

**Consultation on a Fairer Council Tax
Response from the Low Incomes Tax Reform Group (LITRG)**

1. Executive Summary

- 1.1. The consultation asks whether those in properties in the higher bands should be making a greater contribution. It also indicates that it wishes to address the balance of burden within the council tax system. Arguably this is a valid suggestion, which would go some way to addressing the regressive nature of council tax.
- 1.2. However, a council tax system that does not reflect current property values and treats (or appears to treat) taxpayers unequally risks being undermined. We therefore think that a prerequisite for changes to council tax such as those proposed in this consultation is a full revaluation of all properties in Scotland. This is because it is not possible to address the regressive nature of council tax in a meaningful and “fair” way without first ensuring that the values according to which you are spreading the burden of tax are in fact correct. As it is, there is evidence that shows that properties are in the wrong bands and therefore these proposals are likely to affect some of the wrong properties while failing to apply to some properties to which they should: this is currently unfair on affected households.
- 1.3. The consultation also indicates that the proposal is just one of several measures that are under consideration. We welcome the fact that other measures are being considered, although we note that it is difficult to respond fully on one proposed change when we are unaware of what those other measures under consideration are. However, we think that this measure is not the ideal starting point. We accept that as a relatively minor change, it may be viewed as a ‘quick win’. However, significant changes to council tax have been postponed for far too long. We acknowledge that it is considered a politically difficult tax to deal with, but the longer that the failure to update property values persists, the more difficult it becomes to take action and any action taken without revaluation may not achieve its objectives. As noted above, the starting point should be a full revaluation. Then the other measures, such as this one, could be approached, in the knowledge that the tax base is accurate and that the other proposals will affect the appropriate/intended properties.
- 1.4. Furthermore, there needs to be a commitment to update valuations on a regular basis, to ensure that the tax remains related to up-to-date values.

2. About Us

- 2.1. The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low-income workers, pensioners, migrants, students, disabled people and carers.
- 2.2. LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3. The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

3. Introduction

- 3.1. We welcome the opportunity to respond to this Scottish Government consultation on a fairer council tax system in Scotland. We have previously responded to the call for evidence issued in 2015 by the Commission on Local Tax Reform¹ and also a call for evidence on the Council Tax (Substitution of Proportion) (Scotland) Order 2016.² At the start of 2023, the CIOT commissioned a survey to look at attitudes to council tax reform in Scotland. Of those surveyed who expressed a clear opinion either for or against an end to the present system, the vast majority were in favour of it ending. However, there were a variety of views about what should take its place.³
- 3.2. As we pointed out in our response to the Commission on Local Tax Reform, what is “fair” is subjective. Perhaps the closest approximation to fairness might be making a tax proportionate to the ability to pay – one of the Adam Smith principles for tax that the Scottish Government aims to adhere to. It is however difficult to take into account all resources – income and capital; in addition, the tax system tends to ignore outgoings and dependants. Therefore, one often considers whether a tax or policy is progressive. This is a concept that recognises that society as a whole has to pay for

¹ Our response is available at <https://www.litrg.org.uk/latest-news/submissions/150622-what%E2%80%99s-future-local-taxation-scotland>

² Our response (joint with the CIOT) is available at <https://www.litrg.org.uk/latest-news/submissions/160928-call-evidence-council-tax-substitution-proportion-scotland-order-2016>

³ The CIOT published the survey in February 2023 at <https://www.tax.org.uk/ciot-publishes-poll-data-on-attitudes-to-council-tax-reform-in-scotland>

certain people unable to care for themselves and that burden should fall more on those that can afford it than on those that cannot.

