

## **Item: 13**

**Policy and Resources Committee: 21 February 2023.**

**Non-Domestic Rates – Empty Properties Relief Policy.**

**Report by Corporate Director for Enterprise and Sustainable Regeneration.**

### **1. Purpose of Report**

To consider amendments to the current Non-Domestic Rates relief policy, setting a local policy on relief for empty properties.

### **2. Recommendations**

The Committee is invited to note:

#### **2.1.**

That, on 23 November 2022, when considering amendments to the current Non-Domestic Rates relief policy, setting a local policy on relief for empty properties, the Policy and Resources Committee recommended:

- That the draft scheme of relief to empty properties, based on the existing national scheme, which aimed to encourage ratepayers to bring empty properties back in to use, by limiting the relief available on longer-term empty properties and protecting the Council from financial risk by applying a ‘hard’ cap on relief awards of £10,000 per ratepayer, per financial year, be approved for consultation with local ratepayers.
- That the Corporate Director for Enterprise and Sustainable Regeneration should submit a report, to the next meeting of the Policy and Resources Committee, on the outcome of the consultation referred to above, together with a final scheme of relief to empty properties for adoption.

#### **2.2.**

That consultation with ratepayers was undertaken between 18 January and 5 February 2023, with the main issues raised summarised in section 4 of this report.

#### **2.3.**

That the proposed scheme, attached as Appendix 2 to this report, has been amended to reflect the outcome of the consultation.

**It is recommended:**

## **2.4.**

That the scheme of relief to empty properties, attached as Appendix 2 to this report, which aims to encourage ratepayers to bring empty properties back in to use, by limiting the relief available on longer-term empty properties and protecting the Council from financial risk by applying a 'hard' cap on relief awards of £10,000 per ratepayer, per financial year, be adopted from 1 April 2023.

## **3. Background**

### **3.1.**

On 23 November 2022, when considering amendments to the current Non-Domestic Rates relief policy, setting a local policy on relief for empty properties, the Policy and Resources Committee noted:

- That the national scheme of rates relief to empty properties was due to be abolished from 1 April 2023, and local authorities had the power to include relief to empty properties in their local relief schemes.
- That initial research indicated other Scottish local authorities intended to set a local policy broadly mirroring the national scheme of relief.
- The draft scheme, attached as Appendix 1 to the report by the Corporate Director for Enterprise and Sustainable Regeneration, based on the existing national scheme, which aimed to encourage ratepayers to bring empty properties back in to use, by limiting the relief available on longer-term empty properties and protecting the Council from financial risk by applying a 'hard' cap on relief awards of £10,000 per ratepayer, per financial year.

### **3.2.**

The Committee recommended:

- That the draft scheme of relief to empty properties, based on the existing national scheme, which aimed to encourage ratepayers to bring empty properties back in to use, by limiting the relief available on longer-term empty properties and protecting the Council from financial risk by applying a 'hard' cap on relief awards of £10,000 per ratepayer, per financial year, be approved for consultation with local ratepayers.
- That the Corporate Director for Enterprise and Sustainable Regeneration should submit a report, to the next meeting of the Policy and Resources Committee, on the outcome of the consultation referred to above, together with a final scheme of relief to empty properties for adoption.

## **4. Consultation**

### **4.1.**

The draft policy on rates relief was published for public consultation between 18 January and 5 February 2023. A total of 12 responses were received. The summary of responses is attached as Appendix 1.

### **4.2.**

The main high-level themes from the consultation responses are as follows:

- The majority of respondents (58%) either agreed or strongly agreed with the aims of the draft policy.
- The majority of respondents (67%) thought that the policy should have other aims beside the aims outlined in the consultation.
- The majority of respondents (58%) thought that the existing reliefs and exemptions applied to properties under the national relief scheme should be retained by the Council in its local scheme.
- The majority of respondents (67%) thought that the rate of relief available should be the same for all property types, as opposed to targeting specific sectors.

### **4.3.**

Some respondents provided additional commentary with their answers. A number of comments focussed on the issue of empty domestic properties and could not be used to inform the policy on rates relief.

