

EAST RENFREWSHIRE COUNCILCABINET14 DECEMBER 2023Report by Director of Business Operations and Partnerships & Director of EnvironmentCOUNCIL TAX DISCOUNTS, EMPTY AND SECOND HOMES**PURPOSE OF REPORT**

1. To provide an update on Council Tax discounts relating to empty and second homes, Scottish Government consultation and implications for East Renfrewshire.
2. To ensure all housing resource is maximised in the local authority area.

RECOMMENDATIONS

3. Cabinet is asked to:
 - a) Note the consultation on changes to Council Tax proposed by Scottish Government and the expected impact for East Renfrewshire Council;
 - b) Agree the proposal to remove the 10% discount for long-term empty and second homes;
 - c) Agree the proposal to add a premium of up to 100% for long-term empty properties and second homes from 1st April 2024 (subject to legislative approval on second homes);
 - d) Agree the proposal that an Empty Homes Officer is recruited.

BACKGROUND

4. East Renfrewshire Council has a statutory duty, under the Local Government Finance Act 1992, to bill and collect Council Tax. In 2023/24 £66.5m has been billed for collection from approximately 41,000 households. This income provides approximately 20% of the funding required to run the Council. In 2022/23 Council Tax collections were 97.55%, which is in the top quartile of performance in Scotland.

5. Discounts and exemptions are applied which reduce the council tax bill where applicable. 4,400 low income households receive £4.4m of support with Council tax bills through Council Tax Reduction (CTR). Further discounts and exemptions are applied of £6.8m, with the majority of these being statutory, for example single persons discount, property exemptions and disabled relief. Approximately £168k of discounts/exemptions relate to empty properties, with a mix of statutory (unoccupied exemption for less than 6 months) and discretionary discounts (long-term empty and second homes).

6. Scottish Government records highlight in 2022 there were 42,865 homes (1.6%) long-term empty and 24,287 (0.9%) second homes across the country. For several years there has been a focus on encouraging empty homes into use for local communities, to regenerate communities and provide critical local housing.

7. During summer 2023 Scottish Government carried out 2 consultations. One was on proposed changes to charges for Band E, F, G and H (a paper was brought to Council in September 2023) and the other on second and empty homes and non-domestic rates. Their aim is for everyone in Scotland to live in safe, secure and warm homes. They asked for views on how local taxation and existing housing can help this. The results of the second and empty homes and non-domestic rates consultation was published on 24th October 2023, and provided views from individuals and organisations on various questions including changes to council tax charges for second homes, and further changes to charges for long-term empty properties.

8. Since 2010, the Scottish Government has funded the Scottish Empty Homes Partnership (SEHP) based within Shelter Scotland. The aim of this partnership is to encourage private sector empty homes back into use in a number of ways; offering advice to individual owners, developing policy and practice ideas and supporting a network of empty homes practitioners.

9. East Renfrewshire Council, like many others are facing extreme pressures on housing services. This is reflected in the critical lack of capacity in local housing markets. The total number of people on the waiting list now sits at 6,175, this has more than doubled in 3 years, with 3,412 more applicants than in 2020.

10. The additional demands and pressures associated with a wide range of humanitarian programmes, most recently including the Homes for Ukraine and Scotland Super Sponsor Schemes, have further exposed and exacerbated the criticality of the position across the locality. There are a lack of housing options available and the need for houses to be brought back into use.

11. Empty Properties have attracted issues in East Renfrewshire including: vandalism, arson, fly tipping and anti-social behaviour. Housing Services have responded to 87 complaints (over the past 8 years) one of which resulted in a Compulsory Purchase Order and was brought into the Council's housing stock.

12. The benefits of having empty properties repaired and re-used include: reduced housing waiting lists, local economic growth, safer and stronger communities and improved health and wellbeing.

REPORT

Council Tax status

13. In Scotland, the definitions of empty homes are generally determined by Council Tax definitions, as follows:

- a) Long-term empty properties – properties which have been empty for more than 6 months and are liable for council tax. A 100% premium (double the full rate) can be applied to homes empty for more than 12 months
- b) Unoccupied exemptions – generally properties which are empty and unfurnished for less than 6 months and exempt from paying council tax
- c) Second homes – homes which are furnished and lived in for at least 25 days in a 12-month period but not as someone's main residence

14. Discounts on long-term empty and second homes can be removed. The legislation allowing this is the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 for long-term empty properties and The Council Tax (Variation for Unoccupied Dwellings)

(Scotland) Amendment Regulations 2016 for second homes. East Renfrewshire reduced the discount on second homes from 50% to 10% in 2009/10, with the additional income credited to the Housing Revenue Account (£122k in 2022/23). A discount of 10% for both long-term empty properties and second home remains, with East Renfrewshire being only one of a small number of local authorities where a discount is provided for long-term empty homes.

