

# Citizen Participation and Public Petitions Committee

12th Meeting, 2023 (Session 6), Wednesday  
6 September 2023

## PE2026: Eliminate Council Tax discounts for second homes and vacant properties

<b>Petitioner</b>	Sam McCahon
<b>Petition summary</b>	Calling on the Scottish Parliament to urge the Scottish Government to amend the Local Government Finance Act 1992 to: <ul style="list-style-type: none"><li>• eliminate Council Tax discounts for second homes and vacant properties</li><li>• make the property owner (rather than a tenant) liable for payment of Council Tax.</li></ul>
<b>Webpage</b>	<a href="https://petitions.parliament.scot/petitions/PE2026">https://petitions.parliament.scot/petitions/PE2026</a>

### Introduction

1. This is a new petition that was lodged on 25 April 2023.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. Every petition collects signatures while it remains under consideration. At the time of writing, 70 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.
6. A submission has been provided by the petitioner. This is included at **Annexe D**.

## Action

The Committee is invited to consider what action it wishes to take on this petition.

**Clerk to the Committee**

## Annexe A

# PE2026: Eliminate Council Tax discounts for second homes and vacant properties

## Petitioner

Sam McCahon

## Date Lodged:

25/04/23

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to amend the Local Government Finance Act 1992 to:

- eliminate Council Tax discounts for second homes and vacant properties
- make the property owner (rather than a tenant) liable for payment of Council Tax.

## Previous action

I have contacted the following MSPs:

Kate Forbes (SNP) Cabinet Secretary for Finance and the Economy. I was directed to communicate my concerns with John Swinney.

John Swinney (SNP) Deputy First Minister. (No Response)

Ben Macpherson (SNP), Minister for Social Security and Local Government. He is also my constituency representative. (No Response).

I received a letter from the Local Government Ministry. They concurred with my assessment that the change to the City Council Tax Code would require action by the Scottish Parliament. They also provided information that the issues of alternatives to the City Council Tax had been discussed by a working group, but not this measure. They also stated that my proposal was timely.

## Background information

Scotland is currently suffering from a housing crisis. There are insufficient residential properties available for rent and purchase. Tens of thousands of residential properties remain vacant or are used as holiday rentals by investors.

Eliminating Council Tax discounts for vacant homes and vacant properties will dramatically increase the number of properties available for rent and sale, and so should mitigate the housing crisis and enhance tax revenue. Enhanced payment of Council Tax will enable the city councils to provide essential services.

Moreover, making the property owner responsible for payment of Council Tax should reduce the extent to which councils lose revenue because of people being unable to pay. The city council tax is a tax upon the property, it is not a tax on services. Therefore, it is just and equitable that the owner of the property be responsible for payment of the property tax.

City councils are suffering from inadequate finances to provide essential public services. The primary cause for the shortfall in city council funding is the non-collection of Council Tax that is due. In Edinburgh alone, the number of residential properties in arrears for non-payment of Council Tax was:

2020—5,714

2021—8,342

2022—31,198

## Annexe B

The logo for SPICe, featuring the text 'SPICe' in a white, sans-serif font on a dark purple background.The logo for The Information Centre, featuring the text 'The Information Centre' and 'An t-Ionad Fiosrachaidh' in a white, sans-serif font on a dark blue background.

# Briefing for the Citizen Participation and Public Petitions Committee on petition PE2026: Eliminate Council Tax discounts for second homes and vacant properties

## Brief overview of issues raised by the petition

The petitioner would like to see the elimination of Council Tax discounts for second homes and vacant properties. The petitioner also calls for the current law to be changed to make the property owner (rather than the occupier) liable for the payment of Council Tax.

PE2026: [Eliminate Council Tax discounts for second homes and vacant properties](#)

## Background – Council Tax and who pays it

Council Tax is a domestic property tax. It is the only *local* tax in Scotland, in the sense that Council Tax band D rates are set annually by councils (albeit the ratio between band D and the other bands is set in national legislation), the tax is collected by local authorities, retained by them and spent entirely on local services.

Powers over local taxation have been devolved to the Scottish Parliament since 1999, and since then there has been talk about reforming or replacing Council Tax. Most recently, the [Bute House agreement](#) between the Scottish Government and the Scottish Green Party includes a commitment to explore ideas to “develop a fairer, more inclusive and fiscally sustainable form of local taxation”.

*Who pays Council Tax?*

Part 2, Section 75 of the 1992 Local Government Finance Act sets out who is liable to pay council tax. As [explained by Citizens Advice Scotland](#), it is usually the person living in the dwelling who is liable to pay, regardless of whether or not he or she owns the property. A non-resident owner may be liable, however, if the occupancy situation meets certain criteria (for example, if the house is shared by a number of different households, or if all people living in it are under 18).

People on low incomes may be eligible for help through [Council Tax Reduction](#), administered by local councils.

### **Empty Homes and Council Tax**

A [recent SPICe blog](#) shows that local authorities in Scotland already have discretion over the levels of Council Tax discount available on unoccupied properties in their areas.