### **4.4.**

A number of respondents in their comments indicated that empty properties should not receive any relief, or that owners should be charged more in rates than the rates payable if the property were occupied.

### **4.5.**

As the law does not allow for additional charging on empty non-domestic properties beyond the rates charge set out by the annual Non-Domestic Rates (Scotland) (Levying) Regulations, there was no option to increase charging through the new policy.

### **4.6.**

The removal of relief on empty properties entirely was considered but in line with other Scottish councils' draft policies a restricted relief for long-term empty properties is retained in the draft policy.

#### **4.7.**

A theme which emerged from a number of the comments was the desire to help new businesses through the policy, which was tempered by a desire to ensure that the new businesses were assisted only if they were not in competition with existing businesses.

#### **4.8.**

The option of how to support new businesses was considered but is likely to be outwith the scope of the policy on rates relief to empty properties, as relief under this policy cannot be given while a property is occupied. There is a corresponding category of mandatory relief in the national scheme known as the Fresh Start relief, which helps new businesses moving into a property which has been empty for a long time, and the new relief scheme does not therefore afford additional provision.

#### **4.9.**

One respondent raised the issue of businesses carrying out major renovations and the issues which can arise around planning permission for renovations. This scenario was not provided for specifically in the draft scheme but amendments have been made to the final scheme which delegates discretion to the Corporate Director for Enterprise and Sustainable Regeneration to afford relief of up to 100% on properties where renovation works are ongoing, for up to six months, with an additional six months discretion where there have been delays to the process through seeking planning consent or a building warrant. Relief in this category is also capped financially with a maximum £10,000 per ratepayer in any financial year.

#### **4.10.**

The revised scheme, attached as Appendix 2 to this report, incorporates matters raised through the consultation, where appropriate.

### **5. Equalities Impact**

An Equality Impact Assessment was undertaken to accompany the draft scheme. No changes to the assessment are required as the result of the consultation.

### **6. Corporate Governance**

This report relates to the Council complying with its financial processes and procedures and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

## **7. Financial Implications**

### **7.1.**

The introduction of a local empty property relief scheme presents a significant financial risk to the Council. Empty property relief is demand-led, and it is not possible to predict with any degree of accuracy the number or types of property becoming empty during a given financial year.

### **7.2.**

The ongoing uncertainty around funding for a relief scheme, and the demand for relief introduces an additional dimension of risk. High value properties becoming empty could place a significant financial burden on the Council by bringing the total relief award above the funding cap in any given financial year.

### **7.3.**

Indicative figures on the basis of average relief awards in the last five years are that relief awards would total around £105,000 per financial year. The allocation from the Scottish Government received in the financial settlement is £99,658.

### **7.4.**

The draft policy aims to protect the Council from financial risk by applying a 'hard' cap on relief awards of £10,000 per ratepayer, per financial year.

## **8. Legal Aspects**

### **8.1.**

Section 19 of the Non-Domestic Rates (Scotland) Act 2020, as amended, repeals Section 24 of the Local Government (Scotland) Act 1966, abolishing the existing national relief scheme from 1 April 2023.

### **8.2.**

Local authorities may design a rates relief scheme under Section 3A of the Local Government (Financial Provisions etc.) (Scotland) Act 1962. By adopting the recommendation in this report, the Council will implement a scheme of rates relief which aims to bring long-term empty properties back into use.

## **9. Contact Officers**

Gareth Waterson, Corporate Director for Enterprise and Sustainable Regeneration, extension 2103, Email [gareth.waterson@orkney.gov.uk](mailto:gareth.waterson@orkney.gov.uk)

Erik Knight, Head of Finance, extension 2127, Email [erik.knight@orkney.gov.uk](mailto:erik.knight@orkney.gov.uk)

William Moore, Service Manager (Improvement and Performance), extension 2104, Email [william.moore@orkney.gov.uk](mailto:william.moore@orkney.gov.uk)






## **10. Appendices**



Appendix 1: Consultation responses.

Appendix 2: Revised relief policy.