- 3.3. While we cannot comment on the fairness of particular measures or taxes, we do think that there are certain prerequisites for a fair tax, however one wishes to define what is fair. In particular, it seems to us that for a tax to be fair, it must tax the base that it is meant to tax, and the tax base must be accurately assessed or valued. In this regard we agree with the OECD report's conclusion that "Regularly updating property values is ... key to the efficiency, equity and revenue potential of recurrent taxes on immovable property."⁴
- 3.4. While the consultation acknowledges the fact that council tax is currently regressive in nature, it is extremely disappointing that it ignores another fundamental problem with council tax – the fact that it is based on 1 April 1991 property values.
- 3.5. The fact that the council tax is based on valuations from over 30 years ago means there are undoubtedly many discrepancies.⁵ Some examples of issues that the very outdated valuations create include:
- The valuations from 1991 are used to place the properties into the different council tax bands. However, some properties have increased in value more quickly than others since 1991. This means that properties that were in the same band in 1991 may now differ significantly in value and, if there were a revaluation, would be placed in different bands. This creates distortions between these properties. Indeed, "The Commission's (Commission on Local Tax Reform) analysis in 2015 estimated that over half of all properties in Scotland would have changed band if revaluation had taken place in 2014."⁶
 - Property values in different regions might appreciate (or depreciate) in value at different rates from those in other regions. The Scottish Government website states that the assignment to a valuation band is "based on its relative property value."⁷ However, after more than 30 years, not only have values changed significantly, but relative property values

⁴ Chapter 3.3, Housing Taxation in OECD Countries (2022): <https://www.oecd.org/publications/housing-taxation-in-oecd-countries-03dfe007-en.htm>

⁵ The 2022 OECD report, Housing Taxation in OECD Countries, also notes how using outdated values reduces the efficiency, equity and revenue potential of housing taxes, like council tax. In particular, using outdated values can mean revenues do not rise in line with property values, households whose properties have increased in value may not pay more tax, and they provide incentives to stay in housing that has a lower, outdated valuation, even if it is no longer appropriate for their needs. (Chapter 3.1)

⁶ The Fraser of Allander Institute has posted a blog setting out some of the key issues with council tax, including those related to it being regressive and the need for revaluations. This illustrates clearly the problem of properties changing value. See <https://fraserofallander.org/tweaking-around-the-edges-of-council-tax-does-not-fix-its-fundamental-flaws/>

⁷ <https://www.gov.scot/policies/local-government/council-tax/#works>

have also changed – within and across regions. This also means it is not accurate to use historical values as a proxy for values today.

- Properties built after 1 April 1991 are all placed in their council tax band according to a hypothetical 1991 value. This means it is impossible to tell whether the band allocation is reasonable. This also creates distortions between such newer properties and those that were actually valued in 1991.
- There is a reduction in both horizontal and vertical equity, as properties that are actually now of similar value may have very different council tax liabilities, and properties that are now more valuable may not have higher council tax liabilities.
- As main residences are not subject to capital gain tax, some increases in property value (since 1991), are entirely untaxed.

3.6. We think that before any changes are made to council tax, there needs to be a full revaluation of all residential properties. Furthermore, there needs to be a commitment to update valuations on a regular basis, to ensure that the tax (assuming it continues to form part of Scotland’s tax system in the future) remains related to up-to-date values. One might look at what the Welsh Government is doing as a comparator. Council tax in Wales is already based on slightly more recent valuations – from 1 April 2003 – and the Welsh Government has recently consulted on further reforms to council tax in Wales, including a full revaluation of all properties in Wales and more frequent valuations in the future.⁸

4. Q. 1: Do you think that Council Tax in Scotland should be changed to apply increases to the tax on properties in Bands E, F, G and H? Please give reasons for your answer?

4.1. ~~Yes/No~~/Don’t know.

4.2. Ultimately, the decision as to whether increases should be applied to the council tax charged on properties in Bands E, F, G and H is for Scottish Government.

4.3. As noted in the consultation, the proposed increases would go a small way towards addressing the fact that the council tax is currently regressive. However, it is also extremely likely that such a change, without a prior full revaluation, would affect some properties that should be in bands A – D, and would not affect some properties that should be in bands E – H. This is because, as noted in our introduction, there are properties that would have moved bands if there were a revaluation, and in addition, there will be post-1991 properties that have been allocated to the incorrect band.

