

# Perth & Kinross Council

6 December 2023

## NON-DOMESTIC RATES RELIEF ON UNOCCUPIED LANDS AND HERITAGES

**Contact Officer: Kevin Fraser, Team Leader (Local Taxes) and  
Lynn Brady, Service Manager (Revenues & Benefits)**  
(Report No. 23/348)

### 1. PURPOSE

- 1.1 This report provides information on the devolvement of Non-Domestic Rates Relief on empty lands and heritages to Local Authorities.
- 1.2 It provides a summary of the current numbers and value of such awards in the Perth & Kinross Council area.
- 1.3 It recommends a new Non-Domestic Rates Relief Scheme be introduced with effect from 1 April 2024.

### 2. RECOMMENDATIONS

- 2.1 The Council is requested to:
  - Note the contents of the report;
  - Agree the level of Non-Domestic Rates Relief to be made available to ratepayers of unoccupied lands and heritages with effect from 1 April 2024.

### 3. STRUCTURE

- 3.1 This report is structured over the following sections:
  - Section 4: Background
  - Section 5: Legislative Provisions
  - Section 6: Use of Existing Powers
  - Section 7: Allocation of Funding
  - Section 8: Current Position
  - Section 9: Recommended Non-Domestic Rates Relief for 2024/25
  - Section 10: Financial Risks
  - Section 11: Conclusions and Summary of Recommendations

## **4. BACKGROUND**

- 4.1 Non-Domestic Rates charges for unoccupied lands and heritages were, up to 31 March 2022, subject to statutory reductions. The eligible lands and heritages and rate of reductions are set out in **Appendix 1**.
- 4.2 While empty reductions were mandatory, they were fully funded by the Scottish Government through the Local Government Settlement.
- 4.3 As part of the agreement of the 2019-20 Draft Scottish Budget, the Scottish Government committed to the devolution of empty property relief before the next revaluation, delivering greater fiscal empowerment for Councils.
- 4.4 The devolution of this relief, from 1 April 2023, enabled councils to administer any support for unoccupied properties in a way that is tailored to local needs, with the intended aim of bringing empty property back into economic use.
- 4.5 Perth & Kinross Council agreed to replicate the previous statutory reductions as set out in **Appendix 1**, for the Financial Year 2023/24, with a commitment to review this policy for future financial years. This report now fulfils that commitment.

## **5. LEGISLATIVE PROVISIONS**

- 5.1 Section 19 to the Non-Domestic Rates Act 2020 repealed Section 24 of the Local Government (Scotland) Act 1966.
- 5.2 This legislation ceased all relief for empty lands and heritages with effect from 1 April 2023.
- 5.3 If the Council has no policy in place, it would be required to charge full Non-Domestic Rates on all unoccupied lands and heritages.
- 5.4 Perth & Kinross Council agreed a policy for Financial Year 2023/24 and is now required to have a new policy in place for 1 April 2024 onwards.

## **6. USE OF EXISTING POWERS**

- 6.1 Local authorities have existing powers contained in section 3A of the Local Government (Financial Provisions etc) (Scotland) Act 1962, as amended by the Community Empowerment (Scotland) Act 2015, to award discretionary local reliefs.
- 6.2 This gives Local Authorities power to create relief schemes for the following:
  - such categories of lands and heritages as may be specified in the scheme,
  - such areas as may be so specified,
  - such activities as may be so specified,
  - such other matters as may be so specified.

6.3 This allows Perth & Kinross Council to create its own relief scheme(s) to replace the current rates reductions awarded to those liable for rates of empty non-domestic properties.

## 7. ALLOCATION OF FUNDING

7.1 Empty Property Relief was previously fully funded by the Scottish Government.

7.2 From April 2023, Local Government Revenue Funding for 2023-24 will include monies to allow Local Authorities to consider such schemes.

7.3 The baseline quantum to fund devolved schemes provided by the Scottish Government reflects the Scottish Fiscal Commission Medium Term Financial Strategy (MTFS) forecasts published on 31 May 2022, which estimates the cost for 2023-24 across Scotland at £105m (£104m and £105m for 2024-25 and 2025-26 respectively). It should be noted that inflation is considered in these estimates.

7.4 This quantum establishes an allocation of £105m across Scotland, fixed until the next revaluation in 2026, which would be incorporated into the Revenue Support Grant to represent funding previously associated with national mandatory Empty Property Relief costs.

