

South Ayrshire Council

**Report by Head of Finance, ICT and Procurement
to Cabinet
of 14 February 2024**

Subject: Non-Domestic Rates Empty Property Relief

1. Purpose

- 1.1 The purpose of this report is to seek Members' approval to amend the existing Non-Domestic Rates Empty Property Relief policy.

2. Recommendation

- 2.1 **It is recommended that the Cabinet approves the Non-Domestic Rates amended Empty Property Relief Policy with effect from 1 April 2024, as detailed in [Appendix 1](#).**

3. Background

- 3.1 With effect from 1 April 2023, local authorities in Scotland were required to create their own policy for Non-Domestic (Business) Rates charges for unoccupied or empty properties. The statutory legislation was repealed with Council's replacing this with local relief schemes under the Community Empowerment (Scotland) Act 2015, although unlike other reliefs available under the Community Empowerment Act the Scottish Government has committed to funding local empty relief schemes for a period of three years from 1 April 2023, fixed until the next revaluation due in 2026.
- 3.2 On 15 December 2022, South Ayrshire Council approved the Empty Relief policy that retained the same level of reliefs previously offered by the statutory powers, subject to review within two years. Most Councils adopted the same approach initially in maintaining the previous reliefs, however one Council implemented a revised policy replacing the previous reliefs with one standardised empty relief scheme, this is now the most common approach being developed by Councils who are considering a change in policy.
- 3.3 Whilst the actual number of empty properties can vary, as at 30 November 2023 there were just over 400 empty business premises in South Ayrshire which equates to around 7% of the total caseload. The largest category (41%) of reliefs awarded are to 'standard' empty properties which currently qualify for relief of 50% for 3 months followed by 10% relief indefinitely, however there are also a number of properties who qualify for indefinite 100% rates relief based on specific circumstances or categories of properties.

3.3.1 The table below provides a breakdown of the volume of properties in each category (as at 30 November 2023):

Empty Relief Category	Relief Value	Duration of Relief	Number
Standard Empty Relief	50% & 10%	3 months 50% followed by 10% unlimited	171
Industrial Empty	100% & 10%	6 months 100% followed by 10% unlimited	13
Listed Buildings	100%	Unlimited	86
Rateable Value < £1700	100%	Unlimited	79
Empty Land without property including Shooting Rights	100%	Unlimited	30
Occupation Prohibited by Law	100%	Unlimited	28
Insolvency/Deceased	100%	Unlimited	7

3.3.2 The table below provides some information on the length of time properties have been empty for the unlimited relief categories

	Listed Buildings	RV < £1700	Empty Land	Prohibited by Law	Insolvency/Deceased
More than 10 years	13	8	1	1	-
More than 5 years	19	7	7	1	1
More than 1 year	35	48	20	21	3

3.4 As the policy currently provides unlimited relief for certain categories of empty property, there is little or no incentive to actively bring properties back into use. Empty premises both domestic & commercial can be a blight on both communities and town centres and can have a detrimental impact on other residents and businesses. Long term empty (>12 months) domestic properties are currently subject to a 200% Council Tax levy with a similar approach being agreed by Cabinet on 16 January 2024 for Second Homes.

- 3.5 There are also circumstances where 100% rates relief currently applies where properties may no longer be used as commercial premises. This is particularly relevant for those classed as Land where there is no property and those with a rateable value under £1,700. However, due to the availability of full relief there is little impetus to remove these from the valuation role. If 100% relief were removed, it is anticipated that a number of these entries would likely be deleted from the valuation roll by the Assessor where they are no longer commercial entities which will reduce the empty rates relief costs.

4. Proposals

- 4.1 Full details of the proposed amended Empty Property Relief policy is attached at [Appendix 1](#); a summary of the proposals is as follows:

4.1.1 All empty property, (other than those noted at paragraph 4.1.2) will be eligible for 50% relief for the first three months from becoming unoccupied and thereafter 10% relief for a further 9 months.