4.4. Moreover, in 2022 the Institute for Public Policy Research (IPPR) carried out modelling on the effect of increasing council tax in bands E – H and found that households in the lowest income decile, while

⁸ LITRG submitted a joint response with the CIOT to the Welsh Government consultation. Our submission is available at <https://www.litrg.org.uk/latest-news/submissions/221012-welsh-government-consultation-fairer-council-tax>

seeing a lower fall in cash terms, would nevertheless see a higher proportional reduction in their disposable income than the top two income deciles.⁹

5. Q. 2: The proposal is to increase the Council Tax on properties in Bands E, F, G and H by 7.5%, 12.5%, 17.5% and 22.5% respectively. Do you agree with the levels of increase set out in this proposal?

5.1. Yes/No/Don't know.

5.2. The proposed increases take a small step towards making the council tax system more progressive.

6. Q. 3: If you have answered no to Question 2, what do you think the increases to the Council Tax on properties in Bands E, F, G and H should be?

6.1. Not applicable.

7. Q. 4: When should any increases be introduced if the tax on higher band properties is increased as proposed?

7.1. Full effect from 2024-25/Phased-approach over two financial years (2024-25 and 2025-26)/Phased-approach over three financial years (2024-25, 2025-26, and 2026-27)/Other.

7.2. Timing of the introduction of the changes should take account of the time needed for councils to implement them. In addition, there needs to be time to develop and implement a good communications strategy to ensure that taxpayers are aware of the changes.

7.3. Communications will need to be particularly strong and effective in relation to the Council Tax Reduction scheme, to ensure awareness is raised about it. Work must also be undertaken to ensure that eligible households claim and obtain Council Tax Reduction, or to ensure that local councils are able to identify households that might be eligible.

7.4. The Scottish Government should perhaps consider the suggested options of phasing in the increases or the use of transitional arrangements. A useful comparator might be the Welsh Government, which is considering the use of transitional arrangements in respect of its council tax proposals. A phased approach (whether over two or three financial years) might allow the development of an effective communications strategy; it might also mean there is time to assess the take-up of Council Tax Reduction by eligible households.

⁹ See page 12: <https://www.ippr.org/research/publications/funding-a-social-renewal-scottish-budget-briefing-paper>

8. Q. 5: Should the Council Tax Reduction scheme be expanded to protect those on lower incomes from any increases to higher Band properties?

- 8.1. Yes/~~No~~/~~Don't know~~.
- 8.2. It is essential that there is support for those in properties in bands E – H who might not have income commensurate with the property they inhabit.
- 8.3. As the IPPR has demonstrated, there are a number of lower income households living in properties in bands E – H.¹⁰
- 8.4. We note that it is essential to raise awareness of the Council Tax Reduction scheme, and to make it easy for those eligible to claim and obtain it. Means-testing and presentation of the relief as a welfare benefit can reduce take-up, especially among pensioners. It may be better to present the relief as an entitlement and a means of producing a fair liability to council tax based on circumstances. It is also important to continue to run communications and awareness-raising campaigns even after the changes have been introduced. This is because different people will become eligible for Council Tax Reduction over time as a result of life changes, such as bereavement, illness, redundancy etc.
- 8.5. The Commission on Local Tax Reform published a report in December 2015, Just Change, in which they indicated that it can be difficult for people to access the Council Tax Reduction scheme. It may be that only between 60% and 70% of those entitled to Council Tax Reduction are actually claiming and receiving it.¹¹ Although the Scottish Government publishes statistics on recipients of Council Tax Reduction, these do not indicate level of take-up. It would be helpful to know if uptake of Council Tax Reduction has improved compared to council tax benefit. If not, it is essential that before the proposed changes are introduced, steps are taken to improve uptake significantly.
- 8.6. It is notable, from a look at the application forms for Council Tax Reduction on various council websites, that these forms are long.¹² The forms request a lot of information, and they are probably daunting to many people and difficult to complete. It may also be worth looking into whether councils should offer support to people who may need practical assistance in completing their application form for Council Tax Reduction, if they do not already do so.
- 8.7. There are also other reliefs and discounts that may be relevant to protect certain households from any increases to higher band properties. For example, there is the disabled persons band reduction, by which council tax is charged at the next lower valuation band if a disabled person lives in the

¹⁰ <https://www.ippr.org/blog/we-still-need-to-replace-council-tax-with-a-progressive-system-of-local-taxation>

¹¹ Paragraph 5.15 of Just Change: A New Approach to Local Taxation – the Commission on Local Tax Reform, December 2015.

