of funding to local authorities which represents a combination of non-domestic rates income (NDRI) and general revenue grant (GRG). Any increase in NDRI as a result of changes to the empty property rates relief regime will result in a corresponding reduction in GRG so as to maintain the agreed level of funding to local authorities. As a result, the Scottish Government will benefit to the full extent of any savings realised and local authority finances will be unaffected.

The Scottish Government estimates are based on analysis of the valuation roll, combined with analysis of Council returns relating to non-domestic rates relief. The figures in the FM are based on Council returns from April 2011. Further detailed analysis is currently underway based on more recent Council returns. This will provide a more detailed assessment of the characteristics of current recipients of empty property rates relief and allow the Scottish Government to review its estimates.

Other public sector costs

The FM assumes that there will be no additional Scottish Government or local authority staff costs in relation to the reforms. This is based on the assumption that any additional work related to the Bill's provisions would be relatively minor in scale and could be undertaken by existing staff.

No account is taken of any potential increase in the non-domestic rates bill for Scottish Government or local authorities, as a result of any properties that they own which are empty. The FM states that there are less than a dozen Scottish Government properties that would be affected and so any impact would be minor. However, a written PQ answer suggested that the impact on local authorities could be in the order of £1.8m:

> "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)

In written submissions to the Finance Committee, two local authorities (Glasgow and Angus) gave estimates of the impact they would expect the reforms to empty property rates relief to have on the rates bill for their local authority because of properties within their ownership that are empty. Glasgow City Council estimated that it would result in additional costs of £0.5m-1.0m per annum. Angus Council estimated that additional costs of £20,000 would result.

The Scottish Property Federation (SPF) has questioned the estimate of the impact on the public sector and suggests that it has been understated, not only in respect of local authorities, but also for the Scottish Government as well as other public sector bodies such as Scottish Enterprise. In their submission to the Finance Committee, the SPF suggests that up to 20% of the total impact would fall on the public sector i.e. up to £3.6m based on the FM estimates.

These additional costs to the public sector are not reflected in the FM.

Businesses

The cost to businesses is presented in the FM as identical to the savings to the Scottish Government i.e. £18m according to the estimates presented in the FM. However, as highlighted above, some of this cost is likely to fall to the public sector, as a result of empty properties that are owned by the Scottish Government, local authorities or other public bodies. This will have the effect of reducing the net savings to the public sector resulting from the reforms.

Main assumptions and sensitivity of estimates

A range of assumptions underpin the estimate presented in the FM. Any revisions to the underlying assumptions would affect the overall estimate of savings. The main assumptions that affect the costings are:

- The total number of current recipients of empty property rates relief – if the number of empty property rates relief recipients 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.

- 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 savings to the Scottish Government (and by implication, the cost to businesses) would be higher than the £18m given in the FM.

- 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 – it is not clear from the FM what assumption has been made, but any variation in this would affect the overall savings

- Eligibility for other types of relief – 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; if fewer properties are able to claim other types of relief (as suggested by the SPF), the savings to the Scottish Government would be higher than £18m, and the cost to businesses correspondingly higher.

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 cost to businesses). In addition, despite the fact that encouraging owners to bring vacant properties back into use is one of the primary aims of the reforms, the FM costings do not appear to assume that any such behaviour will result i.e. there does not appear to be any assumed reduction in the overall number of empty properties as a result of the reforms.

As mentioned earlier in this paper, the Scottish Government is currently undertaking more detailed analysis to gain a better understanding of the current profile of properties claiming empty property rates relief. This could result in a revised estimate of the impact of the proposed reforms.

It should also be noted that any estimate will only represent the position at a given point in time, dependent on the number of business claiming empty property rates relief. As noted above, this is a volatile area, with properties moving in and out of use all the time. The FM does not give a range of estimates, so it is not possible to assess how different assumptions about future volatility in the cost of relief might impact on the estimated savings (for example, different assumptions about economic growth and/or future poundage rates, which are set in line with English rates).

Stakeholder views

There has been no formal consultation on the proposed changes to the empty property rates relief regime and no business and regulatory impact assessment (BRIA) has been prepared. The Scottish Government states that, as the intention to reform empty property rates relief was signalled in the Draft Budget, the consultation relating to the Budget provided an opportunity for interested parties to comment on the proposals.

The Scottish Government also refers, in the Bill's Policy Memorandum, to engagement with stakeholders throughout the legislative process to date, through business meetings and events, offering opportunities for comment on the proposals.

In evidence to the Economy, Energy and Tourism Committee following the Draft Budget, the Cabinet Secretary for Finance, Employment and Sustainable Growth said:

> "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."[23]

Given that the financial estimates were not published at the time of the Draft Budget, any submissions following the Draft Budget related to the broad principles of reform of empty property rates relief, rather than the costings. The main concerns relating to costings, which have been echoed in responses to the Finance Committee's call for written evidence, are summarised below.

Impact on businesses

Concerns have been raised by business organisations about the cost to businesses, especially small businesses, which are already facing challenging economic

[23] Official Report, Economy, Energy and Tourism Committee, 2 November 2011 col 495 http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6761&mode=pdf

circumstances. The SPF has indicated that it considers that the FM significantly underestimates the impact on businesses. Along with other business organisations, the SPF argues that empty property is far more likely to be an indication of wider economic conditions, rather than an active decision on the part of property owners and that property owners already do all they can to ensure that properties are occupied, so as to maintain income streams. A lack of demand is the more fundamental issue and it is argued that a change in the empty property rates relief regime will be ineffectual so long as weak demand persists.

The SPF points to the English experience, where empty property rates relief was reformed in April 2008. The SPF states that, despite the reforms in England – which went further than the proposed reforms in Scotland – retail vacancy rates have risen and the cost of empty property rates relief is only slightly lower (£1.1bn per year) than it was before reform (£1.3bn per year). The SPF does point out that, in the first year of operation, the cost of empty property relief in England fell sharply (to £600m). This lends support to the view that the cost of empty property rates relief is highly volatile and likely to fluctuate with wider economic conditions. However, it should also be noted that there have been a number of changes to eligibility for relief in England which will affect comparisons over time.

The CBI refers to research undertaken by Lambert Smith Hampton which found that the changes to empty property rates relief in England had not resulted in increased occupancy levels. 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.[24]

Adverse incentives

A number of organisations have highlighted that the proposed changes to empty property relief could result act as a disincentive to speculative property development and/or regeneration, with developers or investors reluctant to face the additional costs associated with the risk of property remaining empty once developed.

There is also the risk that property owners might consider the costs of keeping property empty prohibitive and opt to demolish hard-to-let property rather than continuing to seek tenants or seeking to improve the property. This type of activity has led to empty property rates in England being labelled as “bombsite Britain” tax.

The reduced availability of property that could result could in turn have negative effects on local economies, because a lack of property availability could inhibit economic growth once the recovery gets underway. In addition, a lower overall stock of non-domestic property has implications for the overall level of NDRI.

A further possibility that has been raised is that businesses in difficulty (or their lenders) may more readily consider administration or insolvency, so that they would be exempt from non-domestic rates, rather than continue in business and potentially

[24] Communities and Local Government ‘National Non-Domestic Rates collected by Local Authorities in England 2010-11’, August 2011 (http://www.communities.gov.uk/publications/corporate/statistics/nondomesticrates201011)

face liability for rates on empty properties. For similar reasons, landlords may choose not to terminate a lease for insolvent tenants. Alternatively, property owners may be less selective in choosing tenants, so as to ensure continued occupation of properties, which could have implications for collection rates and the viability of high streets. Both of these factors would have implications for overall levels of NDRI.

Additional rate recovery costs

In responses to the Finance Committee’s call for written evidence, Angus Council and North Ayrshire Council highlighted the potential additional recovery costs resulting from the proposed changes. North Ayrshire Council pointed out that around 10% of ratepayers that currently have a 50% liability for non-domestic rates reach Summary Warrant stage and are therefore passed on to sheriff officers for collection. They considered that a reduction in relief could exacerbate this issue and result in higher fees for councils in relation to rate recovery costs. These potential additional costs to local authorities have not been factored into the estimates presented in the FM.

Council Tax on long-term empty properties

Current regime

Empty and unfurnished homes currently benefit from a six month exemption from council tax as set out in the Council Tax (Exempt Dwellings) (Scotland) Order 1997). Prior to April 2005, after this exemption ended the owners of empty and unfurnished homes would receive a 50% discount of the appropriate council tax charge.

In April 2005, the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005 came into force which provide that after receiving the 50% discount for 6 months local authorities can chose to reduce the council tax discount for owners of long term empty (LTE) properties to a minimum of 10% (i.e. owners would be required to pay up to 90% of the chargeable council tax). This means that currently, a LTE unfurnished dwelling receives an exemption from council tax for 6 months, followed by a 50% discount for 6 months, followed by a discount of between 50% and 10% depending on local authority policy. These arrangements also apply to second homes.

In September 2011, there were approximately 71,000 empty properties in Scotland. Of these, 46,000 were exempt from council tax because they were unoccupied[25] and around 25,000 were classified as LTE and owners would pay council tax at a discounted rate (Scottish Parliament 2012). LTE properties represent around 1% of total council tax chargeable dwellings.

With the exception of Glasgow and Renfrewshire, all local authorities have reduced the discount available to LTE property owners after 12 months to 10%. In Glasgow and Renfrewshire, owners of LTE homes continue to receive a 50% discount after 12

[25] An unoccupied property may be fully exempt from council tax for a number of reasons, for example because it is being structurally repaired, because the owner has died, because it is social housing due for demolition, because it has been repossessed, or because the owner has been taken into hospital or care or is in prison

months. Currently around £7m is raised from reduced council tax discounts on LTE homes i.e. where councils have opted to reduce the discount from 50% to 10%. The additional revenue raised through a reduced discount is retained by the local authority but must be used for activities in relation to affordable housing provision, as set out in guidance agreed with COSLA. The Scottish Government has indicated that any additional revenue raised through changes to discounts and/or new charges would not be ring-fenced for specific purposes.

Changes proposed

The proposed changes are as follows:

- Property owners would continue to benefit from an exemption from council tax for the first six months their home is empty, providing it is unfurnished (this is currently the case and no change is proposed). For six months following the period of exemption owners would receive a discount of between 50% and 10% depending on council policy.

- After 12 months of a property being empty, councils could reduce the council tax discount to 0% or increase council tax charges by a maximum of 100%, i.e. the owner of a LTE home could be liable for double the existing council tax rate for an equivalent occupied dwelling.

- Councils would have discretion to decide to impose a longer minimum period (i.e. longer than 12 months) for which a home can be empty before imposing a council tax increase
- Councils would have discretion to apply the council tax increase in certain parts of their area if they feel that is appropriate.
- A mandatory exemption from a council tax increase for up to 12 months would apply to owners who are proactively trying to sell their home at a reasonable price. Each council would be able to decide what sort of evidence they would be willing to accept from owners as sufficient in order to grant an exemption.
- Councils would have the power to offer a discretionary time-limited exemption from any additional council tax charge in two circumstances:
    - where the council was satisfied that the owner was actively trying to let their property; or
    - where a Registered Social Landlord has homes which are needed for use as temporary accommodation, but are sometimes left empty for long periods because their use is linked to a demolition and new build programme(s).
- The definition of LTE will be changed so that a property does not need to be unfurnished in order to be classed as LTE. This is in order to prevent owners from avoiding liability for an increase in council tax by furnishing their home (properties will continue to need to be unfurnished in order to claim an exemption from council tax for the first six months they are empty). The definition of second home will also be amended as the proposals only apply to LTE properties (the current regulations apply to both LTE properties and second homes).

- A duty would be imposed on owners to notify their council where their dwelling is unoccupied in cases where they are not paying sufficient council tax due to the local authority being unaware of the fact that the dwelling is unoccupied. A local authority may impose a penalty not exceeding £200 on any person who fails to notify the local authority within the period prescribed in regulations.
- A requirement would be imposed on residents, owners or their managing agents to provide information to a local authority on request in relation to ascertaining whether or not a dwelling is, has been or will be unoccupied, for the purpose of determining whether there should be any variation of the chargeable amount.

The proposed regulations will be subject to consultation and will need to be approved by Parliament so the proposals may be subject to some change during that period.

Financial implications

The FM summarises the costs relating to the Bill and associated regulations as shown in Table 4.

Table 4: Costs and savings associated with changes to council tax on LTE homes, £m

	Scottish administration	Local authorities	Other bodies, individuals and businesses	Total
Estimated costs (+) or savings (-)	0.0	+0.4 to +1.0 (one off) -12.6 to -15.1 (per year)	+15.3 to +16.1 (per year)	+0.4 to +1.0 (one off) +0.9 to +2.7 (per year)

Scottish Government

According to the FM, no additional costs are estimated to result for the Scottish Government as any related work could be undertaken by existing staff and the Scottish Government only owns a very small number of residential properties.

Local authorities

The FM estimates that the proposed changes to council tax on LTE homes would result in net additional revenues of £12.6m-£15.1m per year (excluding one-off set up costs). These benefits would accrue to local authorities, who would retain the additional income.