## Appendix 1: Consultation on the Council's policy on rates relief to unoccupied properties.

We would like to hear your views on the following points:

1. Do you agree or disagree with this aim? Why?				
Answer Choices			Response Percent	Response Total
1	Strongly agree		41.67%	5
2	Agree		16.67%	2
3	Neither agree nor disagree		8.33%	1
4	Disagree		16.67%	2
5	Strongly disagree		16.67%	2
			answered	12
			skipped	0
If possible, could you please explain your answer in more detail: (6)				
1	22/01/2023 13:53 PM ID: 209076607	So many people need homes, and too many houses are second homes or seldom used. If those that are empty and never lived in can be brought back into the market, that can only be a good thing.		
2	22/01/2023 14:35 PM ID: 209078329	Councils strict planning restrictions preventing bring them back into use, therefore just punishing owners of buildings that cannot be used, also stops destruction of old buildings		
3	24/01/2023 19:52 PM ID: 209254377	This will allow new businesses an unfair advantage over already struggling businesses.		
4	24/01/2023 19:59 PM ID: 209254395	Empty shops do not help the local economy and gentle persuasion might help.		
5	30/01/2023 13:15 PM ID: 209625442	If properties are empty long term		
6	01/02/2023 15:14 PM ID: 209878009	Anything to get empty homes back into habitable use is a bonus		



2. Do you think that the policy should have other aims?				
Answer Choices			Response Percent	Response Total
1	Yes		66.67%	8
2	No		33.33%	4
			answered	12
			skipped	0

## 2. Do you think that the policy should have other aims?

Comments: (7)

1	22/01/2023 13:53 PM ID: 209076607	I wonder whether it would be possible for there to be a policy such as applies in the Lake District, for example, and is/was being discussed for places such as St Ives in Cornwall, whereby such properties could be reserved for local buyers, especially young people.
2	22/01/2023 13:57 PM ID: 209076801	to enable the owner to have time to decide what to do with their property and even keep for family members and not be forced into selling as cost to sit empty is to high.
3	22/01/2023 14:35 PM ID: 209078329	Less strict red tape
4	22/01/2023 19:02 PM ID: 209088741	To help new business to get started
5	24/01/2023 19:52 PM ID: 209254377	Yes. The policy should encourage new start ups that are not in competition with existing businesses.
6	24/01/2023 19:59 PM ID: 209254395	I know that in some areas, empty shops are charged at a higher rate when they have been vacant for so long, approx 150%. This encourages the owners to either sell or start trading again.
7	30/01/2023 13:15 PM ID: 209625442	Only long term unoccupied.maybe over 18 months

## 3. Do you think that the council should retain the existing reliefs and exemptions in its local policy?

Answer Choices		Response Percent	Response Total
1	Yes		58.33%
2	No		41.67%
		answered	12
		skipped	0

Comments: (7)



1	22/01/2023 13:53 PM ID: 209076607	These rates and lengths of time seem reasonable, especially as if a property is left empty after someone dies, it may take family/friends a while to clear the property. But I could probably be persuaded that other rates and times were more appropriate.
2	22/01/2023 13:57 PM ID: 209076801	An empty property cost nothing to the council what so ever
3	22/01/2023 19:02 PM ID: 209088741	Particularly relief for charities/clubs
4	24/01/2023 19:52 PM ID: 209254377	The 10% thereafter should be removed.



### 3. Do you think that the council should retain the existing reliefs and exemptions in its local policy?

5	24/01/2023 19:59 PM ID: 209254395	Encouragement should be given to get the shops trading again not giving them a reason to stay empty.
6	30/01/2023 13:15 PM ID: 209625442	The double rate after a year is unfair.
7	31/01/2023 19:38 PM ID: 209776382	Empty properties shouldn't be given any relief with an exception of a renovation project for a max of 12 months.

### 4. Should the rates of relief available be the same for all property types, or should relief be targeted at specific sectors or localities?

