
NON DOMESTIC RATES - EMPTY PROPERTY RELIEF POLICY

Report by Director of Resilient Communities

Scottish Borders Council

16 February 2023

1 PURPOSE AND SUMMARY

- 1.1 This report seeks approval for a temporary “Non Domestic Rates - Empty Property Relief Policy” to commence from 1 April 2023.**
- 1.2 Currently all Local Authorities administer Empty Property Relief on behalf of the Scottish Government. The policy is required as Empty Property Relief is being devolved by Scottish Government to Local Authorities with effect from 1 April 2023. Part 11 of the Community Empowerment (Scotland) Act 2015 gives Local Authorities the power to introduce localised schemes for the reduction and remission of Non Domestic Rates.
- 1.3 The attached policy (Appendix 1) has been designed to mirror the current provisions as set by the Scottish Government for Empty Property Relief and this will allow time for consultations to take place both within the Council and with external stakeholders such as local businesses.
- 1.4 As at 1 September 2022, 480 non domestic rates properties were receiving Empty Property Relief.
- 1.5 A detailed review will take place during 2023/24 and a further report will be brought to Council setting out recommendations for the relief from April 2024.

2 RECOMMENDATIONS

- 2.1 **I recommend that Scottish Borders Council:-**
 - (a) approve the Empty Property Relief Policy, as detailed in Appendix 1, and agrees that this will come in to effect from 1 April 2023 until 31 March 2024;and**
 - (b) agrees that the Policy will be reviewed prior to 1 April 2024, with officers consulting widely over any future changes, and a further report will be brought back to Council for further consideration prior to that date.**

3 BACKGROUND

- 3.1 Currently all Local Authorities administer Empty Property Relief on behalf of the Scottish Government. This is done using various pieces of primary and secondary legislation.
- (a) Sections 24 and 24A to the Local Government (Scotland) Act 1966
 - (b) Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994
 - (c) Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1998
- 3.2 The Community Empowerment (Scotland) Act 2015 allows Local Authorities to introduce localised rates relief schemes.
- 3.3 The current empty relief applied to empty rateable subjects is as follows:
- (a) Where a property is unoccupied and is an industrial building with no retail element, an award of 100% relief applies for the first six months of becoming unoccupied and thereafter 10% relief is awarded until the property is reoccupied (short periods of occupation of less than 6 weeks are ignored).
 - (b) 100% empty property relief can be awarded on the following categories until the property is re-occupied:
 - (i) Properties with a Rateable Value less than £1,700
 - (ii) Properties where the rateable occupier is a trustee for sequestration, liquidation or an executor
 - (iii) Properties which are under compulsory purchase order
 - (iv) Properties which have a Preservation Order, Listed Buildings and Ancient Monuments
 - (v) Where the owner is prohibited by law from occupying the property
 - (vi) Properties which are under compulsory purchase
 - (vii) Industrial lands and heritage
 - (viii) The person entitled to possession of a property due to being the trustee under a trust deed for creditors or sequestration
 - (ix) Property which is vacant due to action by the Crown, a Local Authority or a Public Body
 - (x) Properties where the liable party is a company being wound up in terms of the Insolvency Acts.
 - (xi) Properties that were last occupied by a charity.
 - (c) All other empty rateable subjects are eligible for relief of 50% for the first three months becoming unoccupied after which time the level of relief awarded will reduce to 10%.

- 3.4 As at 1 September 2022, there were 8,802 rateable entries on the Valuation Roll with 480 of these having an award of empty property relief.
- 3.5 Table 1 below demonstrates a breakdown of the empty property relief as at 1 September 2022 in respect of the 2022/23 financial year. This is a snapshot of the awards in place at that time but the position continually changes throughout the year.

Table 1

Type of Reduction	Number of Awards	Value of Relief Awarded (£)
Empty Property Relief - 10% or 50%	132	76,032
Empty Property Relief – 100%	52	127,928
Exemption - 100%	296	713,253
	480	917,213

- 3.6 Table 2 below provides a more detailed breakdown of the 100% Empty Property Relief and Exemptions detailed above in Table 1.

Table 2

Type of Reduction	Number of Awards	Value of Relief Awarded (£)
New Build 100% Relief	5	69,341
Empty Property Relief	47	58,587
Rateable Value under £1,700	151	53,739
Listed Buildings	141	647,044
Executor Appointed & Sequestrated	4	12,470
	348	841,181

- 3.7 Like all other local authorities, from 1 April 2023 Scottish Borders Council is required to develop a policy on reliefs available to empty rateable subjects contained within the Assessment Roll. The proposed policy is detailed in full in Appendix 1 to this report and has been designed to mirror the current provisions as set by the Scottish Government for Empty Property Relief. This ensures there are no further changes for businesses at this challenging time and will a full review, with appropriate engagement and consultation during 2023/24.