7.5 The distribution methodology for individual local authority allocations is based on the average share of total Empty Property Relief over the two-year period 2018/19 and 2019/20.

7.6 The total Empty Property Relief costs for both years have been used to calculate a share for each individual local authority. Equal weight has been applied to both years.

7.7 This means that the allocation for Perth & Kinross Council for 2023/24 is **£952,516**.

7.8 While the quantum of funding across Scotland is higher than current Empty Property Relief spend, there is a risk that individual allocations may not exceed or match current Empty Property Relief cost at a local level; particularly where the total number and/or rateable value of empty premises have risen recently. This is the case for Perth & Kinross Council.

7.9 Exceptional Circumstances: Scottish Government has recognised that some exceptional economic events may cause unexpected swings which could impact on the number of empty non-domestic properties in an area, and that these cannot be predicted.

7.10 Where an exceptional economic shock has a substantial, unmanageable impact on an area (or areas) in respect of a change in empty non-domestic properties having significant bearing on the settlement agreed, it is expected that local authorities and COSLA would raise this for discussion with the Scottish Government in the first instance.

7.11 An additional permanent member of staff within the Local Taxes team will be funded from these monies to assist with the additional workload associated with these proposals.

## 8. CURRENT POSITION

8.1 Our actual spend in Financial Year 2023/24 is projected to be **£1,017,084**.

8.2 The breakdown of our estimated 2023/24 spend by category is as shown in the table below. (Figures taken are at September 2023).

8.3 This exceeds our allocation by **£64,568**. However, this figure is subject to fluctuation depending on any changes to the occupied status of any lands and heritages during the remainder of the financial year.

8.4 A review of all premises currently receiving relief is underway to ensure the ongoing accuracy of our records.

Relief Type	Estimated Cost
50%/10% Empty Property Relief	£99,173.70
Industrial Exemption	£7,378.70
Entitled to possession as Trustee in Bankruptcy etc	Nil
Entitled to possession as executor for deceased estate	£37,110.34
Company in administration/wound up through insolvency	£55,567.17
Occupation Prohibited by law	£105,538.20
Listed building	£557,128.27
No buildings – shooting rights	£55,540.25
No buildings - others	£65,465.72
RV <£1700	£34,181.61
<b>Total</b>	<b>£1,017,083.96</b>

## **9. RECOMMENDED NON-DOMESTIC RATES RELIEF POLICY FOR 2024/25**

- 9.1 The Council is required to have a policy in place before 1 April 2024; if it does not, it would be required to charge full Non-Domestic Rates on all unoccupied lands and heritages.
- 9.2 For the purposes of relief being considered in this report, “unoccupied” is taken to mean vacant of all moveable items. This will allow any fixtures, fittings, plant, or machinery that is to be used in future occupation to remain in place.
- 9.3 This policy can be as open or selective as the Council chooses; with the caveat that any selective schemes may be viewed as de-minimus aid and be subject to subsidy control (previously State Aid) regulations and limits.
- 9.4 The recommended policy contained within this report is to apply to all lands and heritages in the Perth and Kinross area; therefore, if accepted, there will be no need to consider Subsidy Control implications.
- 9.5 Should the Council create a scheme that costs more than its allocation of funding, it will need to find the difference from other sources.
- 9.6 Should the Council create a scheme that costs less than its allocation of funding, it is free to spend the difference as its chooses, with the inference being that it should be used to support business growth.
- 9.7 The key elements to be considered in agreeing a policy are as follows:
- Supporting owners to bring property back into use;
  - Penalising those that make no such efforts;
  - Addressing the potential shortfall between funding and cost;
  - Simplicity for taxpayers; and
  - Ease of administration.
- 9.8 It is felt that a scheme that is more generous in the short term, but which removes any reduction for lands and heritages that lay unoccupied for a longer period, would meet all the above criteria.
- 9.9 While there is nothing to prevent the Council from removing full 100% rates relief in the following circumstances, it is recommended that no changes are considered here and that full relief from Non-Domestic Rates is continued:
- Owned by a trustee for sequestration, liquidation etc.
  - Cannot be occupied by law.
  - Under a compulsory purchase order.
  - The owner is in administration (or subject to an administration order).
  - The owner is a company or partnership being wound up under Insolvency Acts (this would exclude voluntary winding up processes)
  - Shooting Rights not used for any commercial activity.