This estimate is based on:

- Current numbers of LTE homes, but assuming that the reforms would lead to 10% of LTE properties being returned to use each year

- An estimate of the number of LTE homes empty for more than one year (to whom any changes from the current discounts offered would apply)

- An assumed 100% increase in council tax applied by all councils after one year on LTE homes i.e. owners of LTE homes would pay double council tax after one year

- A downward adjustment to allow for those who are actively trying to sell their properties (and would be exempt from any increase for up to a year, following the first six month period of being classed as LTE)

- A further adjustment to allow for additional staff costs relating to the reforms e.g. for enforcement activities

The estimates are based on a model set up by the Scottish Government based on data provided by local authorities on numbers of LTE homes in their area.

In addition, one-off set up costs of £0.4m-£1.0m are estimated

Property owners

The owners of LTE homes would face higher council tax bills under the new proposals, assuming that councils opt to introduce such increases. As stated above, the FM assumes that all councils implement a 100% increase in council tax for LTE homes after 12 months. Under this scenario, an owner of a band B LTE home would face, on average, an additional £982.07 per year in council tax, when compared with the current position, where the majority of councils offer a 10% discount for LTE homes. Overall, owners of LTE homes (including private sector individuals, businesses and public sector bodies) would be paying an additional £15.3m-£16.0m in council tax per year.

Main assumptions and sensitivity of estimates

A range of assumptions underpin the estimate presented in the FM. Any revisions to the underlying assumptions would affect the overall estimate of savings. The FM states that 'there are significant margins of uncertainty in relation to these estimates'. The main assumptions that affect the costings are:

- The assumption that all councils will introduce the maximum 100% increase in council tax – the main estimates presented in the FM make this assumption, while noting that there is 'uncertainty about whether and to what extent local authorities will use the new powers, which could lead to very significant variations in the revenue raised'. 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 £15.3m-£16.0m to only £0.4m-0.7m. Most local authorities have not yet given any indication of their likely response to any new regulations, so assuming that all local authorities would charge the maximum 100% increase in council tax (when two local authorities have not used existing powers to reduce the discounts available) risks overstating the potential revenue gains to local authorities. Angus Council has indicated that it is unlikely to implement any increased charge within the next 1-2 years.

- The assumption that local authorities would achieve a 100% collection rate – a number of local authorities have highlighted in written responses to the Finance Committee that this is unrealistic and it would be more appropriate to assume a lower collection rate

- The number of LTE homes being actively marketed – the FM assumes that 3-6% of LTE homes would fall into this category and thereby be exempt from increased council tax. If the actual number is higher than this, then the revenue gains would be correspondingly lower

- The number of LTE homes brought back into use as a result of the changes – the FM assumes that 10% of homes would return to occupied use and appears to assume that this rate of return to use would continue year-on-year. 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. Additionally, the FM assumes no new LTE homes being added to the current stock.

- The additional costs to local authorities in implementing and enforcing any change in policy – in written responses to the Finance Committee, a number of local authorities have highlighted that these costs may have been underestimated. If this is the case, then net revenue gains would be correspondingly lower

- Council tax levels – the FM costings assume no change in council tax rates, but this would be a reasonable assumption given the current Government's policy commitment in this respect.

A number of stakeholders have highlighted, in responses to the Finance Committee, that the new policy could create an incentive for property owners to redesignate LTE homes as second homes in order to avoid the proposed penalties.

Abolition of Housing Support Grant

Changes proposed

Section 4 of the Bill would remove the requirements in the Housing (Scotland) Act 1987 on the Scottish Ministers to pay housing support grant (HSG) to local authorities.

HSG is payable when a local authority has difficult balancing its council housing account (known as the housing revenue account) without resorting to substantially increasing rents or cutting management and maintenance expenditure. Since 2006, Shetland Islands Council has been the only council that receives HSG.

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

The Policy Memorandum 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".

According to the Policy Memorandum, 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".

In 2012-13, Shetland Islands Council will receive £0.76m in HSG. Although the level of HSG to Shetland Islands 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 5.

Table 5: Projected HSG payments to Shetland Islands Council, £m

	2013-14	2014-15	2015-16	2016-17	Total
Projected HSG payments	0.524	0.282	0.034	0.0	0.84

Financial implications

The FM summarises the costs relating to the abolition of HSG as shown in Table 6.

Table 6: Costs and savings associated with the abolition of HSG, £m

	Scottish administration	Local authorities	Other bodies, individuals and businesses	Total
Estimated costs (+) or savings (-)	-0.84 (for period 2013-14 to 2015-16)	+0.84 (for period 2013-14 to 2015-16)	0.0	0.0

Scottish Government

The FM states that the Scottish Government would benefit to the full extent of the amount no longer paid out in HSG i.e. £0.84m for the period 2013-14 to 2015-16. No administrative savings are anticipated.

The FM does note that these projected savings do not take account of any transitional arrangements that might be introduced to offset the impact on Shetland Islands Council. In its submission to the Finance Committee, COSLA notes that discussions in relation to transitional arrangements are currently underway with the Scottish Government.

Local authorities

The FM estimates that the effect to Shetland Islands Council of the removal of HSG would be £0.84m over the three year period 2013-14 to 2015-16 inclusive. This assumes that no other councils would claim HSG over this period (which seems reasonable given that no other council has received HSG since 2006).

Council house tenants

If faced with the removal of HSG, Shetland Islands Council might respond in a number of ways e.g. cost reduction measures or review of loan arrangements. Alternatively, Shetland Islands Council might choose to offset the impact of losing HSG by increasing rents charged to council house tenants. The FM presents estimates of the impact that such an approach would have. It shows that, to recover all of the income lost through abolition of HSG revenue from tenants, an estimated rental increase of £3.04 per week on average over the three year period would be required, which represents an average annual rental increase of 4.7% above inflation (which is assumed to be 2.5% per year). The FM notes that above inflation increases in rents are likely to take place in other council areas, so some of this increase in rental charges to tenants would be likely to occur in the Shetland Isles even in the absence of the abolition of HSG.

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SPICe Research

20 April 2012

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament's Standing Orders, the following documents are published to accompany the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill introduced in the Scottish Parliament on 26 March 2012:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government Statement on legislative competence; and
- the Presiding Officer's Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 12–PM.

EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

4. The Bill will amend the law regarding non-domestic rates and council tax in respect of unoccupied properties. For non-domestic rates, it allows the Scottish Ministers greater flexibility to vary the relief that applies in relation to the rates payable in respect of such properties. For council tax, the Bill enables variation (including an increase) of the tax payable where a property is unoccupied and amends powers in respect of the ability of councils to require provision of information. The Bill also repeals provisions that allow grants to be made to local authorities in order to allow them to balance their housing revenue account.

COMMENTARY ON SECTIONS

Section 1 – Rating of unoccupied lands and heritages

5. This section relates to non-domestic (business) rates relief in respect of unoccupied premises. The Bill will amend sections 24 and 24A of the Local Government (Scotland) Act 1966 to allow the Scottish Ministers, by regulations (subject to the negative procedure), to vary the amount of rate relief in relation to unoccupied premises (or unoccupied parts of premises where there has been an apportionment under section 24A of the 1966 Act).

6. Currently, section 24 of the 1966 Act provides that no rates are payable in respect of wholly unoccupied premises (meaning there is 100% rates relief). However, it also allows the Scottish Ministers to provide, in regulations, that in respect of prescribed classes of premises a 50% relief applies. Section 24A of the 1966 Act provides a similar system of relief in respect of premises that are partly unoccupied for a short time. It permits the temporary apportionment of the rateable value of the premises between the occupied and unoccupied parts. The default position is that a nil value is attributed to the unoccupied part (which means, in effect, 100% rates relief is given in relation to that part). Like section 24, section 24A allows the Scottish Ministers to provide in regulations that a 50% relief applies to the unoccupied part in respect of prescribed classes of premises.

7. Thus sections 24 and 24A of the 1966 Act allow regulations to vary the level of relief in respect of prescribed classes of unoccupied premises from the default 100% to 50%. The Bill will amend those sections to permit regulations made under them to vary the percentage of relief that applies to the classes of premises prescribed. The power to vary the percentage of relief will

however be subject to the limitation that the level of relief cannot be reduced to less than 10% (i.e. unoccupied premises, or unoccupied parts of premises, cannot be charged more than 90% of the rates that would be payable were the premises, or the part, occupied).

Section 2 – Council tax: variation for unoccupied dwellings

8. Existing provision in section 33 of the Local Government in Scotland Act 2003 gives the Scottish Ministers the power, by regulations, to provide for a council tax discount in respect of unoccupied dwellings. It also allows the Scottish Ministers to make regulations that confer a power on local authorities to vary the level of council tax discount provided for such dwellings in their areas. These powers were used to make the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005 ("the 2005 Regulations"; S.S.I. 2005/51) which allowed for discounts of between 10% and 50% for unoccupied properties.

9. Section 2 of the Bill will amend section 33 of the 2003 Act so that the Scottish Ministers may, by regulations, vary the amount payable, or allow local authorities to vary the amount payable, in relation to such unoccupied properties as are specified in the regulations. This power will include the ability to provide for an increased charge either by removing the discount or imposing an increase. The regulations retain the power to set a maximum discount and, by virtue of the amendment, include a power to set a maximum increase (e.g. no more than a maximum of 100% (i.e. double the council tax rate)). As enacted, the powers conferred by section 33 of the 2003 Act are exercisable subject to the affirmative procedure (as defined by section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010) and the Bill will not change that.

10. Section 2 of the Bill will also repeal section 33(1)(a) of the 2003 Act, on account of that provision being spent, the provision which it enabled having been used to make the 2005 Regulations. A power to amend section 33, which is contained in subsection (1)(b) of that section, is revoked, it being unnecessary as a result of the changes made by the 2005 Regulations.

Section 3 – Amendment of the Local Government Finance Act 1992

11. This section amends paragraph 4(2) of Schedule 2 to the Local Government Finance Act 1992 ("the 1992 Act") to permit the Scottish Ministers, by regulations, to require local authorities to take reasonable steps to ascertain whether the amount of council tax to be charged is subject to any variation (section 2 of the Bill having replaced references to "discounts" with "variations" in the Local Government in Scotland Act 2003 where the references relate to unoccupied dwellings). It also amends paragraph 4(3) of Schedule 2 to the 1992 Act to ensure that the provisions in the regulations for assumptions that a local authority can make in calculating a chargeable amount can include an increased council tax charge as well as any circumstances where the dwelling is believed to be eligible for a discount. There is a consequential change to section 71 of the 1992 Act.

12. The section inserts a new paragraph 4(5A) into Schedule 2 to the 1992 Act, which allows the Scottish Ministers, by regulations, to impose a duty on owners to notify their local authority where their dwelling is unoccupied in cases where they are not paying sufficient council tax due to the local authority being unaware of the fact that the dwelling is unoccupied. The local

authority may impose a penalty, not exceeding £200, on any person who fails to notify it within the period prescribed in regulations (this is provided for by section 3(5)(c) of the Bill).

13. The section also inserts paragraph 4(5B) into Schedule 2 to the 1992 Act in order to impose a requirement on residents, owners or their managing agents to provide information to a local authority on request in relation to ascertaining whether or not a dwelling is, has been or will be unoccupied, for the purpose of determining whether there should be any variation of the chargeable amount. New paragraph 2(1A) of Schedule 3 to the 1992 Act is inserted by section 3(5)(a) of the Bill to enable the local authority to impose a penalty not exceeding £200 on any person who fails to comply with a request. Section 3(5)(d) provides a consequential change to paragraph 2(3) of Schedule 3 to the 1992 Act in order to enable a local authority to impose a further penalty of £200 on a person if the local authority makes a further request for information to that person under the new paragraph 4(5B) of Schedule 2 to the 1992 Act and that person again fails to supply the information requested or knowingly supplies inaccurate information.

14. Section 3 of the Bill modifies the powers conferred by section 4 of the 1992 Act. Those powers, as enacted, are exercisable subject to the negative procedure (as defined by section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010) and the Bill will not change that.

Section 4 – Abolition of housing support grants

15. This section removes the requirements in the Housing (Scotland) Act 1987 on the Scottish Ministers to pay housing support grants to local authorities. These grants are payable by the Scottish Ministers to assist local authorities to meet reasonable housing needs in their areas. Section 4 will remove the legislative requirement to pay such grants from 1 April 2013. Two consequential changes to other legislation are also made.

Section 5 – Commencement

16. This section provides that the Act the Bill will become, if passed, will come into force on the day of Royal Assent. Section 4 is excepted and will come into force on 1 April 2013.

FINANCIAL MEMORANDUM

INTRODUCTION

17. This document relates to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill introduced to the Scottish Parliament on 26 March 2012. It has been prepared by the Scottish Government to satisfy Rule 9.3.2 of the Parliament's Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

EMPTY PROPERTY RELIEF ON NON-DOMESTIC RATES

Background

18. The Bill will allow the Scottish Ministers, by regulations, to vary the percentage of non-domestic rate relief available for defined classes of unoccupied premises. Currently the amount of liability can only be varied from 0% (which is the default rate) to 50%. That power has been used to apply the 50% rate to certain classes of property that have been empty for three months, for an indefinite period thereafter. The Scottish Government proposes to use the powers in the Bill to make regulations that would introduce from 2013-14, for the classes currently subject to a 50% liability, an increase to a 90% liability following the initial 3 month zero-rated period, and that this 90% rate would apply for an indefinite period. Paragraphs 19 to 26 assume reform as set out above. The powers in the Bill would also allow the Scottish Ministers flexibility to make regulations that would decrease the liability for the classes currently subject to a 50% liability (following the initial 3 month zero-rated period), though there is no intention to use the powers for this purpose at present. If the powers were used to decrease liability in this way there would be a cost to the Scottish Government budget (for reasons set out in paragraph 21 below) and an equivalent saving for owners of long-term empty premises eligible for non-domestic rates discount, dependent on the level of decrease in liability.