15. Comparing East Renfrewshire with other neighbouring councils, the following do not offer any discount; Glasgow, Inverclyde, East Ayrshire and South Ayrshire. Renfrewshire Council do offer a 10% discount, however this is for 6 months, and then a 100% premium may be charged for properties empty for longer than 12 months.

16. Long-term empty properties can be charged a 100% premium. Second homes can currently be charged the full rate of council tax. On 8th November 2023, Scottish Government announced that draft regulations allowing a 100% premium on second homes was laid before the Scottish Parliament. Subject to approval, this will bring second homes into line with long-term empty homes from 1st April 2024. Feedback from the recent consultation by Scottish Government highlighted that 55% of respondents supported a premium on second homes, while 60% of respondents supported an increase in the premium above 100% for long-term empty properties.

17. At September 2023, there are 124 (0.3%) long-term empty homes and 64 (0.2%) second homes within East Renfrewshire. The cost of these discounts is approximately £33,000 per annum. At October 2023, 77 of the long-term empty homes have been empty for more than 12 months.

18. Council Tax bills are generated using the Revenues and Benefits system. The ability to remove the discount and add a premium to the council tax bills has been tested. It is recommended that the discount is removed from 1st April 2024, and any premium applicable is added from 1st April 2024 at the earliest, allowing appropriate time for engagement with owners as required.

Empty homes status

19. In 2022 there were 42,865 long-term empty properties in Scotland, and as noted above at section 17, 124 long-term empty properties are within East Renfrewshire.

20. Housing Services currently provide a limited reactive empty homes service, where enquiries or complaints are responded to by the private sector housing team on an ad hoc basis. Available resources do not allow the team to dedicate the time required for working with empty home owners and encouraging them to bring their properties back into use.

21. However, the local authority, through an Empty Homes Officer (EHO), could support owners to bring homes back into use, by offering information and advice. Critical success factors in the EHO's role are the importance of understanding local housing markets, and taking a bespoke approach, responsive to individual empty homeowners' needs to build trust and persuade.

22. The Scottish Empty Homes Partnership (SEHP) recommends using a 'carrot and stick' approach to tackling empty homes, with the stick being the council tax levy and the carrot being an Empty Homes Officer with the ability to apply discretion, where an owner is actively trying to bring a property back into use.

23. It is recommended that a part time Empty Homes Officer (Grade 8) is recruited, funded through the removal of the council tax discount for long-term empty and second homes. This

post would work jointly between Revenue Services and Housing Services to maximise council tax recovery and provide a support mechanism to owners of empty property with the aim of bringing empty homes back into use locally.

24. There is further potential for the Empty Homes Officer to determine whether initiatives such as an Empty Homes Loan Fund or Grant scheme could be beneficial. Other Local Authorities, such as Perth and Kinross have a budget to provide owners of long term empty properties a grant to help bring properties up to the Repairing Standard as outlined in the Housing (Scotland) Act 2006. It is recommended that the Empty Homes Officer reviews this as part of their remit and brings any further proposals to Cabinet for approval.

FINANCE AND EFFICIENCY

25. Discounts for long-term empty homes and second homes currently cost East Renfrewshire Council £33,000 per annum. If the discount was to be removed and an Empty Homes Officer recruited, there would be support to bring long-term empty properties back into use. It should be noted, there is no obligation set in legislation to use the funds for this purpose.

26. If a premium of up to 100% was added to long-term empty properties this could strengthen the move to encourage long-term empty properties into use, it could fund loans or grants to allow owners to bring properties back into use, and potentially generate a maximum income of up to £100,000 per annum for the council.

27. If legislation is approved and a premium of up to 100% was added to second homes, this could further strengthen the move to encourage properties into use and could potentially generate further additional income of up to £100,000 per annum for the council.

