

WEST DUNBARTONSHIRE COUNCIL**Report by Chief Officer - Resources****Audit Committee – 2 March 2022**

Subject: Non-Domestic Rates Working Group Final Report**1. Purpose**

- 1.1** The purpose of this report is to provide Committee with a summary of activity of the Non-Domestic Rates (NDR) Working Group since the first meeting and to make recommendations to Committee for a future Report to be taken to a future Council meeting, date to be agreed.

2. Recommendations

- 2.1** It is recommended that Committee:
- note content of this report
 - agree the conclusions detailed at paragraph 4.7 and that these are presented to a future meeting of the Council

3. Background

- 3.1** The Working Group has met six times, as follows:

- 12 June 2019;
- 25 September 2019;
- 27 November 2019;
- 18 March 2020;
- 16 June 2021; and
- 2 February 2022.

- 3.2** The aim of the Working Group was to review issues linked to the collection of NDR within West Dunbartonshire Council and consider approaches linked to NDR and economic recovery within the Council area. Once considered the Group would report its conclusions to the Audit Committee including any recommendations for the Audit Committee to make to Council.

4. Main Issues

- 4.1** The Working Group has reviewed reports in respect of the following:

- Collection and write-off of NDR, potentially linking non-payment of NDR to Licensing applications – advised that this was not possible under current legislation;

- The publicising of non-payers – agreed and implemented;
- New powers to the Council arising from the Scottish Government legislation on account of the Barclay Review;
- Discussion on the Fresh Start Scheme and how this could be promoted more widely to local businesses;
- Scottish Government Reliefs and Council powers to vary Rates; and
- Details of properties currently rented out by WDC and rates payable.

4.2 In respect of decisions the following was agreed:

(1) (a) Collection of NDR, Licensing legislation and the possibility of publicising non-payers - Noted (a) the terms of the report that there was currently no legal mechanism to restrict someone's ability to obtain a licence where non-domestic rates have not been paid and a clear example of 'phoenixing' was known.

(b) Collection of Non Domestic Rates and Licensing - When reporting to the Council's Audit Committee, to recommend that the Committee recommend the Council asks the Scottish Government to propose amendments to the licensing legislation so that failure to pay NDR may become a relevant matter in a licensing context and also to recommend that any business operator who is trading in the area would require some sort of a licence for trading so that before granting the licence the local authority can check the history of the applicant in order to consider issues around 'phoenix' businesses;

(2) New powers to the Council arising from the Scottish Government legislation on account of the Barclay Review - Noted, with regard to the Fresh Start scheme, that an area for review and to be reported back would be to identify Landlords, who have empty premises and were currently in receipt of empty property relief for a period of 6 months or more. The intention would be to contact Landlords direct, to make them aware of the scheme and they in turn promote the availability of 100% relief for the first 12 months of new occupation, to all categories of property with a Rateable Value under £65,000 to prospective new tenants. Since July 2021 the Council has awarded 2 ratepayers Fresh Start scheme reliefs within Clydebank;

(3) Scottish Government Reliefs and Council powers to vary Non-Domestic Rates - to note the terms of the discussion that had taken place in respect of Clydebank Town Centre and to note the updated position in relation to Clydebank Town Centre as discussed at the Infrastructure, Regeneration and Economic Development Committee on 20 November 2019, and as detailed in the report and relevant Minute to that Committee; and

(4) Scottish Government Reliefs and Council powers to vary Non-Domestic Rates – following discussion on reliefs that are available to ratepayers to encourage economic activity and regeneration that are

funded by the Scottish Government the working group agreed to note content of report and appendix.

4.3 Barclay Review Implementation Update

The Working Group reviewed the following aspects of the Barclay Review implementation that impact local authorities have been reviewed and changed by the Scottish Government:

- Section 33 allows for Local Authorities to issue civil penalties for the failure to comply with information notices, where the Council ask proprietors for information on a property, within 21 days or failure to notify of a change in circumstances, such as vacating a property, within 42 days. Failure to comply with these may result in civil penalties being issued of £95 and £370 respectively. A decision was taken on 22 March 2021 at Committee and Members agreed not to implement the civil penalties for 2021/22; however this will be reconsidered for the financial year 2022/23.
- Implementation of the Barclay Review Recommendation 10: A full list of recipients of rates relief should be published to improve transparency. Local Government Finance Circular No. 13/2020 published in December 2020 provided guidance on the periodic publication of non-domestic rates relief recipients by local authorities and includes a publication template and privacy. In line with the recommendation the Council published, via the Council website, per the guidance the full list of recipients from 1 July 2021. This information can be found along with other Council NDR data here: <https://www.west-dunbarton.gov.uk/business/business-rates/business-rates-statistics/>
- The Small Business Bonus Scheme has been amended to restrict the relief only to properties that are occupied (i.e. not eligible for empty property relief). Having undertaken a full review, the Council identified and removed the relief to the more appropriate Empty Property Relief with effect from 1st April 21;
- The Barclay Review recommended that the effectiveness of SBBS be evaluated. The Barclay Review called for the SBBS Review to be concluded and recommendations addressed in 2022. The SBBS Review was due to report in Spring 2021 but this is now unavoidably delayed due to ongoing COVID-19 restrictions;
- Charitable rates relief will also now only be removed from mainstream independent schools on 1 April 2022, instead of 1 April 2021 as previously planned;