Revenue estimate

19. The cost to the Scottish Government of non-domestic rates income foregone in 2012-13 is estimated to be over £150 million. The proposed reform from 2013-14 onwards (as set out in paragraph 18 and summarised in table 2), would reduce the cost to the Scottish Government of providing the relief by an estimated £18 million per year. Current forecasts for the cost of empty property relief over the 3 year spending review period before and after introduction of legislation are:

Table 1 – Current forecasts for the cost of empty property relief over the 3 year spending review period

	On current levels of discount (£m)	**On proposed new levels of discount (£m)**	**Saving (£m)**
2012-13*	152	152	0
2013-14	155	137**	18
2014-15	162	144**	18

**Legislation will not apply until April 2013, therefore no effect on 2012-13 cost.*

***These figures are estimates only as it is possible that there will be transfer to other eligible forms of relief upon introduction of legislation.*

20. The reduction in the cost of providing empty property relief from the proposed reform in paragraph 18 was estimated by first 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 the proposed relief changing from 50% to 10% was calculated. This was modelled by a combination of taking data from both actual rates bills and the valuation roll. A final adjustment was applied to take into account that some properties may switch over to another type of relief after reform of empty property relief. For example an empty property with a rateable value of £10,000 currently benefitting from 100% empty property relief may

(depending on circumstances) be eligible for another form of relief, such as the Small Business Bonus Scheme or charity relief and will apply for that relief. This will increase the costs of those other reliefs, in turn reducing the net savings from the reform of empty property relief. For those properties that switch to another form of relief, the reform of empty property relief will have a reduced impact.

Costs on the Scottish Administration

21. No additional costs are expected from these proposals. While there would be staff time required in developing regulations and guidance following the passage of the Bill, this would be taken forward by existing staff so would not be an additional cost. The reduction in the discount level would lead to a saving in the Scottish Government budget of approximately £18 million per year. The annual local government finance settlement is shared out between all 32 local authorities using a needs-based formula. This formula determines how much money each local authority should get for the year ahead in comparison to the relative need of all the other local authorities. The Scottish Government guarantees that calculated figure through a combination of non-domestic rate income (NDRI) and general revenue grant (GRG) from the Scottish Budget. Any drop in NDRI collected is automatically compensated for by the Scottish Government providing an equivalent additional amount of GRG to offset this. Conversely any increase in NDRI, for example by collecting an additional £18 million NDRI after empty property relief is reformed, leads to the Scottish Government reducing the level of GRG by £18 million accordingly and this £18 million reduced GRG is a saving to the Scottish Government. As a result the amount of NDRI collected by an individual authority has no direct impact on its total funding allocation. The approximately £18 million per year saving from reducing the empty property relief discount level would therefore accrue to the Scottish Government for reallocation within the Scottish Budget.

22. 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).

Costs on local authorities

23. Local authorities currently carry out the work required to establish if a property is eligible for empty property relief and apply the discount at the two different levels available. The change proposed will only vary the level of discount, and will make no changes in terms of eligibility or timings of discount. It is anticipated that there will be 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. The legislation and subsequent regulations, by reducing the discount available, will reduce the financial incentive to keep a property empty, and thereby reduce the incentive to avoid incurring liability for full business rates. As a possible consequence, if the number of declared empty properties is reduced, local authorities may need to spend less time monitoring the ongoing status of declared empty properties. Any properties occupied by local authorities that are empty will also be affected by any change to the level of empty property relief offered.

Costs on other bodies, individuals and businesses

24. Some owners/occupiers of premises eligible for empty property relief for non-domestic rates will be affected by the regulations that would follow the introduction of legislation. The Scottish Government proposes, by regulations, to introduce a 10% discount in place of the 50% discount that currently exists. The reform would apply to owners/occupiers of empty premises in the public sector currently in receipt of empty property relief.

25. A summary of the main types of empty property relief currently available and the proposed rates that will be introduced by regulations are shown in table 2.

Table 2 – Empty property relief current and proposed rates in Scotland*

	Current position	**Intended Position post legislation**
Standard or **"commercial"** empty property relief first 3 months	100% relief (i.e. no rates payable)	**No change**. 100% relief (i.e. no rates payable)
Standard or **"commercial"** empty property relief after 3 months	**50% relief** (until occupancy status changes)	**10 % relief** (until occupancy status changes)
Exceptions		
• Listed property	100%	**No change** (100%)
• Industrial property	100%	**No change** (100%)
• Low Rateable Value (RV less than £1,700) property	100%	**No change** (100%)

* In England and Wales empty property relief was reformed in 2008 and currently offers 100% commercial relief for 3 months, then 0%. For listed/ industrial property 100% relief is offered for 6 months, then 0% thereafter.

26. It is estimated that the total cost to business of the reduced discount would be in the region of £18 million in each of 2013-14 and 2014-15 (which accounts for approximately 12% of the annual cost of the discount that currently benefits businesses). The impact of this will fall solely on businesses who currently take up the discount or who may in the future. The figure of £18m 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. This figure may vary as property is built/demolished, existing property moves in and out of use or changes occupier (which in turn may lead to a change in relief entitlement).

COUNCIL TAX INCREASE ON LONG-TERM EMPTY HOMES

Background

27. Under the current legislation, homes which are empty and unfurnished are entitled to a six month exemption from council tax from the point that they become empty. Properties are

normally regarded as long-term empty (LTE) after they have been unoccupied for six months, unless they benefit from a longer term exemption from council tax under Schedule 1 to the Council Tax (Exempt Dwellings) (Scotland) Order 1997[1]. Owners not eligible for further exemption are entitled to a council tax discount of 50% for the first six months after the dwelling becomes classed as LTE (so normally between six and twelve months after it becomes empty). After that six month period, local authorities have the flexibility to offer a discount of between 10% and 50%. Where a local authority has offered a discount of less than 50%, the additional revenue that this generates is retained by the local authority. Currently, local authorities receive around £7 million per year through reduced council tax discounts on LTE homes.

28. 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 Scottish Government does not presently intend to make regulations providing for increased discounts. 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[2] (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 (100%) was applied, the owner would pay double the standard rate of council tax for the applicable council tax band. Regulations will set out how this will happen in practice, together with classes of time-limited exemption from the council tax increase (which would enable the owner to continue to pay council tax at a discount rate).

29. This memorandum represents the financial position based on the Scottish Government's intentions for regulations; the Bill itself would not lead to additional costs for local authorities or home owners as it primarily provides enabling powers.

30. 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. Any monies raised through this charge will be retained by local authorities. Assuming Parliament passes the Bill and approves the subsequent regulations, local authorities will be able to implement the increase from 1 April 2013 (although they could choose to delay implementation to a later year if they wished).

[1] http://www.legislation.gov.uk/uksi/1997/728/schedule/1/made

[2] A home is normally regarded as "long-term empty" (LTE) for council tax purposes after it has been empty for six months, although in some cases the home may only become classed as LTE after a longer period if the owner was previously eligible for an exemption from council tax in relation to the home. The Scottish Government intends to use existing powers to amend the definition of an LTE home through the regulations so that it no longer needs to be unfurnished; this is in order to prevent owners from easily avoiding being liable for the increase due to their home being classified as a second home, even where it is never occupied.

Revenue estimate

31. 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 model uses actual numbers of long-term empty homes liable for council tax, actual council tax rates and takes into account the distribution of properties across council tax bands. In producing its calculations, the model assumes that all local authorities will apply the same level of discount or increase and that 10% of properties will be returned to use each year.

32. If all local authorities were to charge a maximum 100% increase for all LTE homes liable for council tax, a maximum of £33.9 million per year could be collected (assuming a 100% collection rate). This is provided as an average over four years because it is difficult to produce robust estimates of how many homes would be brought into use each year as a result of the increase (or other factors); it assumes no increase in council tax rates, no additional LTE homes and 10% of homes being brought back into use each year. This estimate also includes revenue which is already received through reduced council tax discounts (of less than 50%) on LTE homes (about £7 million per year).

33. The Scottish Government proposes that the increase should only be charged after a property has been empty for at least one year. Whilst the Scottish Government does not have data on the number of homes empty for one year or more, a sample of local authorities has provided data in relation to this. Based on numbers supplied by four local authorities, about 70% of current LTE homes have been empty for 1 year or more (with around 30% empty for between 6 and 12 months). Assuming that this rate is constant across all local authority areas, it would have the effect of reducing the £33.9 million maximum revenue level per year to £23.8 million per year.

34. 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 LTE for homes actively being marketed for sale. No accurate information is available as to the number of LTE homes advertised for sale (and thus able to qualify for the proposed exemption). However, the Scottish Government estimates that in the region of 3-6% of LTE homes could potentially qualify for the, time-limited exemption proposed. This estimate is based on data on the number of homes marketed for sale each year (currently approximately 3% of Scottish homes based on numbers of Energy Performance Certificates prepared), along with an assumption that higher proportions of empty homes are likely to be for sale than occupied homes as anecdotal evidence suggests they can often take longer to sell than an occupied home. The maximum projected revenue would therefore reduce to approximately **£22.3-23 million per year** to take account of up to 3% to 6% of owners being eligible to continue paying council tax at a discount rate.

35. The regulations may provide that, effectively, local authorities set the level of discount or increase themselves. However, the Scottish Ministers will be able to set a maximum discount or maximum increase that cannot be exceeded by local authorities. The Bill itself does not set those maximums so they could be set to produce a wide range (e.g. 100% discount to 100% increase). This would introduce significant margins of uncertainty in projected revenue. Although the Scottish Government does not intend to use this flexibility to reduce the current discounts further or to change the level of discount in relation to other classes of unoccupied homes that are not LTE, if it did increase the maximum discount to 100% for LTE homes and this was applied

across all local authorities, a total cost to local authorities of approximately £8.7 million per year would result (through reduced council tax revenue). As the Scottish Government estimates a maximum revenue of £16.05 million per year, the potential range of impacts varies between a cost of £8.7 million per year for local authorities and a revenue income of up to £16.05 million per year.

Table 3 (total projected revenue over and above the proposed minimum 50% discount including existing revenue raised of approximately £7m)

	Estimated revenue (£m per year) on average for 2013-14 to 2016-17 based on which homes an increase applies to			
Council Tax Level	**6 months plus**	**1 year plus**	**1 year plus + 3% for sale**	**1 year plus + 6% for sale**
100% increase (200% council tax)	33,943,275	23,760,292	23,047,484	22,334,675
No Discount (100% council tax)	11,314,425	7,920,097	7,682,495	7,444,892
10% Discount (90% council tax)	9,051,540	6,336,078	6,145,996	5,955,913
50% Discount (50% council tax)	-	-	-	-

Table 4 (adjusted figures to remove existing revenue raised from reduced discounts)

	Estimated revenue (£m per year) on average for 2013-14 to 2016-17 based on which homes an increase applies to			
Council Tax Level	**6 months plus**	**1 year plus**	**1 year plus + 3% for sale**	**1 year plus + 6% for sale**
100% increase (200% council tax)	26,943,275	16,760,292	16,047,484	15,334,675
No Discount (100% council tax)	4,314,425	920,097	682,495	444,892

36. Table 3 sets out the potential revenue at varying levels of council tax discount or increase and assumptions regarding the time the property has been empty for and the number of homes for sale. Meanwhile, table 4 has been adjusted to remove existing revenue raised by councils who have reduced their council tax discounts on LTE homes from 50% to 10%. As indicated above, there are significant margins of uncertainty in relation these estimates. In particular, this is due to uncertainty about whether and to what extent local authorities will use the new powers, which could lead to very significant variations in the revenue raised. In addition, there are other, slightly less significant, uncertainties in relation to the:

- rates of collection of the increased council tax, which could reduce the maximum revenue (given that these could be somewhat lower than local authorities' average rates as owners may seek to evade payment);
- number of homes which are brought back into use, which could also reduce (or potentially increase) the maximum revenue. This has been estimated at 10% per year as a result of increases and other factors (such as work by local authorities to tackle

empty homes), but the Scottish Government would hope that a higher proportion of empty homes would be brought back into use;

- number of new homes which become empty and are classed as LTE, which could increase the maximum revenue. For modelling purposes, a starting point of 25,000 LTE homes eligible for any increase has been assumed, although in reality additional homes will become empty while other existing LTE homes will be brought back into use in the meantime. In addition, increased checks by local authorities following the revised definition of an LTE home which the Scottish Government intends to provide through the regulations may lead to an increase in numbers of homes which are classified as LTE;
- rate of discount applied for the first six months a home is classed as LTE (i.e. normally where homes have been empty for between six and twelve months). For modelling purposes, the existing standard discount rate of 50% has been assumed, but if most local authorities chose to decrease the discount rate to 10% during this period, this would lead to a significant increase in revenue;
- number of homes which are eligible for a time-limited exemption from the council tax increase, which could reduce the level of maximum revenue further.

Costs on the Scottish Administration

37. Minimal additional costs are expected. While there would be staff time required in developing regulations and guidance following the passage of the Bill, this would be taken forward by existing staff so would not be an additional cost. There could be additional costs to the Scottish Administration in relation to empty homes owned by the Scottish Government or its agencies. The Scottish Government now only owns a very small number of residential properties; six of these homes are currently known to be empty and therefore could potentially be liable for a council tax increase from April 2013, although the Scottish Government hopes they may be brought back into use before then. However, others might become empty in future.

