

Scottish Empty Homes Partnership

Possible Amendment to the Housing Bill: Council Tax Data

Introduction

This paper is to update the group on a proposed amendment to the Housing Bill being explored by Shelter Scotland. The proposal came following discussions about the Scottish Empty Homes Partnership with councils about difficulties accessing council tax data on empty homes from their colleagues.

Reasons for an amendment

Initial conversations with councils about data collection sources for empty homes work revealed a difference in interpretation across Scotland of the Data Protection Act.

The primary source of information for councils beginning to explore empty homes work is council tax data showing addresses where a vacant dwelling council tax discount has been applied. The first step for housing officers is to request this information from their council tax colleagues.

Housing officers in some Scottish Councils have requested and received this information with no problems. Others have been told they cannot have access to this council tax data due to data protection rules.

This is understandably frustrating for the requesting officers and makes it next to impossible for them to begin to look at empty homes in their community in a strategic manner.

Data Protection rules are not clear. On the face of it a local authority is a single organisation and should be able to share information internally, indeed the Information Commissioner's for Scotland's briefing on the subject says just that. In addition the information is not of a sensitive nature (it doesn't relate to sexual orientation, religion, etc) so again there should be no issue. However where some councils appear to be unsure is in the principle which states that information should only be used for the purpose for which it was collected. It is a matter of interpretation whether or not information collected for the purposes of applying a vacant dwellings council tax discount can subsequently be used to identify and try to bring back into use these same dwellings.

It is in this interpretation where councils' work on empty homes is being stalled. The amendment detailed below is designed to avoid the need for legislative interpretation on the part of council staff.

The amendment

Councils in England have this express permission through the Local Government Finance Act 2003:

Sec 85, Local Government Finance Act 2003

"In Schedule 2 to the [Local Government Finance Act 1992 \(c. 14\)](#) (council tax: administration), after paragraph 18 there is inserted—

“18A (1) A billing authority may use information it has obtained for the purpose of carrying out its functions under Part 1 of this Act for the purpose of—

(a) identifying vacant dwellings, or

(b) taking steps to bring vacant dwellings back into use.

(2) The power under sub-paragraph (1) above, so far as relating to personal information, extends only to information which consists of an individual’s name or an address or number for communicating with him.

(3) In this paragraph— “personal information” means information which relates to an individual (living or dead) who can be identified—

(a) from that information, or

(b) from that information and other information of the authority, and includes any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual; “vacant dwelling” means a dwelling in which no one lives and which is substantially unfurnished.”

Scotland and England fall under the same Data Protection Legislation, thus there should be no reason that Scottish councils cannot have the same express permission to use council tax data for these purposes.

Technical Feasibility

Currently the legislation above applies only to local authorities (“billing authorities”) in England and Wales. We would like to see an amendment in the Housing Bill currently progressing through the Scottish Parliament that would extend or replicate the above amendment to cover Scotland.

Depending on what is technically possible, this proposed amendment could either:

- Amend paragraph 18A(1) of the Local Government Finance Act to add the words ‘and Part 2’ after the words ‘under Part 1’ and also after the words ‘billing authority’ insert “and Scottish Local Authorities”.
- Or to largely replicate the above amendment as ‘18B’, replacing ‘Part 1’ with ‘Part 2’ and ‘Billing Authority’ with ‘Scottish Local Authority’

Shelter staff are currently investigating the technical feasibility of including such an amendment in the scope of the Housing Bill currently making its way through Parliament. They are also exploring which MSP might bring this forward.

→ ***This paper is intended to inform the group of the proposal being investigated. The Group is asked to provide comments and thoughts on this proposal.***