- 9.10 The first four categories above are where there are barriers to ongoing commercial activity. For Shooting Rights, these are cases where the right to shoot is used only for land management and there is no commercial gain to the holder of the right.
- 9.11 Changes are recommended for the remaining previously exempt categories:
- Industrial premises;
  - Listed buildings;
  - Where the rateable value is under £1,700;
  - Liability rests with the estate of a deceased person; and
  - Lands and heritages with no buildings (excluding shooting rights).
- 9.12 Changes are also recommended for all other unoccupied lands and heritages which currently pay a 50% rate for three months then a 90% charge thereafter.
- Industrial Premises**
- 9.13 Industrial premises currently receive a full exemption for six months then receive a 10% reduction.
- 9.14 It is proposed that the exemption is unchanged but the 10% reduction is removed and full Non-Domestic Rates are charged should the premises remain unoccupied for more than six months.

<b>Current Provision</b>	<b>Proposed Provision from 01 April 2024</b>
6 months exemption then 90% charge	6 months 100% relief then full charge

### **Listed Buildings**

- 9.15 Exempting listed buildings without limit of time puts no onus on the owner to maintain them in a fit state or encourage them to bring the premises back into use.
- 9.16 There are fair and reasonable grounds to treat them in a comparable manner to other lands and heritages.
- 9.17 It is therefore recommended that the exemption is limited to six months and that no reduction is provided thereafter.

<b>Current Provision</b>	<b>Proposed Provision from 01 April 2024</b>
Unlimited exemption	6 months 100% relief then full charge

### Rateable Value is Under £1,700

- 9.18 There are fair and reasonable grounds to suggest that a low rateable value alone should not be a determining factor in deciding whether something should remain exempt without limit of time and believe this exemption should also be limited to six months only.

Current Provision	Proposed Provision from 01 April 2024
Unlimited exemption	6 months 100% relief then full charge

### Liability Rests With Executors

- 9.19 Cases where the executors become liable is a further category where officers believe that there are fair and reasonable grounds that a six-month exemption should be sufficient for the executors to deal with the premises and have them available for reoccupation.

Current Provision	Proposed Provision from 01 April 2024
Unlimited exemption	6 months 100% relief then full charge

### Where the Lands and Heritage Nave No Buildings

- 9.20 It is also felt that exemptions for lands and heritages with no buildings should be changed; and again, recommend an exemption for up to six months only.

Current Provision	Proposed Provision from 01 April 2024
Unlimited exemption	6 months exemption then full charge

- 9.21 The exception to this would be **Shooting Rights that are not used for commercial activity**, but for land management only, and are thereby deemed to be unoccupied.

- 9.22 It is recommended that a full exemption remains in place for such subjects.

Current Provision	Proposed Provision from 01 April 2024
Unlimited exemption	Unlimited exemption

### Non-Exempt Lands and Heritages

- 9.23 All lands and heritages that are not covered by an exempt category currently pay a 50% charge for three months followed by a 90% charge thereafter.

- 9.24 This means that the ratepayer must pay a significant Non-Domestic Rates charge while seeking out a new tenant and/or refurbishing the premises to facilitate a new tenancy.
- 9.25 This is where officers believe that there are fair and reasonable grounds to provide a more generous scheme that would support local businesses and recommend that these premises also receive a full exemption for six months then pay full Non-Domestic Rates.

Current Provision	Proposed Provision from 01 April 2024
50% charge for 3 months then a 90% charge thereafter	6 months at 100% relief then full charge thereafter

### **Application and Timing of Awards**

- 9.26 It is recommended that these changes apply from 1 April 2024 to 31 March 2026.
- 9.27 Scottish Government have only committed the funding for this period, therefore any ongoing provision of relief for unoccupied lands and heritages must consider the financial position effective from 1 April 2026.
- 9.28 In terms of transition from Financial Year 2023/24, officers feel that this should happen automatically.
- 9.29 Any previously fully exempt lands and heritages subject to the proposed changes, that has been empty for six months or more on 31 March 2024, will move to paying full Non-Domestic Rates immediately.
- 9.30 Lands and heritages that have been exempt for less than six months will have the remainder of that period awarded for Financial Year 2024/25.
- 9.31 Those currently paying on the 50%/90% charging structure will see the changes made to allow an exemption to continue up to the six-month anniversary of the land and heritage first becoming unoccupied.
- 9.32 In terms of entitlement to reductions for subsequent unoccupied periods, it is proposed that evidence must be provided to demonstrate that the lands and heritages have been occupied for a continual period in excess of six months before another award would be considered.