28. It would however be prudent to set more conservative income targets for the first year due to potential difficulties in recovering this income and potential for a delay in the start date if national legislation is not passed for 1 April 2024.

CONSULTATION & PARTNERSHIP WORKING

29. Consultation with Housing, Legal and Accountancy has taken place and with the NEC system supplier externally.

30. A consultation was carried out with 115 empty and second home owners in East Renfrewshire between May and August 2023. 57 people responded to this consultation, and whilst the proposal of additional council tax was not welcomed, 18 (32%) of respondents indicated that they would benefit from an empty homes advice service.

IMPLICATIONS OF THE PROPOSALS

31. An Equality Fairness and Rights Impact Assessment (EFRIA) highlights that these changes are expected to have a positive impact by encouraging long-term empty and second homes back into use by the local community, reducing levels of homelessness and improving wellbeing of residents, including children and young people. The proposed changes do not alleviate or entrench inequalities, however removing the discount and increasing council tax charges, could potentially deepen poverty for those residents already experiencing socio-economic disadvantage. This would be mitigated by the recruitment of an Empty Homes Officer, with additional support available from Money Advice and Rights Team (MART) or Citizens Advice Bureau (CAB).

CONCLUSIONS

32. Given that East Renfrewshire are now one of only a small number of councils providing a discount for long-term empty and second homes, and the demand for housing within Scotland and locally, it is proposed that the discount is removed from 1st April 2024. A premium of up to 100% is proposed (subject to legislation being approved on second homes) from 1st April 2024 at the earliest, allowing appropriate time for engagement with owners as required. This will provide support to bring long-term empty homes back into use.

RECOMMENDATIONS

33. Cabinet is asked to:

- a) Note the consultation on changes to Council Tax proposed by Scottish Government and the expected impact for East Renfrewshire Council;
- b) Agree the proposal to remove the 10% discount for long-term empty and second homes;
- c) Agree the proposal to add a premium of up to 100% for long-term empty properties and second homes from 1st April 2024 (subject to legislative approval on second homes);
- d) Agree the proposal that an Empty Homes Officer is recruited.

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BACKGROUND PAPERS

[Consultation by Scottish Government on second and empty homes](#)



Council Tax – Empty Properties Policy

Draft November 2023

Approved: To be considered by Cabinet 14/12/23

Owner: Alison Ballingall, Senior Revenues Manager

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1. Introduction & Context

East Renfrewshire Council's vision is to be a modern, ambitious council creating a fairer future with all and our ultimate aim is to make people's lives better.

We work together with our partners to achieve the best outcomes for our 95,000 residents in terms of early years and vulnerable young people; learning, life and work; the economy and environment; to deliver safe and supportive communities and for older people and people with long term conditions.

For the purposes of this policy, Outcome 3 – East Renfrewshire is a thriving, attractive and sustainable place for business and residents and our Efficiency outcome (Our physical, information and financial assets are efficiently managed) are most relevant.

We achieve these outcomes by focusing on 3 capabilities: prevention, empowering communities, digital change.

And in everything we do, we seek to live by our values of Ambition, Kindness and Trust.

2. Background

In Scotland, the definitions of empty homes are generally determined by Council Tax definitions, as follows:

- Long-term empty properties – properties which have been empty for more than 6 months and are liable for council tax. A 100% premium (double the full rate) can be applied to homes empty for more than 12 months
- Unoccupied exemptions – generally properties which are empty and unfurnished for less than 6 months and exempt from paying council tax
- Second homes – homes which are furnished and lived in for at least 25 days in a 12-month period but not as someone's main residence

East Renfrewshire reduced the discount on second homes from 50% to 10% in 2009/10, with the additional income credited to the Housing Revenue Account. This was a result of changes in legislation, with the treatment of this revenue determined by legislation. The revenue is used by the Housing team for the provision of new-build affordable social housing to meet locally determined priorities, this can include work related to empty homes.

Scottish Government introduced further legislation which allows discounts on long-term empty and second homes to be removed. The legislation allowing this is the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 for long-term empty properties and The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016 for second homes.