The [Council Tax \(Exempt Dwellings\) \(Scotland\) Order 1997](#) provides council tax exemptions (some of which are time limited) for certain types of empty homes. For example, empty homes that are unoccupied and unfurnished are exempt from Council Tax for six months. If an empty home does not qualify for an exemption, council tax will be payable on it.

As at 30 September 2022, there were around 43,000 homes liable for Council Tax that had been empty for six months or more. This equates to around 2% of all homes in Scotland, [although there are geographical variations with higher concentrations in some rural areas](#).

The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 ([as amended in 2016](#)) set a 50% Council Tax discount as the default charge for empty homes. However, councils can alter the level of discount, to provide a discount of between 50% and 10% subject to certain restrictions (as set out in schedule 1 of the 2013 Regulations).

For homes that have been unoccupied for 1 year or more councils can also:

- offer no discount and charge the standard council tax rate
- charge council tax at up to double standard rate for certain empty homes, subject to certain restrictions.

[In 2022-23, 29 of 32 councils made use of the ability to charge up to double council tax for long-term empty properties in some way](#). Three councils did not make use of the power, two of these offered discounts while one removed the discount, charging the standard rate.

## **Second homes and Council Tax**

For Council Tax purposes a second home is a property which is no-one's main residence but is furnished and lived in for at least 25 days in any twelve-month period. However, this won't include any second homes that are used for holiday lets that are classed as businesses, and therefore pay non-domestic rates rather than Council Tax<sup>1</sup>. It also won't include any second homes that are rented out to other people for long term residential use.

[Council tax statistics show](#) that, at September 2022, there were 24,287 second homes in Scotland. Overall, [this is a low proportion](#), only 1% of all homes in Scotland. But there are [wide variations across council areas](#) with clear concentrations in rural areas.

Councils have discretion to apply a Council Tax discount of between 10% and 50% on second homes. Since April 2017, as a result of the [Council Tax \(Variation for Unoccupied Dwellings\) \(Scotland\) Amendment Regulations 2016](#), councils have also been able to choose to apply no discount at all.

[For 2022-23](#), 25 of Scotland's 32 councils have removed the Council Tax discount for second homes while six councils have retained a 10% discount and one council has a variable policy.

## **Scottish Government's current consultation**

The Scottish Government is [currently consulting](#) on potential changes to the Council Tax system with the aim of ensuring local areas can make the best use of existing housing stock. The consultation, which closes on

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<sup>1</sup> It [is worth noting](#) that as at 1 July 2022, 88% (16,130) of self-catering accommodation units on the valuation roll were in receipt of Small Business Bonus Scheme relief at a cost of over £21 million. The vast majority of these (96%) benefited from 100% relief and therefore paid no local tax.

11 July 2023, seeks views on whether to provide councils with additional powers allowing them discretion to:

- charge up to 100% premium (double the full rate) on Council Tax for second homes
- charge more than 100% premium on Council Tax for second homes and long-term empty homes

The [consultation document](#) contains a thorough summary of current legislation and statistics on a number of issues raised by the petitioner.

However, the issue raised of who is eligible for Council Tax (i.e the resident or the owner, if it's rented accommodation) is not being consulted on.

**Greig Liddell and Kate Berry**

**Senior Researchers**

[19 June 2023]

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot)

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP



## Annexe C

### Scottish Government submission of 23 May 2023

#### PE2026/A: Eliminate Council Tax discounts for second homes and vacant properties

The Scottish Government is grateful for the opportunity to contribute towards the Committee's consideration of this petition.

The petition is extremely timely as, last month, the Scottish Government launched a joint public consultation with COSLA on the Council Tax treatment of second homes and empty properties. The consultation, along with supporting documents, are available at [Scottish Government - Citizen Space \(consult.gov.scot\)](https://consult.gov.scot). They set out the wider policy context and the Scottish Government's objectives, most notably in relation to the availability of housing.

We are keen to hear views from as many people as possible across Scotland, and the Committee may wish to encourage the petitioner to respond. All responses will be collated and analysed to inform future policy in this area. Responses can be submitted using the Scottish Government's consultation hub, Citizen Space, at <http://consult.gov.scot>. The consultation closes on 11 July 2023.

We also note that the petition references collection rates. The legislative framework for Council Tax is a matter for the Scottish Government and Scottish Parliament. However, Council Tax is a local tax, and each council is financially and administratively accountable to their electorate. Council Tax revenues are retained locally and will contribute around £2.9bn towards the funding of local public services in 2023-24.

Turning to the future, Scottish Ministers have convened the Joint Working Group on Sources of Local Government Funding and Council Tax Reform, which is co-chaired by Scottish Ministers and COSLA and provides a space for joint dialogue on a range of issues relating to sources of local government funding and Council Tax. It is considering targeted changes to Council Tax to reflect the current circumstances created by the cost crisis, which includes the current joint consultation seeking views on the tax treatment of second homes and long-term

empty properties. The group will also consider approaches to longer term reform, including using deliberative engagement to capture the perspectives of citizens and taxpayers towards potential alternative approaches.