- 9.33 In addition, it is recommended that the policy should seek to minimise tax evasion through contrivance where premises are occupied to a limited extent for a recurring period, so that further reductions can be considered when they again become empty. In such instances, if the occupant was a previous tenant or has a direct relationship with the owner/landlord then no further exempt reduction would be awarded when they become unoccupied.
- 9.34 An application will be required from the ratepayer before any award will be considered.
- 9.35 Applications must be made during the initial 6-month period that the lands and heritages first become unoccupied in order that a visit may be carried out, if required.
- 9.36 Applications made after the premises have been unoccupied for more than 6 months will not be backdated and, if successful, relief will commence from the date of application.
- 9.37 Retrospective applications for lands and heritages now occupied will not be considered.
- 9.38 In all circumstances it should be noted that the award relates to the premises and not the ratepayer. A change in ratepayer of an empty property will not give rise to a new entitlement but the remainder of any 6-month award period may be considered.

### **Use of Discretion**

- 9.39 It is further recommended that limited discretion be made available to those making clear efforts to seek reoccupation of their premises but circumstances out with their control are preventing this from being achieved within a six-month period.
- 9.40 In such cases the relief may, if supported by Economic Development, be extended to 12 months. The use of such discretion will only be authorised in the same manner as is currently used for long term empty dwellings subject to Council Tax charges.

## **10. FINANCIAL RISKS**

- 10.1 As noted at section 7, the Council has been allocated set funding to deliver Non-Domestic Rates relief to unoccupied lands and heritages.
- 10.2 There is therefore a risk that, as policy will be applied to all lands and heritages that become unoccupied, the Council cannot directly control the cost of awarding future relief awards. If there is a growth in unoccupied lands and heritage or large premises becoming unoccupied this may create a financial pressure for the Council.
- 10.3 A further potential risk is the initial cost of replacing the current statutory based scheme with recommendations that are more generous. However, this risk

has been considered in making these recommendations and it is believed that this is unlikely to be a concern.

- 10.4 The figures in the table below provide an estimate of the cost of the recommended scheme had it been in place for this current financial year - i.e. **£354,280**. It is stressed that this is an estimate based on the current position and not a forecast for future years.
- 10.5 It should also be noted that diminishing awards of Transitional Relief over the next two financial years will also have an impact on the cost of providing Empty Property Relief.
- 10.6 Taken against the allocation of funding of **£952,516**, as outlined in paragraphs 7.7 and 7.8 and an allocation of **£38,000** to administer the scheme, this would mean that an estimated sum of **£560,236** would be available for the Council to use in achieving its priorities.
- 10.7 As stated in 7.11 it is requested that a portion of this excess is retained for the recruitment of an addition staff member in Local Taxes to assist with the increased administration that that these changes may bring.

<b>Current Award</b>	<b>Estimated Cost under current statutory-based Scheme</b>	<b>Recommended Award</b>	<b>Estimated Cost under Recommended Scheme</b>
50%/10% Empty Property Relief	£99,174	6m exemption	£90,218
Industrial Exemption	£7,379	6m exemption	£7,379
Entitled to possession as Trustee in bankruptcy etc	Nil	Full exemption	Nil
Entitled to possession as executor for deceased estate	£37,110	6m exemption	Nil
Company in administration/wound up	£55,567	Full exemption	£55,567
Occupation Prohibited by law	£105,538	Full Exemption	£105,538
Listed building	£557,128	6m Exemption	£35,817
No buildings – shooting rights	£55,540	Full Exemption	£55,540
No buildings - others	£65,466	6m Exemption	£938
RV <£1700	£34,182	6m Exemption	£3,283
<b>Total</b>	<b>£1,017,084</b>		<b>£354,280</b>