Long-term empty properties can be charged a 100% premium. Second homes can currently be charged the full rate of council tax. During summer 2023 Scottish Government carried out a consultation on second and empty homes and non-domestic rates. Their aim is for everyone in Scotland to live in safe, secure and warm homes. They asked for views on how local taxation and existing housing can help this. The results of the second and empty homes and non-domestic rates consultation was published on 24th October 2023, and provided views from individuals and organisations on various questions including

changes to council tax charges for second homes, and further changes to charges for long-term empty properties. On 8th November 2023, Scottish Government announced that draft regulations allowing a 100% premium on second homes was laid before the Scottish Parliament. Subject to approval, this will bring second homes into line with long-term empty homes from 1st April 2024.

The greater flexibility provided by the legislation is intended as an additional tool to help local authorities encourage owners to bring empty properties back into use. The intention is both to increase the supply of housing for those who need homes and to reduce the blight on communities caused by houses being left empty and allowed to fall into disrepair. The council tax increase can be used as part of a wider approach to tackle long-term empty homes including support and guidance to owners and provision of loans and grants if available.

From 1st April 2024 changes to the discounts/charges for empty and second homes will be phased in by East Renfrewshire Council. Empty properties which meet the criteria, will receive a 100% exemption for a period of 6 months, and then be charged the full council tax levy for the next 6 months, moving to an additional 100% levy after 1 year. Second homes will be charged the full council tax levy, and consideration will be given to charging an additional 100% premium (subject to approval of Scottish Government legislation).

There may be discretion applied, when considering the additional levy, for example, if the property is being actively marketed for sale or rent or if the owner engages with the Empty Homes Officer.

3. Policy Purpose, Commitments & Objectives

3.1 Policy Purpose

The purpose of this policy is to

- specify how the Council's Revenues Team will operate the legislation, detailed in section 2.
- detail the appropriate exemption/discount and/or increased Council Tax charge for empty properties.
- highlight that discretion can be considered and awarded in appropriate cases.

(the policy does not set rigid, pre-defined criteria as this would prevent the council from exercising discretion properly)

Procedures will be prepared for Officers to support the operation of this Policy. This guidance will also describe the discretion and flexibility which can be used in appropriate, individual circumstances.

3.2 Policy Commitments

- All decisions will be made in a manner that is consistent with the ordinary principles of good decision making as described by Administrative Law (refer to section 11)
- The council will endeavour to act fairly, reasonably and consistently.

- Discretion will be used reasonably and lawfully and will not extend to giving more weight to certain groups and/or claimant because they are seen as more deserving than others.

3.3 Policy Objectives

The objectives of this policy are to:

- Encourage owners to return long term empty properties back into use and maintain the supply of affordable housing in East Renfrewshire
- Ensure the correct levels of reductions are awarded and the 100% increase is applied appropriately and for the correct period
- Raise awareness that discretion can be applied in appropriate, individual cases.
- In partnership with the Empty Homes Officer (refer to section 7) support customers by ensuring that, where appropriate, help to sell or let a home is given. In addition information can be provided on initiatives which may help empty homeowners bring their properties back into use is provided.

4. Council Tax Charges

4.1 Empty Properties

- Properties (refer to note section 11.3) deemed to be unoccupied and unfurnished meeting specified criteria, will attract a maximum 6 month 100% exemption, followed by the full council tax levy for the next 6 months. Thereafter, a 100% increase will be applied to the council tax charge.
- If a property is classed as unoccupied but furnished, a maximum 6 month 10% discount will be awarded, followed by the full council tax levy for the next 6 months. Thereafter a 100% increase will be applied to the council tax charge.

4.2 Second Homes

- The legislation, referred to in section 2, aims to ensure that only homes that are well maintained and which the owner is likely to visit regularly, therefore making some contribution to the local economy, can qualify as a second home. It defines a second home as being, furnished and lived in for at least 25 days in any 12 month period.
- Properties deemed to be second homes will be charged the full council tax levy, and consideration will be given to charging an additional 100% premium (subject to approval of Scottish Government legislation)

Exclusions from increased charge

5.1 Other appropriate exemption

The legislation will not affect a council tax payer's eligibility to claim council tax exemptions/discounts under the Council Tax (Exempt Dwellings) (Scotland) Order 1997.

These exemptions include:

- Occupant in long-term residential care
- Occupant in hospital long term
- Occupant in prison
- Where a property has been repossessed by a lender
- Where a property is being structurally repaired (for up to one year after it becomes unoccupied)
- Where the council tax payer has died (in which case the exemption is up to 6 months after grant of Confirmation).

