

Item: 17

Policy and Resources Committee: 22 November 2022.

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 the national scheme of rates relief to empty properties is due to be abolished from 1 April 2023, and local authorities have the power to include relief to empty properties in their local relief schemes.

2.2.

That initial research indicates other Scottish local authorities intend to set a local policy broadly mirroring the national scheme of relief.

2.3.

The draft scheme, attached as Appendix 1 to this report, based on the existing national scheme, 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.

It is recommended:

2.4.

That the draft scheme of relief to empty properties, referred to at paragraph 2.3 above, be approved for consultation with local ratepayers.

2.5.

That the Corporate Director for Enterprise and Sustainable Regeneration should submit a report, to the next meeting of the Committee, on the outcome of the consultation referred to above, together with a final scheme of relief to empty properties for adoption.

3. Introduction

3.1.

The Scottish Government commissioned the independent Barclay Review of Non-Domestic Rates in Scotland which concluded with a report published on 22 August 2017, setting out 30 recommendations intended to support growth, improve administration of the rating system and to increase fairness.

3.2.

Scottish Ministers used these recommendations as the basis of the rates reform set out in the Non-Domestic Rates (Scotland) Act 2020 which gives local authorities the power to design a local relief scheme for empty properties.

4. Background

4.1.

The national scheme of relief to empty properties allows a remission of the rates payable where a property is empty.

4.2.

All empty non-domestic properties are afforded a remission which varies depending on the use and circumstances of the property.

4.3.

Under the national rates pooling arrangements, the Scottish Government funds any shortfall in the rates payable to local authorities where a ratepayer is awarded a relief under the national scheme.

4.4.

Scottish Ministers have indicated it is their intention that local authorities designing their own empty property relief schemes will be funded on the basis of a shortfall between ratepayer liability and the actual rates payable once remissions are deducted, but that a cap will apply to the funding available.

4.5.

At the time of writing, the nature and level of the funding cap has not yet been finalised, although the Scottish Government's rates policy team committed in June 2022 to working with the settlement and distribution group through COSLA on this issue.

5. Proposed Policy

5.1.

Although establishment of a local policy is not mandatory, it is felt that local ratepayers will expect the Council to set a policy and initial research indicates that all other Scottish local authorities intend to set a local policy.

5.2.

A draft scheme, attached as Appendix 1 to this report, has been created for consultation with local ratepayers, based on the existing national scheme, to inform the provisions in the scheme the Council adopts from April 2023.

5.3.

The aim of the draft scheme is to encourage ratepayers to bring empty properties back in to use, by limiting the relief available on longer-term empty properties and protect the Council from financial risk by applying a 'hard' cap on relief awards of £10,000 per ratepayer, per financial year.

5.4.

It is intended that the consultation will run during December 2022 allowing ratepayers to provide their views on the draft policy, with the outcome reported to the next meeting of the Committee, together with a final relief scheme.

6. Equalities Impact

An Equality Impact Assessment has been undertaken and is attached as Appendix 2 to this report.

7. 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.

8. Financial Implications

8.1.

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.

8.2.

The ongoing uncertainty around funding for a relief scheme 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 financial year.

8.3.

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, and it is likely that funding will be made available based on previous years' relief awards.

8.4.

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.

9. Legal Aspects

Local authorities may design a rates relief scheme under Section 3A of the Local Government (Financial Provisions etc.) (Scotland) Act 1962.

10. Contact Officers

Gareth Waterson, Corporate Director for Enterprise and Sustainable Regeneration, extension 2103, Email gareth.waterson@orkney.gov.uk

Erik Knight, Head of Finance, extension 2127, Email erik.knight@orkney.gov.uk

William Moore, Service Manager (Revenues and Benefits), extension 2104, Email william.moore@orkney.gov.uk

11. Appendices

Appendix 1: Proposed draft relief policy.

Appendix 2: Equality Impact Assessment.

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 during the 2023 to 2024 financial year.

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 1st 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:
 - i) the manufacture, repair or adaptation of goods or materials;
 - ii) the subjection of goods or materials to any process;
 - iii) storage (including the storage or handling of goods in the course of their distribution);
 - iv) the working or processing of minerals
 - v) 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.