Answer Choices			Response Percent	Response Total
1	Same for all property types		66.67%	8
2	Target to sectors or localities		33.33%	4
			answered	12
			skipped	0

If possible, could you please explain your answer in more detail: (8)

1	22/01/2023 13:53 PM ID: 209076607	I think specific localities, where housing is particularly in demand, might be an advantage.
2	22/01/2023 13:57 PM ID: 209076801	again the property is empty what are you charging for ?
3	22/01/2023 19:02 PM ID: 209088741	Retail businesses on the street are struggling times so support for those would be good.
4	24/01/2023 19:52 PM ID: 209254377	It should be a level playing field for all businesses. Otherwise there will be nothing left in our town centre except charity shops.
5	24/01/2023 19:59 PM ID: 209254395	An empty shop is an empty shop. Some areas need more encouragement than others to get shops reopened.
6	30/01/2023 13:15 PM ID: 209625442	Not sure on this
7	31/01/2023 19:38 PM ID: 209776382	To keep it fair for everyone you need to apply the same rules to everyone.
8	01/02/2023 15:14 PM ID: 209878009	One hat does not fit all

**5. Are there any other reliefs or exemptions that you think would help to bring about the aims of the policy, i.e. bringing unoccupied properties back in to use?**

Answer Choices			Response Percent	Response Total
1	Open-Ended Question		100.00%	4
1	22/01/2023 13:57 PM ID: 209076801	an owner will decide whether they want to occupy the property..		
2	24/01/2023 19:52 PM ID: 209254377	Many properties are empty because the Landlords charge too high a rent. This is where the problem lyes.		
3	24/01/2023 19:59 PM ID: 209254395	If a shop is empty, charge them more. They'll soon do something about it. They'll either sell up and give someone else a go or start trading themselves. Relief should be given to new shops so they can establish themselves easier. If a shop is being refurbished then give them 6 months leeway.		
4	01/02/2023 15:14 PM ID: 209878009	no		
			answered	4
			skipped	8

**6. Do you have any other comments on the policy?**

Answer Choices			Response Percent	Response Total
1	Open-Ended Question		100.00%	4
1	24/01/2023 19:52 PM ID: 209254377	Charge the Landlords and Owners of the properties for having empty properties. Then the rents will come down and the problem will be solved.		
2	24/01/2023 19:59 PM ID: 209254395	Don't give shops relief for doing nothing. Give it to those who are trying to bring our streets back to life. .		
3	30/01/2023 13:15 PM ID: 209625442	Look at exceptional cases. Long term rental next to house that are for sale as a package		
4	01/02/2023 15:14 PM ID: 209878009	no		
			answered	4
			skipped	8

# Non-Domestic Rates: Empty Property Relief Policy



## 1. Introduction

This document sets out the Council's policy on the level of Non-Domestic Rates relief applied to empty properties.

## 2. Definition of Empty Property

An empty property (known in law as *unoccupied lands and heritages*) is a rateable property that, on any given day, is not occupied. The Assessor will decide based on the facts in any individual case whether or not a property is occupied.

## 3. Empty Properties Exempt from the Non-Domestic Rate

The following categories of property are exempt from the Non-Domestic Rate without a time limit when they are empty:

### 3.1. Listed Buildings

Any property which is a listed building, or subject to a preservation notice as defined by sections 1 or 3(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, will be exempt from the Non-Domestic Rate on any day it is empty.

### 3.2. Ancient Monuments

Any property included in the Schedule of Monuments compiled under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 will be exempt from the Non-Domestic Rate on any day it is empty.

### 3.3. Rateable Value Less Than £1,700

Any property shown on the valuation roll with a rateable value of less than £1,700 will be exempt from the Non-Domestic Rate on any day it is empty.

### 3.4. Owned by Trustee, Liquidator or Executor

Any property where the person entitled to possession is so entitled by virtue only of being:

- the trustee under a trust deed for creditors,
- a liquidator by virtue of an order made under section 112 or section 145 of the Insolvency Act 1986,
- the trustee under an award of sequestration, or
- the executor of the estate of a deceased person,

will be exempt from the Non-Domestic Rate on any day it is empty.

### **3.5. Owned by a Company which has been wound up**

Any property which is owned by a company which is subject to a winding up order made under the Insolvency Act 1986 or which is being wound up voluntarily under that Act, will be exempt from the Non-Domestic Rate on any day it is empty.