¹² By way of example, see the PDF application form available for download on the website of East Lothian Council: https://www.eastlothian.gov.uk/downloads/download/12987/council_tax_reduction_application

property and there are special features or facilities required to meet their needs.¹³ There is also the discount for severe mental impairment, whereby the resident is disregarded when working out the number of adults that live in a property. This can result in a reduction in the bill. It is essential that these discounts and reliefs are properly publicised and that work is carried out to ensure all those eligible are claiming them.

9. Q. 6: The proportion of properties in each valuation bands E – H varies across the country. This means that some councils would benefit more than others from any increase in council tax in these property bands. Should steps be taken to ensure that all councils benefit proportionately from this policy? Please give reasons for your answer?

9.1. ~~Yes/No~~/Don't know.

9.2. In terms of considering whether council tax is fair, as well as considering fairness between taxpayers, it might be worth considering fairness between local councils. The idea of a progressive tax system and welfare benefits system is that they recognise that society as a whole has to pay for certain people who are unable to care for themselves, and that the burden of tax should fall more on those that can afford it than on those that cannot. This is the basis of a progressive system and one which arguably follows Adam Smith's principle of tax being proportionate to one's ability to pay.

9.3. By extension, one could argue that for Scotland to benefit as a whole, it is necessary for wealthier local councils to contribute more than less wealthy councils. Therefore, as there is with non-domestic rates, it may be appropriate to consider some form of distribution / redistribution to ensure that inequalities between local councils do not develop or increase.

9.4. The information provided in relation to this question indicates that the Scottish Government has undertaken initial work to assess the potential impact of these changes. We would welcome the opportunity to see the relevant impact assessments – and would request that they are published.

10. Q. 7: Please tell us how changes to Council Tax rates for properties in Bands E, F, G and H might impact you, or the people your organisation represents?

10.1. Given the fact that property valuations are over 30 years out of date or completely hypothetical, there are people on lower incomes in properties within the higher bands, E – H. People on lower incomes will not be able to afford the increases to their council tax bills that the proposals would lead to.

¹³ By way of example, see the information on the website of Argyll and Bute council: <https://www.argyll-bute.gov.uk/council-tax-and-benefits/council-tax/council-tax-exemptions-and-discounts>

- 10.2. It is therefore essential that Council Tax Reduction is available to people on lower incomes who live in properties in bands E – H, and that steps are taken to make affected people aware of Council Tax Reduction and how to apply for it.
- 10.3. In addition, it might be worth exploring some sort of deferral scheme, or transitional arrangements, to reduce the potential for hardship among low income households in properties in bands E – H. For example, part of the council tax could be deferred until the property is sold (assuming the household paying the council tax owns and occupies the property).
- 10.4. The information provided in relation to this question indicates that the Scottish Government has undertaken initial work to assess the potential impact of these changes. We would welcome the opportunity to see the relevant impact assessments – and would request that they are published.
- 11. Q. 8: Please tell us how you think changes to Council Tax rates for properties in Bands E, F, G and H would affect your local area, or Scotland as a whole (please consider social, economic, environment, community, cultural, enterprise impacts that you think are relevant)?**
- 11.1. No comments.
- 12. Q. 9: Please tell us how you think changes to Council Tax rates for properties in Bands E, F, G and H might affect Island Communities?**
- 12.1. No comments.
- 13. Q. 10: Do you think there would be any equality, human rights, or wellbeing impacts as a result of the proposed increases in Council Tax rates for properties in Bands E, F, G and H? Please tell us what you think these impacts would be.**
- 13.1. Yes/No/Don't know.
- 13.2. The Scottish Government has committed itself to an approach to tax policy making that aims to adhere to Adam Smith's four principles for tax, including that taxes should be proportionate to the ability to pay of the taxpayer.
- 13.3. Failing to revalue properties for council tax potentially leaves Scottish Government open to criticism that significant numbers of taxpayers are paying the wrong amount of council tax in Scotland, because their properties are in the wrong council tax band, or because the value of their property has been simply made-up on a hypothetical basis.