4.1.2 Where occupation is Prohibited by Law, or in other circumstances out with the rate payers control 100% relief can be awarded for up to 12 months from last occupation date. In exceptional circumstances this can be extended subject to annual review.

4.1.3 Where customers are in receipt of 100% relief at 31 March 2024 this will be reset to 50% for three months then 10% for 9 months with effect from 1 April 2024 allowing a period of adjustment.

4.1.4 A change of ratepayer does not affect the qualifying time period

- 4.2 This policy will be subject to review within two years to consider any unintended consequences arising from this policy, to accommodate any further changes in legislation or to meet any other local requirements.

5. Legal and Procurement Implications

- 5.1 There are no legal implications arising from this report.

- 5.2 There are no procurement implications arising from this report.

6. Financial Implications

- 6.1 The cost of this policy is dependent on market forces, i.e., any large premises becoming empty can have a significant impact on the cost of empty rates relief. Collection levels can also be heavily influenced by the reason for the property being empty – ie business in administration, deceased estate, etc. Given the long-standing nature of the previous Scottish Government policy it is not possible at this time to predict with sufficient accuracy potential collection. Annual cost can only be determined at the end of the financial year.

- 6.2 The Scottish Government has committed to meet the funding of locally approved Empty Property relief (EPR) schemes initially for three years with South Ayrshire Council allocated £1.635m per annum until 2025/26, therefore any alterations to the relief scheme which created a surplus could be considered as part of the budget process.

6.2.1 The actual costs of EPR awarded in South Ayrshire in the last three years were as follows;

Year	Value of Relief (£m)
2020/21	1.66
2021/22	1.22
2022/23	1.59

6.3 Relief for empty properties owned by the Council will be applied in accordance with this policy. As at 30 November 2023 empty relief totalling £0.173m was applied to Council owned property. Additional Council charges resulting from this proposal would be offset against revenue generated through the changes to the empty property relief policy.

7. Human Resources Implications

7.1 Not applicable.

8. Risk

8.1 *Risk Implications of Adopting the Recommendations*

8.1.1 There are no risks associated with adopting the recommendations.

8.2 *Risk Implications of Rejecting the Recommendations*

8.2.1 The risks associated with rejecting the recommendations are:

- the potential loss of suitable housing options within an already pressurised housing market; and
- the loss of potential income to the Council.

9. Equalities

9.1 The proposals in this report have been assessed through the Equality Impact Assessment Scoping process. There are no significant potential positive or negative equality impacts of agreeing the recommendations and therefore an Equalities Impact Assessment is not required. A copy of the Equalities Scoping Assessment is attached as [Appendix 2](#).

10. Sustainable Development Implications

10.1 ***Considering Strategic Environmental Assessment (SEA)*** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

11. Options Appraisal

11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

12. Link to Council Plan

12.1 The matters referred to in this report contribute to Priority Two of the Council Plan: Live, Work, Learn.

13. Results of Consultation

13.1 There has been no public consultation on the contents of this report.

13.2 Informal discussion has taken place with colleagues in Economy and Regeneration and Asset Management. However as the classification of properties that are currently in receipt of 100% relief are varied – for example, offices, shops, empty land, it is difficult to anticipate any impact on businesses at this time.

13.2 Consultation has taken place with Councillor Ian Davis, Portfolio Holder for Finance, Human Resources and ICT, and the contents of this report reflect any feedback provided.

14. Next Steps for Decision Tracking Purposes

14.1 If the recommendations above are approved by Members, the Head of Finance, ICT and Procurement will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Cabinet in the ‘Council and Cabinet Decision Log’ at each of its meetings until such time as the decision is fully implemented:

Implementation	Due date	Managed by
Implement policy to apply relevant relief to Non-Domestic Rates Empty Properties	1 April 2024	Service Lead - Revenues and Benefits

Background Papers **Report to South Ayrshire Council of 15 December 2022 – [Non-Domestic Rates Reliefs](#)**