4 SCOTTISH GOVERNMENT FUNDING

- 4.1 The Scottish Government has made an annual fixed sum available for the next three years amounting to £105 million across Scotland.
- 4.2 The funding is greater than the total awards made for empty relief above however this is a fixed amount for each of the three years and does not factor the following:
- (a) The rate poundage set by the Scottish Government each year may impact in the amount of relief awarded, i.e. if the rate poundage increased, this will directly increase the relief award.
 - (b) The impact of revaluation of all non-domestic properties from 1 April 2023 may also impact the level of relief awarded.
 - (c) Any future changes in the economy which may increase or decrease the number of empty properties.
- 4.3 Although empty property relief is being devolved and funding transferred from Scottish Government to Local Authorities, any other reduction in rates allowed via the Community Empowerment Act is not subsidised by the Scottish Government. This means the cost of any other schemes introduced by Scottish Borders Council using this Act, must be met in full by the Local Authority.

5 ADMINISTRATION

- 5.1 As the report is recommending no amendments to the conditions for applying relief, there are only small amendments to the administration of the process in terms of reporting relief to Scottish Government and on how Scottish Borders Council will deal with written-off debt where it relates to unoccupied rates charges.
- 5.2 There will be no changes to businesses who require relief. As stated in the policy, we intend to transfer existing relief on 31 March 2023 to the new local scheme and allow the balance of any time limited relief already awarded to continue. All new requests for empty property relief will be by application in the same way as businesses apply presently.
- 5.3 Another key factor which is currently under development by Scottish Government is anti-avoidance measures to be moved onto a statutory basis. The Scottish Government took powers under the Non-Domestic Rates (Scotland) Act 2020 to lay legislation to stop anti-avoidance schemes currently in operation. It is hoped that the appropriate statutory instrument will be laid before Scottish Parliament before 31 March 2023 as these will be essential in ensuring that only genuine arrangements are awarded relief going forward.

6 REVIEW OF POLICY

- 6.1 Over the next 12 months, officers intend to review the relief policy looking at the following areas :
- (a) Are time limited relief awarded at the appropriate percentage relief?
 - (b) Are current time scales for time limited relief appropriate?
 - (c) Are the classes of indefinite 100% relief still appropriate or should Scottish Borders Council consider introducing changes to these indefinite relief classes?
 - (d) Any other changes identified during the review.
- 6.2 If any changes are proposed, these will be brought to this Council for discussion and approval during 2023-24.
- 6.3 Stakeholder engagement in to the review will be carried out across internal and external stakeholders as well as engagement at a national level using existing professional associations, CoSLA and Scottish Government colleagues.

7 IMPLICATIONS

7.1 Financial

Local Government Finance Circular No. 11/2002, received 10 January 2023, provides £105m nationally for the devolution of Non-Domestic Rates Empty Property Relief. The Council share of this is £1.178m.

7.2 Risk and Mitigations

The Council must implement a charging policy for empty non-domestic rates otherwise full rates will be charged on all empty non domestic rates properties from 1 April 2023.

The risks to Scottish Borders Council are as follows:

- (a) The number of empty dwellings exceeds the funding received. To mitigate this risk, we have an agreement that where this happens and a 3% threshold above funding is reached, LA's can approach the Scottish Government for a redetermination of funding.
- (b) The rate poundage set by the Scottish Government each year may impact in the amount of relief awarded, i.e. if the rate poundage increased, this will directly increase the relief award. There is nothing we can do to mitigate this. We can consider this as part of the 2023/24 policy review should this occur.
- (c) The impact of revaluation of all non domestic properties from 1 April 2023 may also impact the level of relief awarded. There is nothing we can do to mitigate this. We can consider this as part of the 2023/24 policy review should this occur.
- (d) Any future changes in the economy which may increase or decrease the number of empty properties. There is nothing we

can do to mitigate this. We can consider this as part of the 2023/24 policy review should this occur.

7.3 **Integrated Impact Assessment**

An Integrated Impact Assessment was completed and found to have no adverse impact on the groups detailed.

7.4 **Sustainable Development Goals**

Each of the UN Sustainable Development Goals has been considered and in conclusion this policy will not make a difference to any of these.

7.5 **Climate Change**

There are no climate change implications.

7.6 **Rural Proofing**

The rural proofing checklist has been completed and there will be no challenges presented by rural circumstances.

7.7 **Data Protection Impact Statement**

A Data Protection Impact Assessment is not required as there are no changes to existing service delivery.

7.8 **Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to the scheme of administration or delegation.

8 **CONSULTATION**

- 8.1 Acting Chief Financial Officer, Acting Chief Officer Corporate Governance, the Chief Officer Audit and Risk, the Director People Performance & Change, the Clerk to the Council and Corporate Communications.

Approved by

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