Costs on local authorities

38. In order to be able to apply an increased council tax charge, local authorities may incur set-up costs to ensure that their computer systems are able to calculate the tax due (although in some cases no IT changes would be required, depending on the local authority's individual system) and would incur ongoing costs to administer and enforce the increase.

39. The main costs to local authorities will be in enforcing the increase. Some councils will also have to pay the increase for their LTE council homes (although where these are scheduled for demolition, they are not liable for council tax). While 3095 council homes were classified as empty for longer than six months in 2011[3], feedback from local authorities suggests the majority of these homes are likely to be due for demolition so the numbers of council homes liable for the increase would be much smaller than this.

[3] Based on data provided by local authorities to the Scottish Government – see http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/VacantStoc

Set-up costs

40. In applying a tax increase, the discount would have to be removed and provision made to apply an increased charge. Two local authorities have advised us that the likely cost of this change would be approximately £10,000 each, although there may be the opportunity for some local authorities who use the same IT provider to jointly procure the required system change. Not all local authorities use the same council tax collection systems and, depending on the system in use, some local authorities believe they might not need to make system changes to allow for a tax increase and will therefore not incur any additional costs.

41. Based on the information provided by two local authorities, the average cost for IT system updates where an authority decides to apply a council tax increase in its area is estimated to be a one-off cost of approximately **£5,000 to £10,000** per local authority (£160,000 to £320,000 for the whole of Scotland if all local authorities choose to apply an increase).

42. Depending on the quality of local authorities' current billing data, additional set-up resource in the form of staff time may be required to ensure accurate and up to date information for initial billing purposes. These staff would verify that the correct properties have been classified as LTE, undertaking a similar role to that detailed under "ongoing costs" below. In particular, two local authorities currently do not differentiate between LTE homes and second homes on their IT systems, while others are also likely to need to review their data to ensure that homes are correctly categorised (particularly given that the Scottish Government intends to amend the definition of an LTE home in regulations to include furnished, as well as unfurnished, properties). In practice, this would mean that the additional staff may be required to be in post approximately three months before the increase is applied in their area. Depending on the number of staff required (which will vary by the number of LTE homes), the cost per local authority for additional staff for three months in 2012-13 to prepare to implement the increase would be in the range of **£7,125** for one member of staff to **£21,375** for three. This equates to up to £228,000 to £684,000 for the whole of Scotland if all local authorities were to put in place additional staff in advance to prepare for implementation in April 2013.

43. The Scottish Government is not expecting local authorities to spend additional monies on publicising any increase. Each year local authorities write out to each council tax payer in respect of the year's charges for each property so local authorities would be expected to include details of any increased charge in this communication where appropriate.

Ongoing costs

44. As there would be a financial incentive for some owners to avoid paying the increase, correct identification of LTE homes, including through inspections, spot checks and seeking written evidence from owners (such as copies of utility bills) is likely to be required. This is likely to need additional staffing to police it correctly, although it would be up to each local authority to determine the appropriate level of enforcement to be carried out.

45. The small sample of local authorities who provided information estimated that this will require an additional two to three staff per authority to carry out the function on an ongoing basis, although those who provided information were medium or larger local authorities so the

Scottish Government believes that smaller local authorities with fewer LTE homes may be able to operate a tax increase effectively with only one additional staff member.

46. Based on information provided to the Scottish Government by one local authority, the estimated cost for a member of staff would be approximately £28,500 per year (including National Insurance and superannuation). Some authorities may decide to staff the roles with more junior grades, in which case the actual costs could be lower. The cost for two additional staff would therefore be approximately £57,000 per year per authority (including National Insurance and superannuation). The cost of three additional staff would be approximately £85,500 per year per authority. The number of staff required will vary depending on the number of LTE homes in each area – a local authority with a small number of LTE homes should be able to manage with a single additional officer at approximately £28,500 per year.

47. The average additional staffing costs for a local authority are therefore estimated at approximately **£28,500 to £85,500 per year or £912,000 to £2,736,000 per year for the whole of Scotland** (including National Insurance and superannuation). However, as noted above depending on the size of the local authority and number of empty homes, many local authorities would not require three additional staff so the upper end estimate is very unlikely to be reached. It will be for each local authority to decide, based on their own unique circumstances, whether or not the potential benefits in terms of tackling empty homes and/or additional revenue justify the introduction of the tax increase in their area.

48. Using the maximum revenue levels in table 4, this level of ongoing costs could lead to a maximum **net revenue** for local authorities in the range of **£12.59 million to £15.14 million per year** from 2013-14 (excluding one-off set up costs). As with all council tax revenue, any revenue raised from a council tax increase would be retained for spending by the local authority. It will be for local authorities to determine how they wish to spend any additional revenue raised as a result of the new powers which will be provided through the Bill and subsequent regulations.

Costs on other bodies, individuals and businesses

49. All owners of LTE homes could be liable for a council tax increase unless they qualify for an existing exemption from council tax or for one of the new exemptions from the increase which are to be provided through regulations. Whilst the Scottish Government does not have access to council tax information regarding current owners of LTE homes, from discussions with local authorities and contact with some owners, it seems that the vast majority are owned by individuals. Some LTE homes are owned by rural estate businesses and housing associations (as at March 2011, 554 homes owned by Registered Social Landlords were empty for longer than six months[4]), although a number of properties that fall into these categories are already likely to be exempt under existing provisions for agricultural properties or for social rented properties due for demolition.

50. There may also be some LTE homes owned by private landlords who are registered as businesses, although feedback from the Scottish Association of Landlords suggests most

[4] Data from the Scottish Housing Regulator
http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/socialtables

landlords actively seek to avoid leaving their homes empty due to the opportunity cost of lost rental income. A few private developers also have new build homes which have been classified as completed (and therefore entered on the council tax register) for more than six months, along with some homes they purchase from buyers through part exchange deals, although most developers actively seek to avoid leaving homes empty long-term by selling at a discount or letting them.

51. 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;
- whether or not the owner is eligible for any exemptions at that time – either from council tax or, under the proposed future regulations, from the additional increase[5].

52. LTE homes fall across all council tax bands. However, Scottish Government CTAXBASE data shows that, at September 2011, 53% of LTE homes were in the lowest two bands i.e. A and B, with 31% in the lowest council tax band (band A). The average band B council tax in 2011-12 is £892.79 per year.

53. Table 5 provides an illustration of the additional costs that an owner with a band B property could be liable for. If the local authority currently offers an LTE home discount of 50% (the maximum allowable) the person would pay £446.39 per year. If that local authority were to move to a maximum 100% increase, the owner of the property would pay £1,785.58 – a difference of £1,339.19 per year. This is highly unlikely as the great majority of councils currently offer a 10% discount for long-term empty properties; in this case the extra charge for each band B home would be £982.07 per year based on the local authority charging a maximum 100% increase.

Table 5 – Illustrative difference in council tax charges for band B average homes

Annual council tax charge for a Band B home	**Cost per year**	**Difference to no discount**	**Difference to 10% discount**
With maximum 50% discount	£446.39	-£446.39	-£357.12
With 10% discount	£803.51	-£89.28	£0.00
With no Discount	£892.79	£0.00	£89.28
With 25% increase	£1,115.99	£223.20	£312.48
With 50% increase	£1,339.18	£446.39	£535.67
With 75% increase	£1,562.38	£669.59	£758.87
With maximum 100% increase	£1,785.58	£892.79	£982.07

[5] As at September 2011, 45,937 unoccupied homes were exempt from council tax due to qualifying for one of the exemptions in Schedule 1 of the Council Tax (Exempt Dwellings) (Scotland) Order 1997

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

HOUSING SUPPORT GRANT

Background

55. Housing Support Grant (HSG) is currently payable to one local authority in Scotland (Shetland Islands Council), largely for historical reasons. The need for HSG has fallen away (or not occurred) in the rest of Scotland over time for various reasons including central government debt reduction measures imposed between 1996-97 and 2003-04, stock transfers between 2002-03 and 2006-07 and prudential borrowing by local government since 2004-05. The HSG payment to Shetland Islands Council is currently £0.761 million for 2012-13 and this is still a significant sum locally.

56. The level and importance of HSG paid to the Council has been decreasing over the long term however and specifically in each of the last seven years. This means the Council has been required to adjust its Housing Revenue Account (HRA) financial position over time to bring it more closely into line with the other 25 authorities with council stock who do not receive HSG. Discussions have been ongoing with the Council for approximately two years as to how their HRA can adjust further to the removal of the subsidy, whilst minimising the impact on rent levels. By the time of the proposed abolition of HSG (in 2013-14), a further year will have elapsed for the Council to consider any measures it wishes to take to minimise the impact on tenants' rents. Latterly, these discussions have included the possibility of the transitional assistance the Council requested in its consultation response. The Scottish Government is currently considering this request.

57. The total HSG paid out in 2012-13 will be £0.761 million. The expected profile of HSG over time if it were not abolished and no other local authorities claim HSG apart from Shetland Islands Council, using the current methodology, is as laid out in table 6:

Table 6 – Projected Housing Support Grant (HSG) payments if the grant were to continue

	2013-14	**2014-15**	**2015-16**	**2016-17**	**Total**
Projected HSG payments	£0.524m	£0.282m	£0.034m	£0.0m	£0.840m

Costs on the Scottish Administration

58. No additional costs are expected as a result of the abolition of HSG. There would be savings in the costs of paying out any HSG claims to Shetland Islands Council totalling £0.84 million, along with some modest savings on administration due to the freeing up of officials' time on, for example, the production of an annual Scottish statutory instrument required to pay it out. These savings would be offset by any amount the Scottish Government may choose (assuming it does choose) to pay in transitional assistance but as this amount is currently unknown it is not possible to provide a "net" figure for the costs/savings to the Scottish Administration.

Costs on local authorities

59. As stated above, only Shetland Islands Council presently receives HSG and it will therefore be the only local authority affected by its abolition. The projected cost to the Council in each year from 2013-14 (when it is proposed the abolition will take effect) is outlined in table 6.

60. Abolition of the grant from 2013-14 onwards would therefore involve a reduction in income to Shetland Islands Council's HRA of approximately £0.84 million. This figure represents the total loss to the local authority sector, unless other local authorities were also to claim HSG at some point in the future.

61. The greatest margins of uncertainty regarding the future costs to local authorities lie in predicting how many might one day claim HSG, what the size of each claim might be and how long each claim might last. It is therefore extremely difficult for the Scottish Government to provide cost estimates for the potential costs of HSG if other councils began claiming as this would involve making sweeping assumptions about the rate at which individual local authorities might accumulate debt and the rents they might charge over the coming years. Not even the councils themselves would be in a position to estimate these variables. However, it is clear that any claims, in addition to Shetland's, are likely to be significantly higher than £0.84 million simply because Shetland Islands Council is one of the smallest local authority landlords in Scotland. The nature of HSG means it becomes payable at different points depending on the relative costs, rents and debt levels of each authority (i.e. there is not one level of debt per unit of stock, for example, that triggers HSG payment). Using the current projected levels of HSG for Shetland Islands Council, the importance of this grant in Scottish terms and in the local context is laid out in table 7.

Table 7 – Projected Housing Support Grant as a proportion of Scottish and Shetland Islands Housing Revenue Account rental income

	2013-14	**2014-15**	**2015-16**	**2016-17**	**Total**
A. Projected HSG payments	£0.524m	£0.282m	£0.034m	£0.00m	£0.840m
B. Proportion of projected HRA rental income (across Scotland)	0.1%	0.0%	0.0%	0.0%	0.0%
C. Proportion of projected HRA rental income (Shetland Islands)	8.6%	4.5%	0.5%	0.0%	4.5%

1. These projections assume an annual increase in average rents in Shetland Council rents of 5.3% in 2012-13 (as approved by the Council in February 2012) and increases in Shetland Islands Council and Scottish rents generally of 2.5% in 2013-14, 2014-15 and 2015-16. Larger increases in rent over time will reduce the impact of the loss of grant further.

62. Line B in table 7 illustrates that HSG has virtually no national context any longer, representing only a maximum of 0.1% of estimated total council house rental income in Scotland in 2013-14. Line C shows the local context (i.e. that HSG represents 8.6% of total estimated rental income of the Shetland Islands Council in 2013-14 but that this will decline over time). The Scottish Government has for some considerable time been discussing with Shetland Islands

Council how the local impact of losing this source of external income over time could be managed by a combination of a number of measures relating to the costs of running the HRA. Such measures are alternatives to rent increases aimed at minimising the impact of the declining grant on tenants. Such measures might include bringing down the rate of income lost through void properties to (or below) Scottish median levels; reductions in the costs of the repair and maintenance service per unit to (or below) Scottish median levels; and close examination of the housing capital expenditure programme to ensure it is tightly focused on specific elements of the Scottish Housing Quality Standard as laid out in Scottish Government Guidance dated March 2011.[6] The Council has already been using some management cost reduction measures as the grant has declined over the last seven years so Scottish Government would simply expect that process to continue and to broaden as necessary as indeed it should under the prudential regime.

63. The financial impact could be further moderated by Shetland Islands Council reviewing the terms of its loan arrangements or the use of its wider portfolio of reserves. It is not, however, the role of the Scottish Government to impose any of these potential measures on the Council, but for the Council to manage the transition with declining grant as it has been doing successfully in recent years.