## 11. CONCLUSIONS AND RECOMMENDATIONS

- 11.1 As part of the changes to the Non-Domestic Rates system in Scotland, empty property reliefs and exemptions were devolved to local authorities from 1 April 2023, allowing councils to set their own policies in a way that is tailored to local needs.
- 11.2 For Financial Year 2023/24, the Council agreed a scheme that replicates existing measures while using this time to further consider an appropriate scheme for future financial years.
- 11.3 Perth & Kinross Council's aim is to bring empty properties back into use to help increase economic activity, attracting customers and businesses. Occupied premises will increase footfall which in turn supports local businesses.
- 11.4 The aim is to create a scheme that supports owners in seeking reoccupation of premises while removing ongoing historic reductions from those making no such effort.
- 11.5 For Financial Years 2024/25 and 2025/6, it is recommended that the Council implements the following scheme: -
- Full 100% relief should continue to be awarded on an unlimited basis to unoccupied lands and heritages where the following applies:
    - a trustee for sequestration, liquidation etc.
    - cannot be occupied by law.
    - under a compulsory purchase order.
    - the owner is in administration (or subject to an administration order).
    - the owner is a company or partnership being wound up.
    - a shooting right that is not used for commercial activity.
  - For all other unoccupied lands and heritages, it is recommended that 100% relief is awarded for a maximum six-month period with full Non-Domestic Rates being charged thereafter.
  - A minimum occupancy requirement of 6 months must apply before empty property relief will be considered.
  - Limited discretion to increase the time limit for a relief award to 12 months should be available where supported by Economic Development colleagues.
- 11.6 If approved this policy will result in billing and collection activity being required for ratepayers/premises that have not previously been required to pay Non-Domestic Rates. It is therefore requested that, in agreeing this or an amended policy, an additional permanent member of staff is employed within the Local Taxes team to assist with the additional workload.

**Author**

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**Approved**

<b>Name</b>	<b>Designation</b>	<b>Date</b>
Karen Donaldson	Chief Operating Officer	8 November 2023
Stewart Mackenzie	Head of Finance	8 November 2023

**APPENDIX****Appendix 1 – Empty Property Relief Eligibility and Rates of Relief**

## 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

<b>Strategic Implications</b>	<b>Yes / None</b>
Community Plan / Single Outcome Agreement	None
Corporate Plan	Yes
<b>Resource Implications</b>	
Financial	Yes
Workforce	Yes
Asset Management (land, property, IST)	None
<b>Assessments</b>	
Equality Impact Assessment	None
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	None
Legal and Governance	None
Risk	None
<b>Consultation</b>	
Internal	None
External	None
<b>Communication</b>	
Communications Plan	None

### 1. Strategic Implications

1.1 The Council's Corporate Plan 2022-2027 lays out seven outcome focussed strategic objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. They are as follows:

- Tackling poverty.
- Tacking climate change and supporting sustainable places.
- Growing a sustainable and inclusive local economy.
- Enabling our children and young people to achieve their full potential.
- Protecting and caring for our most vulnerable people.
- Supporting and promoting physical and mental wellbeing.
- Placing communities at the heart of how we work.

1.2 This report relates to all these objectives.

### 2. Resource Implications

#### Financial

2.1 There are no direct financial implications arising from this report other than those reported within the report. The Head of Finance has been consulted and has indicated agreement with these proposals.

### Workforce

- 2.2 There are no direct workforce implications arising from this report other than those reported within the report. The Corporate Human Resource Manager has been consulted and has indicated agreement with these proposals.

### Asset Management (Land, Property, IT)

- 2.3 There are no asset management implications arising from this report.

## **3. Assessments**

### Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.
- 3.2 This report has been considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:
- (i) Assessed as **not relevant** for the purposes of EqIA

### Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals. No further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

### Sustainability

- 3.4 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. Under the Climate Change (Scotland) Act 2009 the Council also has a duty relating to climate change and, in exercising its functions must act:
- in the way best calculated to delivery of the Act's emissions reduction targets;
  - in the way best calculated to deliver any statutory adaptation programmes; and
  - in a way that it considers most sustainable.
- 3.5 The information contained within this report has been considered under the Act. However, no action is required as the Act does not apply to the matters presented in this report.

## Legal and Governance

3.6 Not applicable.

## Risk

3.7 Not applicable.

## **4. Consultation**

### Internal

4.1 The Executive Leadership Team, Corporate and Democratic Services Senior Management Teams, Section 95 Officer and Human Resources were consulted during the preparation of this report.

### External

4.2 Not applicable.

## **5. Communication**

5.1 External communication will take place following approval of this report.

## **2. BACKGROUND PAPERS**

2.1 None.