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Date: 5 February 2024

South Ayrshire Council

Non-Domestic (Business) Rates Empty Property Rating and Relief Policy

1. Background

- 1.1 With effect from 1 April 2023 local authorities in Scotland were required to set their own policy for the rating of unoccupied properties. The empty property rating and relief scheme is no longer statutory and is now a discretionary rates relief scheme with reliefs awarded under the Community Empowerment (Scotland) Act 2015.
- 1.2 On 15 December 2022 South Ayrshire Council approved the Council's Empty Relief Policy (ERP) that retained the same level of reliefs previously offered by the statutory powers, subject to review within two years. Most Councils adopted the same approach initially in maintaining the previous reliefs, however most Councils who are considering a change in policy are now replacing the previous relief scheme with one standardised empty relief scheme.
- 1.3 On 14 Feb 2024 Cabinet approved an amended empty policy to apply with effect from 1 April 2024.

2. Relief Policy

2.1 The following reliefs will apply:

2.1.1 All empty properties, including land with no property, (other than those noted at para 2.1.2) will be eligible for up to 12 months relief from the last occupation date as follows:

- 50% relief for up to 3 months after occupations ends; and
- 10% relief for up to 9 months thereafter

2.1.2 Where Occupation is Prohibited by Law, or where there are other circumstances out with the control of the ratepayer 100% relief up to 12 months from the last occupation date. In exceptional circumstances consideration will be given to extending relief subject to annual review.

2.2 All properties that were previously in receipt of 100% relief as at 31 March 2024 will be entitled to relief as detailed at paragraph 2.1 with effect from 1 April 2024.

2.3 Those properties which are in receipt of the standard empty relief on 31 March 2024, will receive the balance of the 50% relief (should they have become empty after 1 January 2024) and 9 months at 10%.

2.4 The following criteria should also be noted;

2.4.1 An empty property is a business property which is not currently in use as an active business

- 2.4.2** Examples of evidence required for Occupation Prohibited by Law may include; written confirmation that the property is unfit for occupation from either the council's building control section or its environmental health section, or written confirmation from Police Scotland or the Scottish Fire and Rescue Service in the event the property does not meet regulation standards or in the case of fire damage.
- 2.4.3** A change of ratepayer does not affect the qualifying time period, relief applies from the last occupation date.
- 2.4.4** Plant, machinery and other fixtures and fittings can be kept on property without that being classed as occupation.
- 2.4.5** A property must be occupied for at least 6 months before any new period of empty relief can be considered, (any period of occupancy of less than 6 months will be disregarded as if it had not happened in terms of relief available).

3. Subsidy Control

- 3.1** Empty Property Relief can be regarded as a general measure and is therefore unlikely to require to be awarded as Trade and Cooperation Agreement (TCA) Minimum Financial Assistance (MFA).
- 3.2** However where commercial activity applies, the Council will have to consider whether this must be awarded with respect to the TCA minimum financial assistance (MFA) criteria. It is therefore important that applicants are made aware of this and that this is reflected within the application and award processes.

4. Application Process

- 4.1** In order to make an application for Empty Property Relief an application form should be completed and submitted with relevant supporting evidence. (Where all relevant information is currently held on file EPR relief can be awarded without a completed form). Application forms are available on the Councils website [Empty property relief - South Ayrshire Council \(south-ayrshire.gov.uk\)](https://www.south-ayrshire.gov.uk)
- 4.2** Empty Property Relief will be awarded in accordance with this policy, subject to verification by Senior Revenues Advisor/Revenues Co-ordinator/Service Lead if required, e.g. in exceptional circumstances, where discretion is required and/or where supporting evidence may be limited.

5. Backdating

- 5.1** An application for relief can be backdated to the start of the financial year in which the application is made provided the organisation satisfied the requirements at that time. Any applications for the previous financial year can be considered provided sufficient evidence is submitted in support of the application. Consideration should also be given where an organisation has been rated retrospectively either through the actions of the Council or the Assessor. Any back dating will be conditional on any outstanding charges or fees incurred by the rate payer being paid.