Costs on other bodies, individuals and businesses

64. An alternative view of HSG is that it is not in fact a subsidy to local authorities, but a subsidy to the individual tenants who, without receipt of the grant, might face higher weekly rental payments. This has often been the argument made by local authorities for retention of the subsidy in the past. If the grant is considered in this way, the individual impact of removal per unit of local authority stock (a broad proxy for the impact per tenant) for the 1,774 council dwellings in Shetland Islands is shown in table 8.

[6] This Guidance can be found on the Scottish Government website at: http://www.scotland.gov.uk/Topics/Built-Environment/Housing/16342/shqs/guidance.

Table 8 – Loss of Housing Support Grant to Shetland Islands Council: rent impact projections per unit of stock

	2013-14	**2014-15**	**2015-16**	**2016-17**	**Total over the period 2013-14 to 2015-16**
A. Projected HSG payment lost	£0.524m	£0.282m	£0.034m	£0.00m	£0.840m
B. Projected impact per unit of stock per annum (i.e. the effective subsidy per unit of stock per annum)	£296	£159	£19	£0	£474
C. Impact per unit of stock per week (based on 52 payments per annum i.e. the effective subsidy per week)	£5.69	£3.06	£0.36	£0.00	£9.11
D. Impact in terms of projected average rent increase above inflation required to cover the loss of grant (%)	8.8%	4.6%	0.5%	0.0%	14.1%
E. Annual average impact on weekly rents(£)	-	-	-	-	£3.04
F. Annual average impact on weekly rents (%)	-	-	-	-	4.7%

1. These projections assume an annual increase in Shetland Islands Council rents of 5.3% in 2012-13 (as approved by the Council in February 2012) and increases of 2.5% in 2013-14, 2014-15 and 2015-16.

65. These impacts are another way of describing the rental subsidy for Shetland Islands Council tenants, which is not generally available to tenants of other social landlords. This table also assumes that rents will stay constant in real terms from 2013-14 onwards and assumes a general inflation rate of 2.5%. If some modest real terms increases in rents were introduced (as has been happening generally across other social landlords in Scotland) then the impact of the removal of HSG would fall further. However, the impact of the real rent increases on the tenants would still occur – as they are occurring in many other parts of Scotland – it is just that these increases would not be attributable to the reduction in HSG, but wider economic factors facing all tenants across Scotland. In addition, the dwindling impact HSG is having on tenants could be softened further by the local authority taking some or all of the efficiency and financial reserves measures mentioned at paragraphs 62 and 63.

66. The Scottish Government recognises that a possible, potential impact of the Bill for Shetland Islands Council tenants is that they may face some rent increases. Table 8 suggests that the removal of HSG subsidy would, at most, cost tenants an average of £3.04 per week over three years or an average real rent increase of 4.7% per year over the three years. However, this is the maximum possible effect if the local authority chooses not to implement any further efficiency or financial reserve measures regarding its HRA. This need not therefore be the actual outcome for tenants – there are alternative measures available other than raising rents as outlined above.

67. The Scottish Government believes that establishing what other social tenants in rural areas (including those in the island areas) already pay in terms of rent is critical to any analysis of abolishing HSG on tenants. Publicly available data can be assembled on the average weekly rents paid across the 22 rural social landlords identified by the Scottish Housing Regulator's peer group analysis (with the addition of five rural local authorities in Scotland).[7] The Scottish Government believes that comparing Shetland Islands Council tenants' rent levels with the Scottish national average is not necessarily the most appropriate comparison in the same way as comparisons of building costs between sparsely populated rural/island areas and densely populated central belt areas can also be misleading. This rural-only comparison tells us that, for 2010-11, Shetland Islands Council tenants paid an average of £61.04 per week in rent which compares to a median for the rural peer group of social landlords of £64.88 per week. This means Shetland Islands Council tenants pay approximately £200 per year or £3.84 per week (or about 6%) less than the median rent across the rural social landlords peer group. For Shetland Islands Council's closest geographical comparator, Hjaltland Housing Association, which operates solely on the Shetland Islands, the average rent per week in 2010-11 was £67.07. This means Hjaltland tenants paid a premium of approximately £314 per year or £6.03 per week (or about 10%) over and above the average rents payable by Shetland Islands Council tenants in that year.

68. The abolition of HSG does not have any financial effects on any other bodies or the business sector.

[7] Registered Social Landlord weekly rental data for 2010-11 is available from the Scottish Housing Regulator's website at: http://www.scottishhousingregulator.gov.uk/stellent/groups/public/documents/webpages/shr_statisticstables-rents.hcsp#TopOfPage. Local authority weekly rental data for 2010-11 is available on the Scottish Government's website at: http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HSfS/HRATables.

SUMMARY OF ESTIMATED COSTS AND SAVINGS ASSOCIATED WITH THE BILL

Table 9 – Summary of estimated costs and savings associated with the Bill

Bill provisions	Costs to the Scottish administration (£m)	Costs to local authorities (£m)	Costs to other bodies, individuals and businesses (£m)	Estimated total cost for each Bill provision (£m)
Non-domestic rates – empty property relief*	-18.00 per year (see paras 21 and 22)	0.00** (see para 23)	18.00 per year (see table 2 and paras 24 to 26)	0.00
Council tax – increase on long-term empty homes*	0.00	Set-up – up to 0.388-1.004 Ongoing – up to -12.59 to -15.14 per year (see paras 38 to 48) ***	Up to 15.33-16.05 per year (see tables 3 to 5 and paras 49 to 54)	0.388-1.004 (set up) plus up to 0.91-2.74 per year (ongoing)
Housing Support Grant – abolition	-0.84 (see para 58)	0.84 (see paras 59 to 63 and tables 7 and 8)	0.00	0.00
Estimated total costs by type of body	**-0.84 (total for 2013-14 to 2015-16) plus -18.0 per year**	**1.228-1.844 plus -12.61 to -15.14 per year**	**33.33-34.05m per year**	**0.388-1.004 plus up to 0.91 to 2.74 per year******

*** –** please note that in relation to empty property relief and the proposed council tax increase on long-term empty homes, the Bill itself would not have any direct cost impacts on any organisation. However, this Financial Memorandum seeks to estimate the likely costs which would result from the regulations which will be taken forward if the Bill is agreed.

** – it is estimated that there would be a small administrative cost for local authorities in amending the level of discount applied to existing bills for non-domestic rates, and explaining the changes to rates payers, but it is not possible to estimate the cost for each local authority at this stage.

*** – please note that this is the maximum potential saving for local authorities. This figure assumes that all local authorities choose to implement the council tax increase. While any set up costs would be likely to be fixed, it would be up to local authorities to determine how much additional resource they spend on administering/enforcing the increase. The level of savings has been calculated by deducting the estimated level of revenue from the estimated additional running costs.

**** – please note this includes totals for each Bill provision. This does not exactly match the total of cost provided by type of body because the net revenue range for the council tax provisions were calculated by subtracting the maximum running cost from the lower estimated revenue figure in table 4 (minimum of the range) and subtracting the minimum running cost from the maximum revenue figure (maximum of the range).

SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

69. On 26 March 2012, the Cabinet Secretary for Infrastructure and Capital Investment (Alex Neil MSP) made the following statement:

> "In my view, the provisions of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill would be within the legislative competence of the Scottish Parliament."

PRESIDING OFFICER'S STATEMENT ON LEGISLATIVE COMPETENCE

70. On 22 March 2012, the Presiding Officer (Tricia Marwick MSP) made the following statement:

> "In my view, the provisions of the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill would be within the legislative competence of the Scottish Parliament."

These documents relate to the Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill (SP Bill 12) as introduced in the Scottish Parliament on 26 March 2012

LOCAL GOVERNMENT FINANCE (UNOCCUPIED PROPERTIES ETC.) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

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Finance Committee

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

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill Financial Memorandum - written submissions

Introduction

1. The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill was introduced in the Parliament on 26 March 2012.

2. At its meeting on 26 March 2012, the Committee agreed to seek written evidence from a series of organisations potentially affected by the Bill. Submissions have been received from—

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

3. These are attached at **Annexe A**.

Annexe A

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from Aberdeen City Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes, however no comment made on financial assumptions

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

Yes

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes, however 100% collection rate will not happen.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Any additional costs should be met from any potential increased income.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

While the Financial Memorandum reasonably captures the costs associated with the Bill it is unclear as to other potential costs that may be incurred.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

It is likely that subordinate legislation may lead to additional marginal costs and these cannot be quantified at the present time.

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from Angus Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Response:

Yes, Angus Council did participate in the consultation exercises. No specific comments were made regarding the financial assumptions made.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Response:

Not applicable

3. Did you have sufficient time to contribute to the consultation exercise?

Response:

Yes

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Response:

With regard to the NDR empty property proposals the Financial Memorandum accurately reflects the financial implications of the proposals although there may be an increase in recovery costs arising from the requirement to collect increased rates from businesses. There will be some additional costs in respect of council property which remains empty longer than 3 months and therefore would be subject to increased rates charges. Based on the current position additional rates charges of around £20,000 would be incurred.

With regard to the Council Tax empty property proposals I would comment as follows:

- ***There will be some cost to the Council for increased council tax payable on long term empty council owned dwellings but the numbers affected in this council will be relatively small.***

- ***The Financial Memorandum does cover the range of costs which would be incurred if the changes were adopted***

Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Response:

The level of costs and savings will depend on whether the council opts to implement any changes in the discount/ charge levels on long term empty properties. Given that we have only moved to a 10% discount position on long term empty dwellings from 1 April 2012 we need time to evaluate the impact of the recent discount reduction and it is therefore unlikely that we would implement an additional levy within the next 1 to 2 years.

Using a 100% collection rate to estimate savings in 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.

1. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Response:

There is no budget set aside to fund additional set up and ongoing costs. A percentage of any additional revenue raised as a result of adopting increased council tax charges on long term empty properties should be ring fenced to meet the additional costs of setting up and administering the arrangements.

2. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Response:

The Financial Memorandum does reflect a number of areas of uncertainty with the estimated revenue to be raised etc. It is difficult to accurately quantify a number of factors as follows:

- ***The number of properties and the speed with which they are likely to be brought back into use as a result of the proposed measures. The***

higher the reduction in long term empty properties the higher the loss of additional revenue available from + 100% charges.

- ***Until the detail of any new time limited exemptions is made available it is impossible to evaluate the impact exemption would have on the additional revenue which could be raised. No information is currently held on the reason for a dwelling being long term empty and an information gathering exercise would be required to identify potentially exempt properties.***

- ***There is some uncertainty around the level of evasion that may be deployed by taxpayers subject to additional charges, e.g. there would be an advantage for some in designating a dwelling as a second home rather than as long term empty.***

Wider Issues

3. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Response:

The Financial Memorandum captures the range of set up and ongoing costs which will vary to some extent from council to council. It does not however recognise that rural councils will have additional costs involved in the monitoring of long term empty properties given the dispersed nature and locations of their long term empty properties.

The Memorandum states that the Scottish Government do not expect councils to publicise any increases resulting from the proposals and that notification with the Council Tax annual bill would be acceptable. From a local authority point of view this approach would not be satisfactory and costs would need to be incurred in explaining the nature of any changes and taxpayers responsibilities etc.

5. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Response:

To evaluate the benefits and feasibility of implementing the additional levy etc. detailed analysis of the location, length of empty period and reasons for dwellings being empty etc. should be undertaken and there would be a staffing cost associated with this.

Finance Committee

Local Government Finance (Unoccupied Properties etc) (Scotland) Bill

Submission by the Business Centre Association (BCA)

The Business Centre Association

The BCA is the only UK trade association representing the managed flexible space sector including business centres, studios, co working space, light industrial and workspace environments. Established in 1989, it specialises in providing support and guidance to owners and operators of centres, while setting industry standards and encouraging a network of excellence.

The BCA also provides an invaluable advice and location finder service for potential users of managed flexible space locations. With more than 900 member locations and 380,000 workstations, incorporating 40m sq ft of flexible office space around the UK, ranging from small independent to large international operators, both in city centre and out of town business park locations.

Summary for Scotland:
The Case against Empty Property Rates (EPR)–April 2012

The BCA has extensive knowledge of the negative effects EPR has had on our sector as well as the wider property sector in England & Wales. In presenting the case to the Scottish Government we draw on our first hand experience when presenting the case and expressing our proposal.

Set out below are the BCA's views on EPR which we hope clearly illustrate the changes we are proposing and the positive outcome for both income generation and, most significantly, on enterprise and job creation across Scotland.

The Scottish Government is proposing introducing EPR in Scotland from April 2013. Indications are that changes to EPR in Scotland could have the same devastating effect on our sector just as transpired in England.

Changes proposed in Scotland

Currently, empty property relief for commercial properties in Scotland is set at 100% relief for 3 months with a further 50% relief indefinitely.

Industrial or listed premises currently receive 100% relief for the duration the property is empty.

The proposed amendments of this policy will focus on standard properties and they will see no change to the 100% relief for the initial three months, but then a 10% rate of relief will apply for the remaining period the property is empty. (ie you pay 90% of the rates liability).

No change is proposed for the empty property relief for industrial or listed properties.

Background: - England & Wales

Business rate relief on empty property was removed in England and Wales on 1st April 2008 when the previous Government introduced a tax on Empty properties. Empty retail and office space previously received 100% relief for three months and 50% thereafter, while industrial space received 100% relief permanently.