- The next NDR revaluation in Scotland will take effect in 2023 instead of 2022 the same year as in England and Wales, but will be based on rental values pertaining as at 1 April 2022, and not 1 April 2020. This will mean that properties' rateable values will better reflect true market conditions, taking into account any COVID-19 effects; and
- Consideration will have to be given to empty property relief being devolved to LA's at the next Revaluation on 1 April 2023.

4.4 Legislative Update

Since the Working Group met in June 2021 the following NDR legislative changes have been implemented by the Scottish Government:

- To provide financial assistance to businesses due to COVID-19 - the introduction from 1 April 2020 of the new 100% Retail, Hospitality, Leisure & Aviation Relief which has now been extended in 2021/22 up to 31 March 2022;
- Day Nursery Relief - for all standalone nurseries in the public, private and charitable sectors has been extended to at least 30 June 2023; and
- Fresh Start 100% - relief available for up to 12 months for certain occupied properties, which previously have been vacant for 6 months with a RV £65,000, now increased to £95,000 to encourage the use of empty property from 1 April 2021.

4.5 Council powers to vary Non-Domestic rates

A separate report was prepared and discussed at the Working Group identifying the potential for the Council to vary rates by providing additional discretionary reliefs. That report identified that there are financial consequences of the Council taking such a decision and in doing so would need to demonstrate that such a decision was Best Value for the Council as a whole and understand the expected benefits of any such move compared to the financial impact on the general fund. A significant piece of work would be required to understand this as any regenerational gain in NDR yield in the area arising from such a change may not flow through to the Council due to the national rates pooling process operated by the Scottish Government.

Appendix 1 provided shows an estimated cost of £1.781m. It should be further noted that the additional administration costs would have to be factored in any new scheme costs.

4.6 Town Centre Regeneration Areas

Council should ask the Scottish Government consider business rates relief for Town Centre Regeneration Areas. Given the ongoing trend in contraction of retail, maintaining vibrancy of these areas is a key priority for West Dunbartonshire. The Council in response to issues across Town Centre Regeneration areas have agreed frameworks and masterplans which address a number of related issues.

4.7 Conclusions

Following the conclusion of a number of pieces of work and analysis the Working Group has considered a number of aspects of NDR particularly in relation to the West Dunbartonshire area and issues of non-payment. As a result of this work the Group has identified the following recommendations for the Audit Committee to put to a future Council meeting for consideration:

- to note there is no legal mechanism to restrict someone's ability to obtain a licence to trade where non-domestic rates have not been paid and a clear example of 'phoenixing' is known and the Council should consider asking the Scottish Government to propose amendments to the licensing legislation so that failure to pay non-domestic rates may become a relevant matter in a licensing context;
- linked to the above recommendation the Council should ask the Scottish Government that any business operator who is trading in the area would require some sort of a licence for trading so that before granting the licence the local authority can check the history of the applicant in order to consider issues around 'phoenix' businesses;
- note the option available to the Council to vary non-domestic rates for particular purposes will have a financial impact on the Council and as such any such option would need significant consideration prior to being considered.
- the Council should ask the Scottish Government to consider business rates relief for Town Centre Regeneration Areas.

5. People Implications

5.1 There are no people implications.

6. Financial and Procurement Implications

6.1 There are financial implications from the information contained in the report however these are negated due to the recommendations.

6.2 There are no procurement implications.

7. Risk Analysis

7.1 None

8. Equalities Impact Assessment (EIA)

8.1 No significant issues were identified in a screening for potential equality impact of this report.

9. Consultation

9.1 No consultation was required for this report.

10. Strategic Assessment

10.1 Proper budgetary control and sound financial practice are cornerstones of good governance and support Council and officers to pursue the 5 strategic priorities of the Council's Strategic Plan. This report has no direct implications for the Strategic priorities, though is linked due to the loss of rateable income arising from phoenix businesses and the potential impact of non-domestic rates on the financial sustainability of local businesses.

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Date: 7 February 2022

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Appendices: Appendix 1

Background Papers: Previous reports and minutes of the NDR Working Group

Wards Affected: All