6. Appeals

- 6.1** A request to review a discretionary award decision can be made to the Service Lead, Revenues and Benefits however there is no further right of appeal in relation to this policy.

Revenues and Benefits Service
1 April 2024

South Ayrshire Council Equality Impact Assessment Scoping Template

Equality Impact Assessment is a legal requirement under the Public Sector Duty to promote equality of the Equality Act 2010. Separate guidance has been developed on Equality Impact Assessment's which will guide you through the process and is available to view here: <https://www.south-ayrshire.gov.uk/equalities/impact-assessment.aspx>

Further guidance is available here: <https://www.equalityhumanrights.com/en/publication-download/assessing-impact-and-public-sector-equality-duty-guide-public-authorities/>

The Fairer Scotland Duty ('the Duty'), Part 1 of the Equality Act 2010, came into force in Scotland from 1 April 2018. It places a legal responsibility on Councils to actively consider ('pay due regard to') how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. [FSD Guidance for Public Bodies](#) in respect of the Duty, was published by the Scottish Government in March 2018 and revised in October 2021. See information here: <https://www.gov.scot/publications/fairer-scotland-duty-guidance-public-bodies/>

1. Policy details

Policy Title	Non-Domestic Rates Empty Property Relief
Lead Officer (Name/Position/Email)	Nicola Gemmell, Service Lead – Revenues and Benefits - nicola.gemmell@south-ayrshire.gov.uk

2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this policy? Please indicate whether these would be positive or negative impacts

Community or Groups of People	Negative Impacts	Positive impacts
Age – men and women, girls & boys	-	-
Disability	-	-
Gender Reassignment (Trans/Transgender Identity)	-	-
Marriage or Civil Partnership	-	-
Pregnancy and Maternity	-	-
Race – people from different racial groups, (BME) ethnic minorities and Gypsy/Travellers	-	-
Religion or Belief (including lack of belief)	-	-
Sex – (issues specific to women & men or girls & boys)	-	-
Sexual Orientation – person's sexual orientation i.e. LGBT+, lesbian, gay, bi-sexual, heterosexual/straight	-	-

Community or Groups of People	Negative Impacts	Positive impacts
Thematic Groups: Health, Human Rights & Children's Rights	-	-

3. What likely impact will this policy have on people experiencing different kinds of social disadvantage i.e. The Fairer Scotland Duty (This section to be completed for any Strategic Decisions). Consideration must be given particularly to children and families.

Socio-Economic Disadvantage	Negative Impacts	Positive impacts
Low Income/Income Poverty – cannot afford to maintain regular payments such as bills, food, clothing	-	-
Low and/or no wealth – enough money to meet Basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future	-	-
Material Deprivation – being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure/hobbies	-	-
Area Deprivation – where you live (rural areas), where you work (accessibility of transport)	-	-
Socio-economic Background – social class i.e. parent's education, employment and income	-	-

4. Do you have evidence or reason to believe that the policy will support the Council to:

General Duty and other Equality Themes Consider the 'Three Key Needs' of the Equality Duty	Level of Negative and/or Positive Impact (High, Medium or Low)
Eliminate unlawful discrimination, harassment and victimisation	Low
Advance equality of opportunity between people who share a protected characteristic and those who do not	Low
Foster good relations between people who share a protected characteristic and those who do not. (Does it tackle prejudice and promote a better understanding of equality issues?)	Low
Increase participation of particular communities or groups in public life	Low
Improve the health and wellbeing of particular communities or groups	Low
Promote the human rights of particular communities or groups	Low
Tackle deprivation faced by particular communities or groups	Low

5. Summary Assessment

Is a full Equality Impact Assessment required? (A full Equality Impact Assessment must be carried out if impacts identified as Medium and/or High)	<p style="text-align: center;">YES</p> <p style="text-align: center;">NO</p>
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Rationale for decision:

This report seeks approval to amend the existing Non-Domestic Rates Empty Property Relief policy. Members' decision on this has no specific equality implications

Signed : Nicola Gemmell

Service Lead

Date: 15 January 2024