Following a successful campaign by the BCA, from 1st April 2009, the Government introduced a threshold where EPR would not be paid on properties with a Rateable Value of £15000 or less.

The BCA continued to campaign and from 1st April 2010, the threshold was increased to £18000 RV, to bring the relief into line with the Revaluation.

The effect of the threshold was significant and the BCA estimate that it saved members in the region of £10m.

It also had a fundamental effect on the sector encouraging the growth of new flexible business centres taking advantage of the growth of the SME market. In doing so it facilitated the growth of SMEs and significantly aided the process of creating jobs.

Unfortunately the present coalition Government removed this concession and from 1st April 2011, the threshold was reduced to £2600 RV which will cost the sector a similar sum as in 2008 when there was no concession.

According to statistics from Instant Offices and Office Broker (market leaders in letting flexible business space), there has been virtually no growth in the flexible space sector since the threshold was reduced. This is attributable to the changes to EPR.

The fundamental point being that if no new space is being generated it will create a substantial shortage of space thus seriously undermining the Government's attempt to grow the economy by stimulating the creation and growth of small businesses.

Main Issues:

Rates are a tax for the provision of local services. Empty buildings make little or no demand on local services.

Empty rates is a tax on hardship and job creation. It is a tax on individuals and company property assets that generate zero income.

Buildings are empty because of a lack of demand. During a downturn, both rents and capital values fall, so there is no reason for a landlord to keep a building empty notwithstanding what Governments have said about this.

Speculative developments and regeneration projects are being shelved; this is echoed by regeneration experts and is reflected in the government's own data.

In the current economic climate, and with diminished occupier confidence, it becomes increasingly challenging to find commercial tenants on a traditional lease basis.

The Government has ignored the impact and consequential effect the tax has had on regeneration. New property led regeneration schemes came to a halt when EPR was first introduced. This is because BCA members have no choice but to develop their centres on a speculative basis and were not prepared to be taxed on a speculative development.

When the threshold was increased there was growth and development in new centres with many traditional landlords entering into management agreements in an attempt to let otherwise unlettable space, but also to avoid EPR by creating small units with a Rateable Value below £18000. This brought empty, and in many instances, unlettable space back into productive use and in doing so created new jobs.

Operators of flexible space promote entrepreneurs who benefit local economies as they generate new employment opportunities. In today's fragile economy the benefits of developing and stimulating the growth of small business has never been more acute - local economies cannot survive without the provision of space on flexible terms in dedicated professional business environments offering business advice and support. Providers are being taxed for delivering this service.

If private sector operators cease developing this essential type of flexible space, then development will be driven entirely into the hands of the public sector at a substantial cost to the public purse. As stated below, the cost to the exchequer in England and Wales by re-introducing a threshold for the flexible space market is estimated at £30m. If the private sector is not creating this type of space, it would cost considerably more for the public sector to provide even a handful of Business Centres suitable for SMEs.

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. These are now no longer available as empty rates make it cost effective to knock down and demolish a perfectly good building in preference to securing a tenant. This has, and will continue to reduce the supply of affordable property and reduce the potential rateable income. It also contradicts the Government's green policy. RICS predict that the magnitude of demolitions will accelerate over the next year. This will result in a significant loss to the Exchequer as potential rateable income decreases.

Previous Government logic that empty rates would lead to lower rents was misguided. In the short term many tenants have benefited from a reduction in rent. However, it is inevitable that eventually empty rates will instigate rent increases due to shortage of supply. This is a direct consequence of premature demolitions and abandoned developments. There is now firm evidence that this is happening in England.

More than half of government's empty rates intake will come from commercial tenants, rather than landlords, as they choose to reduce their occupancy and attempt to sublet their space. This is a very significant burden on all businesses and will potentially lead to job losses as companies downsize to reduce costs.

Approximately £400m of the empty rates revenue has come from the public sector itself. This figure was obtained by the BCA via a Freedom of Information Act request (2008) to Local Authorities - a waste of time, effort and money - transferring funds from one public sector office to another, with zero benefit to the economy, and misleading the public about the benefits of this tax.

Individuals are finding that their property investments are becoming liabilities, rather than a safe source of income/pension investment. As tenant demand dries up they will be forced to pay full business rates on their **non-income producing** empty properties.

The business community, as a whole, has come out against empty rates. The CBI, RICS, British Retail Consortium, Institute of Directors, British Chambers of Commerce, Business Centre Association, CoreNet, British Property Federation, Taxpayers Alliance and the Federation of Small Businesses are all calling for Government, to use its reserved power to partially re-introduce relief. Almost all Local Enterprise Partnerships in England and Wales are opposed to this tax.

The Government has ignored the specific requirements of the flexible managed space sector, particularly given the role it plays in encouraging enterprise and new business together with the flexible approach that BCA members employ.

To put this into perspective, if Government considered re-introducing the threshold specifically on small managed business space locations offering genuine, flexible agreements, we calculate that the cost to Treasury would be circa £30m not £690m as reported.

Of course what cannot be calculated are the number of people who **will come off 'benefit'** as a direct result of jobs created by SME's occupying managed flexible space. This will further reduce the impact on the Exchequer.

The sector will always have vacant space with maximum occupancy of between 85% to 90% due to churn. This is not by choice, but due to the very nature of the flexible offering which means that some space will always be available.

It is grossly unfair that this space is taxed when many public sector officials maintain flexible space with easy in easy out terms is vital to facilitate enterprise and growth in SMEs, providing much needed job creation opportunities, thus benefiting the wider economy.

New business centres, particularly in non-prime locations can take up to three years to let. Therefore, it is grossly unfair that the flexible space sector is taxed for providing SMEs with the type of accommodation they need and on the flexible terms they demand.

There has been a growth in dubious EPR avoidance schemes that verge on the unlawful and which is encouraging property owners to find ways to avoid EPR rather than concentrating on letting space. This is reducing the revenue to the exchequer from EPR but is also diverting attention away from letting space and creating employment to seeking ways to avoid tax.

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 with empty shops in their town centers. EPR has made no difference and many towns are now looking at genuine incentives to stimulate occupancy of their town centre retail units.

Green Deal UK:
Green Deal UK is part of the Governments Carbon Reduction Programme, and is scheduled to commence late 2012. This will provide the opportunity for consumers to install money saving energy efficiency measures without the upfront cost, which will instead be repaid through future energy bills.

That might work in reducing carbon emissions if the premises remain let with the tenant paying the energy bill. However, for the landlord there remains the danger that if there is a void period, it will be the landlord who will be left to pick up the cost. This further increases the cost of empty properties which have already been hit by the steep rise in Empty Property Rates.

BCA Position:
The Business Centre Association is urging the Chancellor to reintroduce the £18,000 RV threshold for at least another year but preferably on a permanent basis.

However, to stimulate business and offer a level of certainty to developers the BCA is advocating:

**A: That all speculative new and refurbished developments are exempt from EPR for a period of three years. We believe that this will encourage the procurement of management contracts on properties nearing their end of life and bring them back into use. It will also encourage speculative development and bring in revenue which does not currently exist.
A net gain for Treasury.**

The property development and construction sectors are stagnant with virtually zero speculative development taking place.

Why would property developers take the risk when on completion and prior to occupation the building is subject to EPR tax?

The BCA proposition will encourage speculative development and generate new rateable income as soon as the properties are let or within three years if unsuccessful.

It will also provide contemporary space for enterprises and create much needed employment opportunities as the UK comes out of recession.

By extending this measure to existing buildings that are being refurbished, it will prevent the demolition of vacant premises, prolong their life, and help protect the environment by retaining existing buildings. Most importantly it will contribute to the supply of space appropriate for enterprising small and growing businesses. This will generate employment and job creation across the UK.

B: **To reinstate the EPR threshold to £18,000RV and this to apply to properties let and managed on genuine flexible terms. We believe that this will stimulate the supply of property on terms small businesses want.**

We believe that this measure is essential as currently no new space is being developed. It will ensure that new space will be developed to guarantee the supply of suitable space for SME's.

The BCA estimated that the cost to their members of EPR when it was first introduced was circa £10m. Project this across public sector business centres, incubation centres and innovation centres which also operate in the flexible market, we estimate the cost to the Treasury by introducing a threshold would be *circa* £30m rather than the reported £690m it would cost if introduced across the entire property sector.

This, coupled with the suggestion that there is exemption for new developments for 3 years (which make no contribution to the Exchequer by way of EPR as currently they do not exist) will, we believe, stimulate demand and investment, generate new revenue and create jobs. Ultimately, a net gain to Treasury.

BCA's Recommendations for Scotland

The BCA do not want to witness the same stagnation of its sector in Scotland. It is recognized that market conditions are different and the current empty rates relief is different. However the BCA wish to recommend to the Scottish Government that the same two recommendations be considered.

A: That all speculative new and refurbished developments are exempt from

**EPR for a period of three years. We believe that this will encourage the procurement of management contracts on properties nearing their end of life and bring them back into use. It will also encourage speculative development and bring in revenue which does not currently exist.
A net gain for Treasury.**

and

B: **To reinstate the EPR threshold to £18,000RV and this to apply to properties let and managed on genuine flexible terms. We believe that this will stimulate the supply of property on terms small businesses want.**

The justification for these two measures has already been set out in the narrative above. The BCA are resolute in the belief that this will stimulate the growth of new flexible space Business Centres, specifically for small businesses in Scotland. In doing so this will generate and stimulate new investment. The consequence of both these measures will be the creation of new employment opportunities generated by new start-ups and SMEs who have been able to set up their enterprises in the right type of space environments which permits their business to expand or contract without penalty.

NOTE

The BCA requests that the Scottish Government does not get this confused with the measure currently in place to assist SMEs such as the Small Business Bonus Scheme.

The BCA is focusing on ensuring that the right type of space is available and let on the right easy in easy out terms. Without this flexible space where will all the new businesses go which you hope to create?

The BCA is willing to work with the Scottish Government to ensure that there is growth in the flexible space market which will specifically benefit the Scottish economy.

Annexe A

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from CBI Scotland

CBI Scotland has repeatedly called on the Scottish Government to reconsider the proposals outlined in this Bill which will lead to increased business rates for firms with empty commercial premises. In our submission last August to the Scottish Government ahead of its Spending Review, for example, we specifically stated that Ministers should avoid eliminating or reducing the rates discount applicable to empty commercial and industrial properties, and this is a point that we have reiterated at every available opportunity since (including in submissions to the Economy, Energy and Tourism Committee on the budget process, and in correspondence sent to the Cabinet Secretary for Finance, Employment & Sustainable Growth).

Ultimately, CBI Scotland remains unconvinced of the non-domestic rates measures included in this particular piece of legislation for a number of reasons.

- As we have continually stated, the proposals in the Bill amount to a decision to levy an extra £18 million from Scottish firms, per annum, at a time when many companies are facing considerable economic hardship. Whilst there may be an impression that this cost will mostly be footed by more 'resilient' major commercial property landlords, this is not necessarily the case: larger property companies typically enjoy relatively high occupancy levels (usually in excess of 90%), and thus these proposals may actually end up having a greater impact on other organisations - private and public - with a genuine surplus of property, as well as businesses which may be looking to move and expand. Furthermore, it is also worth noting that the proposals outlined in the Bill effectively represent a 'tax on distress': 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.

- CBI Scotland understands that the proposals included in the Bill have come about as a result of a belief that the current empty property rates relief regime acts as a disincentive to bringing empty properties into use. This is simply untrue. Commercial premises are rarely left empty on purpose, as they do not generate an income for their owners, and in most cases non-domestic buildings are unoccupied simply due to lack of demand – a fact that changing the rates relief regime is unlikely to alter. Indeed, there is also evidence to suggest that policies of a similar nature that have been introduced in other areas of the UK have had little effect on reducing the number of unused non-domestic premises. In a survey undertaken by Lambert Smith Hampton in 2008, for example, the vast majority of some 600 respondees claimed that the loss of long term empty property rate relief in England had not increased occupancy levels. Thus, if Ministers are determined to reduce the number of empty properties, then this is not an effective way to go about it.

- CBI Scotland also considers that the measures included in this piece of legislation run contrary to the Scottish Government's own stated intention of both encouraging new investment in Scotland, and, relatedly, boosting economic growth. Not only will a reduction in rates relief place a greater tax burden upon the owners of existing properties (whilst also potentially impacting on their cash flows), but the proposals may also prompt many investors to reconsider any developments or regeneration activities they may have planned, and perhaps particularly if those projects are in more economically-deprived areas, as such premises can be more difficult to let in the first place. As Committee members will be aware, development is crucial for successful economic growth, and there needs to be a surplus of property in order to allow businesses the freedom to expand as required. If developers are deterred from investing in Scotland because of these proposals, and there is less new property coming onto the market, then economic growth may be curtailed as demand returns to the economy.

- Finally, several of our members have expressed concerns regarding some of the financial assumptions made in the Bill. For example, 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). Furthermore, there is also a possibility that the Bill's proposals may place a greater-than-expected financial burden on the shoulders of Scotland's local authorities – not just because councils often have empty or un-let commercial property estates themselves – but as a result of the costs of dealing with an increased number of rates bill queries, relief applications and appeals. It has also been suggested that councils may end up having to undertake more inspections following the implementation of the proposals, in order to ensure that properties are being properly – and legitimately - declared.