### **3.6. Owned by a Company subject to Administration Order**

Any property which is owned by a company or limited liability partnership which, on or after 1 April 2008, remains subject to an administration order made under Part II of the 1986 Act; or is in administration within the meaning of paragraph 1 of schedule B1 of that Act, will be exempt from the Non-Domestic Rate on any day it is empty.

### **3.7. Occupation Prohibited**

Any property where the owner is prohibited by law from occupying or allowing occupation will be exempt from the Non-Domestic Rate.

### **3.8. Compulsory Purchase Orders, etc**

Any property kept vacant by reason of action taken by or on behalf of the Crown or any local or public authority with a view to prohibiting the occupation of the property, or to acquiring it, will be exempt from the Non-Domestic Rate on any day it is empty.

### **3.9. Empty Ground**

Any property which is empty ground, i.e. has no buildings situated on it, will be exempt from the Non-Domestic Rate on any day it is empty.

## **4. Empty Property Relief**

Empty properties which are not exempt from the Non-Domestic Rate will be entitled to an award of relief as showing in the following paragraphs. Awards of relief are capped at £10,000 per ratepayer per financial year.

### **4.1. Industrial Properties**

Industrial lands and heritages will be entitled to relief of 100% of the rates payable for the first six months they are empty, with a relief of 10% of the rates payable thereafter, for an indefinite period.

The law defines *industrial lands and heritages* as lands and heritages, other than retail lands and heritages, comprising one or more buildings, or part of a building, which are:

- constructed or adapted for use in the course of a trade or business, and
- constructed or adapted for use for one or more of the following purposes ancillary thereto:
  - the manufacture, repair or adaptation of goods or materials;
  - the subjection of goods or materials to any process;

- storage (including the storage or handling of goods in the course of their distribution);
- the working or processing of minerals; or
- the generation of electricity.

*Retail lands and heritages* are defined as any lands and heritages where any building or part of a building comprised in them is constructed or adapted for the purpose of the retail provision of goods; or services (other than storage for distribution services) on or from the lands and heritages.

## **4.2. Other Properties**

All other properties will be entitled to relief of 50% of the rates payable for the first three months they are empty, with a relief of 10% of the rates payable thereafter, for an indefinite period.

At the discretion of the Corporate Director for Enterprise and Sustainable Regeneration, properties undergoing repairs or renovation prior to occupation may be allowed a relief of up to 100% of the rates payable for up to six months from the first day they are empty, with the time extended by up to a further six months where there are delays to the process, such as delays in obtaining planning permission or a building warrant.

## **5. Application of Exemptions and Reliefs**

Orkney Islands Council (the Council) may apply empty property relief or exemption based on information it already holds about a property and will issue a rating notice to the ratepayer. It is the ratepayer's responsibility to correct any assumptions the Council has made about relief or exemption within 21 days of the issue of a rating notice.

The Council will provide application forms for rates relief and exemption on its website to allow ratepayers to apply for reliefs or exemptions in situations where the Council does not make an automatic award.

The Council will review the application of reliefs and exemptions periodically and may require ratepayers to demonstrate ongoing entitlement to a relief or an exemption.

## **6. Empty Property Relief Reset Period**

Where an unoccupied property becomes occupied for a period of less than six months at a time it will be treated as having been unoccupied throughout that period.

## **7. Review of this Policy**

This policy applies during the 2023 to 2024 financial year, and the Council will adopt a policy for subsequent financial years.

## **8. Further Information**

Further information about rates relief is available on the council's website [here](#) or from the Revenues team, telephone 01856 873535 extension 2133, e-mail [revenues@orkney.gov.uk](mailto:revenues@orkney.gov.uk)

## 9. Privacy Notice

The Non-Domestic Rates (Levying) (Scotland) Regulations is the legal basis for the Council processing ratepayers' information. The information that ratepayers provide may be shared as follows:

Within the local authority, with other local authorities, Audit Scotland, HM Revenue and Customs, and the Scottish Government to detect and prevent fraud.

Information relating to recipients of reliefs/exemptions is published quarterly on the Council's website.

For more information about how we process information, how long we retain the information, or the right to complain please contact us or visit the Council's website [here](#).

If you are unable to access the Council's website you can request a paper copy from the Council. Users of smartphones can also scan the QR code below.