Where a property is no longer eligible for an exemption detailed above, but it remains unoccupied, it will become eligible for the council tax increase after 1 year, if no other appropriate exemption applies

5.2 Properties being marketed for sale or rent

Properties being marketed for sale or rent will be excluded from the increased council tax charge, detailed in section 3, for a further 12 months following the initial 6 month exemption and 6 month full council tax charge. Thereafter a 100% increase will be applied to the council tax charge, as detailed in section 4.

This exclusion is conditional on the property being genuinely marketed for sale or let at a realistic market price. In considering whether a home is genuinely being marketed for sale or let, the Council will have regard to any unduly restrictive conditions being attached to the sale or let as well as the sales price/rent level.

In coming to a decision on whether or not the dwelling is being genuinely marketed for sale or let, the Council can request and take into account additional evidence. The procedures prepared for Officers, will detail examples of the type of evidence which can be requested.

6.0 Use of Discretion

The legislation, allows the Council to "make different modifications for different cases or different classes of case, including different areas".

This policy does not impose any variance to the application of the increased charge, other than by discretion on a case by case basis.

- The Council will consider requests for discretion to be applied in relation to the charge or discount being applied.
- The Council will proactively consider the use of discretion in circumstances described in section 11.3.

- Requests should be made in writing or email detailing the reasons for the request.
- Each request will be considered on a case by case basis
- The Council will aim to respond to these requests within 10 working days
- Should further evidence or property visit be required the 10 working day deadline may be extended
- All requests for the application discretion will be logged and the decision recorded.
- The discretion request log will be monitored and reviewed by Senior Officer(s) to ensure consistency is applied.

7.0 Empty Homes Officer

The Empty Homes Officer's role will support bringing private sector empty homes which have been lying empty for more than 6 months back into use. They can provide additional support to customers. Advice on letting, selling, renovations can be provided along with one to one support through the selling/letting processes.

The Council will hold regular liaison meetings with Housing and Revenue officers, the aim of this work is to ensure that discounts are applied appropriately and ensure that the empty status of a property is correct. Review checks may include visits to properties.

The Empty Homes Officer will review whether loans would help empty homeowners bring their properties back into use. Any loan would be considered on a case by case basis and only where budget provision allows.

8.0 Dispute Process

There is no formal right of appeal in relation to the level of discount awarded or the 100% increase added to the council tax charge. It is proposed however that customers are provided with the opportunity to seek a review of decisions, and the appropriateness of discretion being applied in the specific circumstances of individual cases.

Any disputes received regarding the level of discount or the 100% council tax increase will be dealt with as a request for discretion. If a customer does not agree with the initial decision they can ask for it to be reviewed by another officer, seeking the application of discretion based on the specific circumstance of the individual case.

9.0 Complaints

Any complaints received concerning this policy will be logged, investigated and responded to in accordance with the Council's Complaints Handling Procedure.

10.0 Debt Recovery Action

The Council's normal recovery action will be taken, where appropriate.

The Debt Recovery Team will work in partnership with the Empty Homes Officer, as detailed in section 7, with the aim of bringing the property back into use and avoiding arrears.

11.0 Notes

11.1 Scots administrative law

Where there is discretion in the decision-making process referred to in this document the exercise of that discretion will be subject to the general principles of administrative law. This requires that the Council will act reasonably when considering cases, by taking all relevant material considerations into account and not applying irrational considerations. All decisions involving the use of discretion will be measured by the reasonableness standard which is applied to administrative bodies including the Council.

11.2 Scottish Water

The changes detailed in this policy are relating only to Council Tax and have no effect on the charges for Water and Sewerage, imposed by Scottish Water, billed and collected by the Council

11.3 Initial Six Month Exemption

Section 4 describes that all properties deemed to be unoccupied and unfurnished will attract a maximum 6 month 100% exemption, followed by the full council tax levy for the next 6 months. Liable parties e.g. a new owner will not be entitled to the initial 6 month exemption if a previous award of six months has been granted and the property has not subsequently been occupied for 3 months.

In the circumstances described above the Council will proactively make contact with customers to discuss their individual circumstances and consider the appropriateness of applying discretion.

Ownership and Control

Owner:	Alison Ballingall, Senior Revenues Manager
Review date:	Ongoing and minimum formal review every 5 years
Updates and Changes:	Version 1, November 2023