Generally speaking, CBI Scotland welcomes the motivations that lie behind these proposals, as it is in the best interests of government, landlords and the economy to see as many non-domestic properties occupied as possible. However, rather than adopt the measures set out in the Bill, we would encourage the Scottish Government to focus its efforts on boosting demand for empty properties, as opposed to penalising those firms with empty or un-let commercial premises who are already suffering the ill-effects of a sluggish economic climate.

Indeed, fundamentally, we believe that the costs associated with the new regime may be too much for some of our members to bear, that the proposals may not achieve the desired goals of Ministers, and that the government should reconsider its approach to this issue.

Lastly, in their consideration of the Bill's merits, Committee members may also wish to take into account the Scottish Government's stated intention of implementing water and sewerage charges for empty non-domestic premises, as outlined in the recent ‘Scotland the Hydro Nation – Prospectus and Proposals for Legislation’ consultation document.

We hope this submission will be of interest to the Committee.

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from the City of Edinburgh Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes, in respect of the Council tax Increase on Long Term Empty Properties, Responses to the remaining questions will only be in respect of the Council tax increase for LTE.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes

3. Did you have sufficient time to contribute to the consultation exercise?

Yes

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

In so far as they can given there are a considerable number of assumptions made

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes in so far as they can given there are a considerable number of assumptions made

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Yes As long as the additional costs can be met from additional revenues raised.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such

costs would be expected to arise? Yes, the estimates/ assumptions made in the model used are as good as can be.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The clarity of the subordinate regulations will go a long way to determining these costs. It is likely there will be an increase initially in complaints and also an increase in appeals as owners challenge the classification of empty homes against second homes. These costs cannot be quantified at present.

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from Clackmannanshire Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes

3. Did you have sufficient time to contribute to the consultation exercise?

Yes, there was sufficient time and it was well consulted on.

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes - insofar as they can be considering the number of assumptions made within the actual memorandum.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes - per above the figures seem as accurate as can be expected due to the number of uncertainties.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Yes the costs can be met but only if the legislation allows Local Government to deduct the costs from the additional revenue raised as a result of the new legislation.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes given the large number of assumptions, the memorandum appears to give an accurate picture of costs and benefits associated with the legislation.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Answer to both 5 & 6:

The unknown costs which will arise will be dependant on the quality of the subordinate legislation insofar as the Council will see an increase in workload which is unquantifiable in terms of enquiries and appeals against assessment, especially surrounding the issue of determining what are long term empty properties and which are genuine second homes. Also the changes to the definition of long term empty to include furnished properties may cause unforeseen issues with current exemption and discount rules.

Annexe A

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from COSLA

Introduction

COSLA welcomes the opportunity to respond to the Scottish Parliament Finance Committee's call for evidence in relation to the Local Government Finance (Unoccupied Properties Etc.) (Scotland) Bill - Financial Memorandum.

In its response to the Scottish Government's consultation on Long Term Empty Properties and the Housing Support Grant, COSLA broadly welcomed the proposals but raised concerns that any scheme should not place an undue administrative burden on Councils and needs to be properly resourced. Moreover Councils should have flexibility about where and how to apply powers on unoccupied properties based on local policy decisions.

In presenting views on the financial implications of the Bill the Committee should be aware that the Bill only refers to the general provisions and that greater clarity on cost implications will be determined through subordinate regulations, once the Bill is passed. COSLA will be working closely with the Scottish Government in developing the regulations to ensure that these make the policy effective locally whilst minimising any administrative burdens.

Whilst the Bill, as it has been introduced is broadly in line with the proposals set out in the consultation, COSLA would like to draw the Committee's attention to references in the Financial Memorandum that the Scottish Government will, by regulations, either allow or require local authorities to increase the level of charges or the level of discount. For clarification COSLA would expect that the Scottish Government will set out in regulation the boundaries for varying discount/ applying charges, however Councils will have local flexibility to apply the powers and to determine the degree of variation to be applied within the set boundaries.

On ending the Housing Support Grant (HSG) the Committee should be aware that this applies to one Council, Shetland Islands Council. Whilst COSLA has welcomed in principle the ending of HSG, there remains an issue of ensuring that this does not have a disproportionate impact on the Council or its rent payers. Negotiations are continuing with the Scottish Government with regard to a transitional arrangement for this Council and therefore COSLA has not offered comments on the cost implications of ending the HSG, pending a satisfactory resolution. Therefore the comments set out below relate solely to the two provisions relating to non-domestic rates empty property relief and council tax increase on long-term empty homes.

Costs

Increased revenue to the Scottish Government and Councils

The financial Memorandum contains financial forecasts prepared by the Scottish Government for projected savings on the cost of non-domestic rates empty property relief (Table 1) and projected revenue estimates for varying levels of council tax discount on empty properties (Tables 3 and 4). COSLA would wish to urge caution in interpreting these figures as these may be overly optimistic for reasons which are set out below.

On the non-domestic rates empty property relief a key point to make is that many empty commercial properties are owned by absentee landlords, some are in very poor condition and therefore difficult to re-let or sell and are also possibly in negative equity. There is a risk therefore that the proposed changes will increase the administrative burden with very little impact on the non-domestic rates income recovered and therefore the forecast savings to the Scottish Government may well not materialise.

On varying council tax discounts for long term empty homes the Government rightly recognises that there are significant margins of uncertainty in the estimates they have produced for the Financial Memorandum. Critical to these estimates is the extent to which Councils will use the new powers and, as already stated, 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 discussions on the regulations, particularly as there should be a better understanding of how Councils consider they will apply the powers in practice and realistically what level of revenue this will generate.

Administrative costs to Councils

On non-domestic rates empty property relief COSLA recognises that there is a cost implication for Councils where they are in ownership of properties which are unoccupied. There are very often good reasons why these properties may remain empty and Councils are active in letting out such properties as part of their asset management plans. Clearly the policy applies equally to public bodies as it does to private as indicated in the Memorandum, however this is simply to draw the Committee's attention to this as there is a financial impact for Councils of this measure.

The Financial Memorandum recognises there will be additional administrative costs should Councils choose to apply the policy and that this is likely to cover set up costs, IT changes, collection and enforcement. COSLA has no reason to disagree with the costings provided in the Memorandum, however the key points to highlight are that Councils will need to consider where it is worthwhile applying the policy and that they may choose to offset any increased administration costs off the revenue raised.

It will also be extremely difficult for Councils to track that properties are being actively marketed. The reason that owners take properties off the market is that there is no prospect for sale in the current climate and this provision, whilst understandable, does present an additional administrative burden on Councils. Further clarity on the practical application of this provision should come through development of the regulations however.

Wider Issues

COSLA is aware of concerns from a number of our member Councils that the provision to vary the non-domestic rates empty property relief may have significant implications to local economies and, whilst not directly impacting on Local Government, supporting local economies is a key priority for Councils. COSLA will raise this issue more fully in its response to the Local Government Committee on the general principles of the Bill.

A number of member Councils have drawn to COSLA's attention that, whilst the duty, which is provided for in the Bill, for owners of unoccupied properties to notify their local authority is welcome, in practice the power to impose a penalty of £200 for failure to notify may be ineffective and may not be applied widely, particularly where there is a significant risk of non-payment.

APRIL 2012

Finance Committee

Welfare Reform (Further Provision) (Scotland) Bill

Submission from East Lothian Council

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Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes East Lothian Council took part in the consultation exercise but did not comment on the financial assumptions.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

Yes there was sufficient time to contribute.

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes the financial implications for East Lothian Council are accurately reflected in the Financial Memorandum.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes the estimated costs and savings are reasonable and accurate.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

East Lothian Council is content that the costs associated with the Bill can be met. There is the potential for additional costs to be met in part from the increased revenue.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes the Financial Memorandum reflects the margins of uncertainty.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes the Financial Memorandum captures the costs associated with the Bill which relate to local authorities.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

It is likely that any further legislation which amends or varies Council Tax on LTE properties will have costs associated with IT system updates and enforcement. It is not possible to quantify these costs without further detail.

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from Glasgow City Council

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Glasgow City Council offered comments on the consultation that related to council tax levies on long-term empty properties. We are not aware of a consultation on the other elements found in the Bill, in particular the significant changes relating to NDR empty property relief. We would therefore like to take the opportunity to offer the following comments on the NDR aspects of the Bill:

- The Bill may well lead to a negative impact on speculative development of commercial property. For developers of new property, any longer term occupancy void following completion of a speculative development will have a considerable cost impact. The developer will have to factor in an additional expense to account for the rates payable for any void after expiry of the brief period of relief. The changes may well mean that new development will not be brought forward until an occupier has been secured.

- Rundown property in need of regeneration does not let readily and in many cases when such premises become vacant, they are demolished, reducing the pool of property supply. Any decrease to empty property relief could exacerbate this situation. There does not seem to be much evidence of property owners not making significant efforts to reduce their vacancy rates – the absence of rental income would appear to be a sufficient encouragement to let non-domestic property.

- Property investment is also likely to be affected, with a possible rates bill for unoccupied property acting as a significant disincentive to investors to invest in anything but the safest income streams. Smaller investors, with portfolios of lower grade or marginal properties, are likely to be hit hardest.

- A potential unintended consequence could be landlords choosing not to terminate a lease, even where the tenant is insolvent, especially as an insolvent tenant will be able to claim an exemption for its rates liability.

- There is also a potential impact on already ailing high streets, with landlords of retail premises possibly being forced to let their property to less than ideal tenants, rather than leave premises unoccupied and face a rates liability.

- The potential reduction in rental values will lead to another large tranche of "material change of circumstance" appeals on existing rateable values. If the appellants can prove that the change of reforming the rates relief then led to the lower rental values they would have a case for reduction in their assessments.

- Experience of similar reform to non-domestic rates in England and Wales suggests that the intention to bring empty properties back into use has been largely undermined by the economic climate, and the resulting substantial reduction in demand for commercial buildings. There have also been criticisms that the reforms have stifled economic activity by restricting property supply (for the reasons outlined above).

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes. However, a key aspect of our response to the 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. Paragraph 9 of the explanatory notes implies that this power will reside with Scottish Ministers or local authorities. The absence of local flexibility is also suggested at paragraphs 28 and 34 of the Financial Memorandum.

Paragraph 12 notes the new powers for local authorities to impose penalties on owners that do not notify them of empty properties. In our consultation response, we noted that the Council supports owners being required to report empty properties, but past experience of civil penalties would suggest these are difficult and time-consuming to administer and collect, and are ineffective in changing behaviours.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes (for the council tax empty property consultation).

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Whilst the council recognises the Bill's intention to encourage owners of empty non-domestic properties to find tenants, the cost of changes to the NDR empty property relief to Glasgow City Council's property is estimated to be in the region of £0.5m to £1m per annum. This mainly relates to units in historically very hard-to-let areas, a situation exacerbated by the economic situation. The council obviously is active in trying to let out these premises and the additional cost burden to the council resulting from the Bill will not make that task any easier. We would therefore suggest a provision in the Bill that enables exemption for all long term empty properties in public ownership, given that there is sufficient incentive on local authorities already to identify non-domestic tenants for such properties. This is an important issue for local authorities but the Financial Memorandum does not mention it apart from a brief reference in paragraph 24, and it is not reflected at-all in table 9.

It is possible that the pressure on public sector budgets will lead to greater property rationalisation by public sector organisations in order to make property-related savings. This is certainly the case in Glasgow City Council. The current state of the property market limits the extent to which vacated property can be sold. Therefore the Bill as it stands will potentially impact the level of savings generated from such property-rationalisation initiatives due to the additional costs of holding surplus property.

The Financial Memorandum indicates that industrial units would continue to receive 100% exemption. Any change to this would increase the financial impact on empty local authority industrial units (a reduction to 10% relief on industrial units for Glasgow City Council empty properties would equate to around £0.5m).

It is also likely that the proposed changes to reliefs will result in increased administration costs, mainly relating to additional council tax administration, queries from local NDR and council tax payers, and also the potential for non-domestic rate taxpayers seeking to shift to alternative forms of relief. This is correctly referred to in the Financial Memorandum.

Similarly, the Financial Memorandum correctly refers to potential system-development costs on local authorities. These will not be known until full details of the regulations are known.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Refer to comments above.

We have no comment on the costs quoted where they relate to the Scottish Government budget.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

As noted above, it is likely that there will be an increase in administrative costs for local authorities. This may require internal resource redirection to meet this new demand.

The additional NDR burden relating to empty local government properties is significant and will therefore be a drain on resources elsewhere in the council's budget.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes, although we would stress 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.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

As outlined above, the main cost that is not given sufficient prominence is the additional cost to local authorities for their empty non-domestic properties.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

No specific comment.

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from Highland Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes. No specific comments on financial assumptions

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

Yes

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Reasonable, but margins of uncertainty mean that estimated costs and savings may vary materially

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Yes, but contribution sought from Scottish Government towards IT system updating

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

As far as we are aware at present

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

There may be but as these are dependent upon the detailed provisions of subsidiary legislation, it is not possible to quantify them at the moment.

Annexe A

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from Inverclyde Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes. Comments were submitted to Scottish Government via the consultation website, including those relating to financial assumptions.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes. Concerns over “enforcement” issues and administration of the increased charges / surcharges have been addressed in the Financial Memorandum. Estimates of additional income are also in line with comments previously submitted online.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes. Attendance at the Glasgow consultation event was very useful in helping to shape our response and there was adequate time to prepare and submit our contribution.