5. Application of Exemptions and Reliefs

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 from the council's website <https://www.orkney.gov.uk/Service-Directory/B/unoccupied-rates-relief.htm> or from the Revenues team, telephone 01856 873535 extension 2133, e-mail 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 <https://www.orkney.gov.uk/Service-Directory/B/business-rates-privacy-notice.htm>

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.



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Equality Impact Assessment

The purpose of an Equality Impact Assessment (EqIA) is to improve the work of Orkney Islands Council by making sure it promotes equality and does not discriminate. This assessment records the likely impact of any changes to a function, policy or plan by anticipating the consequences, and making sure that any negative impacts are eliminated or minimised and positive impacts are maximised.

1. Identification of Function, Policy or Plan	
Name of function / policy / plan to be assessed.	Non-Domestic Rates – Empty Property Relief Policy
Service / service area responsible.	Finance – Revenues and Benefits
Name of person carrying out the assessment and contact details.	William Moore, Service Manager Revenues and Benefits Telephone: 01856 873535 Extension 2104. Email: william.moore@orkney.gov.uk
Date of assessment.	17 October 2022
Is the function / policy / plan new or existing? (Please indicate also if the service is to be deleted, reduced or changed significantly).	New – replaces previously existing statutory scheme of rates relief.

2. Initial Screening	
What are the intended outcomes of the function / policy / plan?	To establish a scheme of rates relief intended to allow empty properties to be brought back into use.
Is the function / policy / plan strategically important?	The policy change will contribute towards the Council's support for local ratepayers.
State who is, or may be affected by this function / policy / plan, and how.	Local ratepayers with properties becoming vacant will be afforded rates relief.
How have stakeholders been involved in the development of	Consultation with local ratepayers being undertaken based on draft policy.

<p>this function / policy / plan?</p>	
<p>Is there any existing data and / or research relating to equalities issues in this policy area? Please summarise.</p> <p>E.g. consultations, national surveys, performance data, complaints, service user feedback, academic / consultants' reports, benchmarking (see equalities resources on OIC information portal).</p>	<p>No data relating to equalities issues.</p>
<p>Is there any existing evidence relating to socio-economic disadvantage and inequalities of outcome in this policy area? Please summarise.</p> <p>E.g. For people living in poverty or for people of low income. See The Fairer Scotland Duty Interim Guidance for Public Bodies for further information.</p>	<p>No existing evidence relating to socio-economic disadvantage and inequalities of outcome.</p>
<p>Could the function / policy have a differential impact on any of the following equality areas?</p>	<p>(Please provide any evidence – positive impacts / benefits, negative impacts and reasons).</p>
<p>1. Race: this includes ethnic or national groups, colour and nationality.</p>	<p>No differential impact.</p>
<p>2. Sex: a man or a woman.</p>	<p>No differential impact.</p>
<p>3. Sexual Orientation: whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.</p>	<p>No differential impact.</p>
<p>4. Gender Reassignment: the process of transitioning from one gender to another.</p>	<p>No differential impact.</p>
<p>5. Pregnancy and maternity.</p>	<p>No differential impact.</p>
<p>6. Age: people of different ages.</p>	<p>No differential impact.</p>
<p>7. Religion or beliefs or none (atheists).</p>	<p>No differential impact.</p>
<p>8. Caring responsibilities.</p>	<p>No differential impact.</p>
<p>9. Care experienced.</p>	<p>No differential impact.</p>

10. Marriage and Civil Partnerships.	No differential impact.
11. Disability: people with disabilities (whether registered or not).	No differential impact.
12. Socio-economic disadvantage.	No differential impact.

3. Impact Assessment

Does the analysis above identify any differential impacts which need to be addressed?	None.
How could you minimise or remove any potential negative impacts?	Not Applicable.
Do you have enough information to make a judgement? If no, what information do you require?	Yes.

4. Conclusions and Planned Action

Is further work required?	Yes.
What action is to be taken?	Updating of policy documents and application forms on the OIC website, Publication of new relief scheme, transfer of existing reliefs
Who will undertake it?	Revenues and Benefits service
When will it be done?	March 2023
How will it be monitored? (e.g. through service plans).	Management information on discretionary reliefs is reported as part of the reporting on Non-Domestic Rates income.

Signature: 

Name: WILLIAM MOORE

Date: 17 October 2022

(BLOCK CAPITALS).

Please sign and date this form, keep one copy and send a copy to HR and Performance. A Word version should also be emailed to HR and Performance at hrsupport@orkney.gov.uk