**Local Government and Analytical Services Division**

## Annexe D

### Petitioner submission of 22 June 2023

#### PE2026/B: Elimination of Council Tax discounts for second homes and vacant properties

The petitioner provides the following response to the Scottish Government's submission of 23 May 2023, by providing the following new evidence:

The petitioner supports the Scottish Government's acknowledgement that: "The legislative framework for Council Tax is a matter for the Scottish Government." The petitioner also acknowledges the Scottish Government's assessment that the Council Members are accountable to their electorate. Petitioner adds to that observation that the same principle applies to the MSPs. The Scottish Parliament has both the authority and responsibility to define the liable party for purposes of payment of Council (property) Tax.

The existing government policy makes Scotland's tenants and homeowners as occupants liable for Council (property) Tax assessed on the value of the property. (Homeowners are distinguished from property investors. A person can only live in one home. Any other property is an investment property.) The current policy requiring the occupant to pay Council (property) Tax increases the total monthly accommodation price (MAP) paid by the tenant. It also increases the percentage of Council (property) Tax paid by tenants and homeowners to compensate for those who are financially unable to pay both increases in rent and Council (property) Tax. <sup>i ii</sup>

The petitioner requests that the Scottish Government exercise its responsibility and authority to define the property owner as the "liable party". This proposal constitutes a shift in hundreds of years of British culture. Historically, British policy has served to benefit the landed gentry to the detriment of those who are less affluent and occupy the property, tenants. Moving in a progressive manner to abolish this practice is a matter of justice and equity that affects all persons in Scotland, regardless of the council where they reside. It will also result in a reduction in the escalating costs of the MAP and ease the cost-of-living crisis for all Scotland residents.

## **The current Scottish Government policy subsidises property investors at the expense of homeowners and tenants.**

The current policy of making the occupant the “liable party” for purposes of payment of the Council (property) Tax effectively subsidises property investors, both foreign and domestic. The policy allows property investors to charge increasingly excessive rental amounts. This subsidy for property investors occurs indirectly through the Council Tax Reduction Scheme (CTR).

### **CTR Scheme:**

The CTR is a scheme whereby the liable party can receive a reduction in Council (property) Tax based on their inability to pay. According to the Scottish Government records, Scotland had 496,580 recipients of CTR in fiscal year 2021. The CTR property tax forgiveness is currently being applied to one fifth of all rentable dwellings in Scotland. The scheme also results in councils forgoing an average collection of Council (property) Tax amounting to 7.328 million GBP every week, or almost 400 million GBP per year.<sup>iii</sup>

In Edinburgh alone, the total amount of Council (property) Tax reduction in the fiscal year 2021/22 was £26,447,367. The CRT scheme is distinct from and in addition to the number of property tax liable parties in arrears as identified in the petition.<sup>iv</sup>

The number of tenants who cannot pay their council tax because of high rent leaves a deficit in the councils’ budgets. To make up for this shortfall, councils increase the percentage of Council (property) Tax on the liable parties, tenants and homeowners, if they do not qualify for the means-based tax reduction under the CRT. (Property investors would not qualify for the CRT scheme. They are too affluent to meet the means-based test. Currently though, property owners are not identified as liable parties under the law, so they are not at risk)

Property investors are, however, able to increase the rental amount to tenants, knowing that if the tenant is unable to pay the Council (property) Tax and high rents, the state will pursue the tenant in legal action in the Sheriff court for the outstanding Council (property) tax. Alternatively, the liable party will receive a reduction in Council (property) Tax under the CRT scheme. Either way, the property investors benefit by keeping rents high, the existing law is effectively subsidising their property investments. Scotland’s homeowners/tenants who are not yet impoverished must make up the Council budget shortfall through council

increases in Council (property) Tax. (See, original petition for the number of Council Tax cases in arrears and percentage of tax increases.)

Justice, equity, and common sense dictate the change in the definition of the liable party, making the property owner liable for payment Council (property) Tax. It's time for the government to be truly progressive and lead the way in correcting historical injustices in the UK that have found sanctuary in an archaic law and concept.

The proposed change will have the added benefits of relieving residents from future increases in Council (property) Tax by dramatically increasing the amount of property taxes collected; rendering the CRT scheme unnecessary; protecting residents from the overwhelming power of the state pursuing actions against them in the courts to collect Council (property) Tax; and ease the cost-of-living crisis in a permanent way for all of Scotland's residents.

As the petitioner, I also request the opportunity to appear and present evidence in support of consideration of petition PE2026.

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<sup>i</sup> According to the Office of National Statistics, the average rents in Scotland increased 4.4% in the twelve months preceding December 2022.

(<https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/indexofprivatehousingrentalprices/december2022>)

<sup>ii</sup> The amount of Council Tax increased between 4.9% and 10.5% in 2022. (See, Petition reference).

<sup>iii</sup> Council Tax Reduction in Scotland, 2020-21; 22 June 2021; ISBN978102010404.

<sup>iv</sup> (FOI Request Response (EDIR:41862)).