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

Yes. The Financial Memorandum is very comprehensive and covers all points raised in earlier discussions (internal and at external consultation event).

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

Yes.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

N/A

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes. The lead in times and the uncertainty over the responses of owners of empty homes make accurate costings difficult and this is reflected in the Financial Memorandum.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The introduction of, for example, new Regulations may have a financial impact on the administration and collection of CT and there is the possibility of additional staffing costs in relation to enforcement of new charges / surcharges. However, these matters have largely been addressed and taken account of in the proposed Bill and the Financial Memorandum.

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from North Ayrshire Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes, the Council responded to the Scottish Government's consultation document of 17 October 2011. The consultation document did not ask responders any direct questions in relation to the financial implications of the change. The document only made reference to the potential for costs relating to software changes and processes and that an additional £30m could be raised from the levy across Scotland.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Not applicable.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes.

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

The Bill has financial implications for the Council in the following two areas:

Non-Domestic Rates & Council Tax

<u>Non-Domestic Rate</u>

The Council has 126 empty subjects that have been charged 50% rates after the initial 3 month empty period. The imposition of a 50% charge does not appear to have any bearing on a property becoming occupied. 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 exiting budgets to pay the extra commission charge. Other administration costs will be small in terms of changing application forms and notifying ratepayers of the change. However, software system changes will be required to calculate the rates liability using 10% relief instead of the current 50% and this may be chargeable by software companies. The cost of amending the Council's software system is unknown but is estimated at between £1,000 and £3,000 based on other system changes.

Council Tax

The Council's software system will need to be amended to allow a levy of up to 100% to be charged. System reports will also be required to summarise the total levy charged and how much of the income has been recovered. The exclusion of water and wastewater charges from the levy may complicate the system changes. Set-up costs are likely to be around £5,000 to £10,000 as indicated in the Financial Memorandum but it is unlikely that Local Authorities will be able to jointly procure the same system changes from the same IT provider based on previous experience.

A review of the classification of the Council's 1,048 long term empty properties will also be required in advance of the 1 April 2013 implementation date. One additional member of staff for 3 months at an estimated cost of £5,100 would be required.

Collection of the levy will be difficult, as many of the owners are not in a financial position to pay the current Council Tax on a long term empty property and a 100% levy may only exacerbate the problem. The end result may be that customers will request that payment of the Council Tax be made on the sale of the property with the debt being off-set against any equity achieved from the sale. This may have a negative impact on collection levels and increase the cost of collection of Council Tax. The council tax model in the Financial Memorandum assumes a 100% collection level which is unrealistic. 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 all 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.

Evasion will also be a major factor and owners may classify their property as a second home rather than a long term empty property to avoid the levy. This will increase the need for spot checks, inspections and gathering evidence and the raising of invoices for £200 fines for failing to provide information. The Council would require one FTE at an estimated cost of £20,327 per year to manage this process.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

The maximum figure of £33.9m to be collected from long term properties in paragraph 32, assumes a 100% collection level and no additional long term empty properties being added each year with 10% brought back into use each year. The Council would consider that 100% collection is unrealistic due to the economic conditions and a more conservative estimate about the recovery of the levy should be made.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

The Council is not in a financial position to meet the cost of any administrative and software system changes that may be required or to fund the resource required to correctly classify properties in advance of the 1 April 2013 implementation date or to resource the on-going inspection of empty properties or meet increased commission fees. These costs should be met by the Scottish Government.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

The majority of the costs are included in the Financial Memorandum; however, there may be an increase in debt due to the changes proposed in the Bill for both non-domestic rates and council tax and this will increase the recovery action required and have a negative effect on the cost of collection in both areas. If the Council decided to use its discretion to charge a levy on a long term empty property then this may increase the commission paid to sheriff officers to recover the council tax. This is not reflected in the Financial Memorandum.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The Council cannot identify any future costs associated with the Bill.

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from North Lanarkshire Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

A. Yes, the Council responded to the earlier consultation exercise in January 2012. None of the questions in the earlier consultation sought a comment/response on the financial assumptions. In the letter accompanying the response and in subsequent emails the Council made contributions regarding the costings of the proposed scheme.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

A. The Financial Memorandum includes references to the comment submitted regarding the cost of setting up and operating the scheme. There appears to be no recognition that the focus of the proposal is tax-raising rather then 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.

3. Did you have sufficient time to contribute to the consultation exercise?

A. There was sufficient time to consider the questions posed and contribute to the consultation question in January. In respect to the current consultation there has been a significantly shorter period of time for responses (approximately 2 weeks) and this has meant a more difficult collation of the response.

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

A. The proposed bill will have a cost burden for the Council in implementing the legislation, monitoring and enforcement, and in meeting the liability for empty Council property (Operational Buildings, Council Houses etc). The Financial Memorandum includes appropriate reference to the financial implications for the Council.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

A. The Financial Memorandum appears to include a reasonable estimation of the range of cost and savings which are likely to be incurred.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

A. 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 difficulties it feels exists in the social rented sector as part of its oversight of the Housing Strategy.

The Government should provide financial support for the implementation costs which will be required by LA's to introduce the new legislation.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

A. As indicated above the costs/savings projections appear reasonable and provide a range of values dependant on the assumptions/criteria which are likely to occur.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

A. As indicated above, satisfied that the range of costs/savings is included within the bill.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

A. Not aware of any.

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from the Scottish Property Federation

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

In response to this question 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.

The Scottish Property Federation (SPF) did respond to the Long Term Empty Homes (LTEHs) consultation paper in the usual manner, criticising in particular the definition of LTEHs as homes empty for six months. There was a financial consequence because at that stage the government was consulting on whether to enable levies to be applied by local authorities on empty home owners after this length of time.

On empty property rate relief, the SPF wrote directly to the Cabinet Secretary for Finance, Employment and Sustainable Growth to raise our concerns, among other things, with the costs arising from the policy proposal to reduce relief for certain classes of property.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

On council tax the Financial Memorandum is not specific in a number of areas. For example the cost to house builders of reduced empty home council tax discounts on unsold new houses, or the potential costs associated with their purchase of part exchange homes with customers that are then not sold as quickly as anticipated. But we do welcome the move by the Scottish Government to enabling the proposed 'vacancy' levy to be applied only after a much longer period of vacancy.

There remain a number of areas in the Financial Memorandum that do not fully cover some of the points we alluded to in our letters to Ministers. For example, the Scottish Administration is identified as having little additional cost associated with reducing rate relief for their vacant properties. We find the suggestion in the Financial Memorandum that only 12 properties in the Scottish Administration's estate to be liable somewhat surprising. This may be the case for properties that it might be directly responsible for but this does not appear to take account of sponsored government bodies such as Scottish Enterprise, who we understand from the valuation roll have substantial numbers of vacancies in property investments. Similarly we wonder if organisations such as Housing Associations and the NHS have been fully accounted for in the Financial Memorandum.

We note from a recent written answer to Ken Macintosh MSP that the Scottish Government estimates that around 10% of the 'savings' from reducing empty property rate relief will flow from local authorities themselves. From our sample we certainly identified some sizeable potential empty property rates liabilities for Glasgow and Dundee City Councils to name but two.

Finally we are concerned that the additional costs associated with empty properties are not viewed from the perspectives of investors. Increasing costs associated with property investment is not likely to be viewed positively by investors. 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 an incentive. Similarly for investors in residential property although it is fair to say that landlords will seek to avoid financial loss through empty properties.

3. Did you have sufficient time to contribute to the consultation exercise?

The consultation on council tax was run along the usual lines. As previously explained the decision on empty property rates was first announced rather than previously consulted on, although we accept that the Spending review was regarded as a consultation in itself. With the empty rates measures not scheduled to be introduced until next April, we would agree that there has been time to respond to the Scottish Government with our views.

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

The SPF is of the view that there will be considerable additional costs to its members with unforeseen consequences for the market, including an increase in businesses being placed into administration. The SPF is concerned that the additional cost impact on ratepayers will be potentially higher than the forecast figure of £18mn per annum and we find no evidence that this will improve occupancy rates. Indeed 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.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

We have identified a sample of some 1,500 vacant properties in which we have sought to not include industrial premises or premises thought to be eligible for the Small Business Bonus Scheme (SBBS). This sample represents around 10% of the estimated total of vacant properties that will face an increase in liability from April 2013, should they remain vacant. From this small sample of 10% we calculated a total of some £70mn of rateable value, which would suggest an increased empty rates liability of just over £14mn. Given the small size of the sample used by the SPF we are concerned that the cost of reducing the relief to ratepayers will be more than Ministers anticipate.

Based on our own property data research we believe that certain assumptions may have been made in the government's analysis about the interplay of empty property rate relief with other forms of rate relief and the movement of properties from 100% relief to 50% relief. We believe that some of these assumptions may be challenged, for example in the sample we considered most properties had been vacant for some considerable time and we excluded very few from our calculations on the basis that they might be eligible for the SBBS. Oddly the Financial Memorandum highlights the possibility of an empty property worth less than £10,000 being eligible for the SBBS, instead of empty property rate relief. The problem with this is that if the business is trading from another location in Scotland, then it could not be eligible for empty property rate relief because of the SBBS's one property rule. Also, it is important not to get too attracted to the 100% threshold for empty property rate relief which is a temporary measure established for just three months. And if the business is not trading (as a small business with just one empty property) then it is a dormant business and probably in liquidation or administration and no rates will be raised from its former premise. Therefore we feel this part of the Financial Memorandum should be questioned.

We note also that the Financial Memorandum infers that the full £18mn cost is attributed to businesses. As we explain elsewhere a significant portion of this cost, we estimate between 10-20% at least, will actually come from the public sector itself.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill, which your organisation will incur? If not, how do you think these costs should be met?

We are not confident that our members will be able to meet the additional costs associated with the increase in empty property rates liability. As noted in greater detail below we see the increase in empty rates liability as a perverse incentive to put business into administration and we see no estimate made of this eventuality in the Financial Memorandum.

Options that should, in our view, be considered include -

- leaving the relief thresholds as they are;
- exemption of new build speculative developments for a period of time; and
- retaining a higher relief threshold than the proposed drop to 10% or a substantially longer period of 100% relief than 3 months.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

The Financial Memorandum does not in our view achieve this and indeed the example of how the policy in England worked in practice offers little encouragement. Before introducing the policy in England the relief was worth some £1.3bn per year. It is still worth some £1.1bn per year after having fallen dramatically to some £600mn in the first year of operation (2008-09). 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.

We are also unclear on exactly how certain of the assumptions identified by the Financial Memorandum are estimated to affect the estimates and uncertainties associated with the policy. For example the Financial Memorandum does not make any assessment of the uncertainty surrounding loss through administrations. Neither does it appear to consider the reports from England of properties being removed from the valuation roll by landlords who are unwilling or unable to pay the increase in liability.

In addition it is also highly likely that there will be an increase in the use of empty vacancies for charitable purposes and this will again result in a loss to the Scottish Government revenue – the Financial Memorandum alludes to this possibility but makes no firm estimate.

Turning to council tax we regret that there appears to have been little assessment of why homes lay empty for significant periods of time, with the default assumption that the landlord is not proactively seeking to let (or sell) the property. We think the reasons for empty homes are much more complex in a number of cases and we are not convinced that punitive taxation will indeed raise the revenue expected.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

The SPF feels that the proposal to reduce empty property rates relief is based on a misconception of the market and is a significant cost to businesses, the public sector and investors including in particular pension funds. The measure will be a significant and perverse incentive for lenders to place businesses into administration and will also undermine the attractiveness of Scotland as place to build speculative commercial developments. Where a lender places a business into administration the Scottish Government may actually 'lose' revenue from empty properties that may previously have been paying 50% of their nominal liability.

Our analysis began to examine who would be liable for the additional rates that would be incurred. We have found some considerable costs from even this small sample for 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. It must be a concern for these authorities that this cost will need to be balanced by cuts elsewhere in their budgets.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The market will ultimately determine the costs associated with the Bill as much as the subordinate legislation. If there continues to be weak demand for commercial property and in particular retail property, then costs to businesses may increase rapidly. Similarly business or public sector ratepayers who possess surplus properties that they cannot dispose of due to weak demand will continue to face increased costs.

The SPF would be pleased to explain its views further at the Committee’s convenience.

Finance Committee

Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Submission from Western Isles Council

Consultation

1. Did you take part in the Scottish Government consultation exercises which preceded the Bill and, if so, did you comment on the financial assumptions made?

Yes. The Comhairle submitted a response to the Consultation, but was only able to comment very briefly on the financial assumptions.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes.

3. Did you have sufficient time to contribute to the consultation exercise?

Yes.

Costs

1. If the Bill has any financial implications for your organisation or your members, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details?

The Financial Memorandum provides a useful indication of the likely costs involved in introducing the amendments.

2. Do you consider that the estimated costs and savings set out in the Financial Memorandum, and the timescale over which they are projected, are reasonable and accurate?

The estimated costs and savings are a reasonable reflection of the possible costs associated with introducing the Bill, given the small sample size.

3. If relevant, are you content that your organisation or members can meet the financial costs associated with the Bill which your organisation will incur? If not, how do you think these costs should be met?

Based on the estimates provided in the Financial Memorandum, it is likely that the costs associated with introducing the Bill would be offset by the additional income gained.

4. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Yes.

Wider Issues

5. Do you believe that the Financial Memorandum reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

Yes. The Financial Memorandum provides a reasonable estimate of likely costs.

6. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Not possible to say at this stage.