

EMPTY PROPERTY RELIEF POLICY

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1.2	Updated policy based on recommendations from APWG	Clare Pettie
1.3	Update draft policy effective from 1 April 2024 to be considered at Council 25 January 2024	Clare Pettie
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1. INTRODUCTION

- 1.1 The Scottish Government devolved the right to award relief on empty non-domestic properties to Local Authorities from 1 April 2023.
- 1.2 This policy sets out the criteria for awarding relief on empty non-domestic properties, ending relief and the process for appealing a decision from 1 April 2024.
- 1.3 In all cases, staff will act in accordance with this policy and treat citizens fairly.

2. WHY WE NEED A POLICY

- 2.1 The policy is required to be put in place to allow relief to Non-Domestic Rates for Empty Rateable Subjects. Section 19 to the Non-Domestic Rates Act (Scotland) 2020 repeals the existing provisions for award of relief (Section 24 to the Local Government (Scotland) Act 1966).
- 2.2 This policy is introduced in terms of Section 3A to the Local Government (Financial Provisions etc) (Scotland) Act 1962 as amended by Section 140 to the Community Empowerment (Scotland) Act 2015.
- 2.3 Section 3A States:
 - 2.3.1 “Schemes for reduction and remission of rates
 - a. This section applies in relation to rates leviable for the year 2015-16 and any subsequent year.
 - b. A rating authority may, in accordance with a scheme made by it for the purposes of this section, reduce or remit any rate leviable by it in respect of lands and heritages.
 - c. Any reduction or remission under subsection (2) ceases to have effect at such time as may be determined by the rating authority.
 - d. A scheme under subsection (2) may make provision for the rate to be reduced or remitted by reference to—
 - (i) such categories of lands and heritages as may be specified in the scheme,
 - (ii) such areas as may be so specified,
 - (iii) such activities as may be so specified,
 - (iv) such other matters as may be so specified.
 - e. Any reduction or remission under subsection (2) ceases to have effect on a change in the occupation of the lands and heritages in respect of which it was granted.
 - f. Before exercising the power conferred by subsection (2), or amending a scheme made under that subsection, the rating authority must have regard to the authority’s expenditure and income and the interests of persons liable to pay council tax set by the authority.”.

- 2.4 It is essential for the Council to demonstrate that it carries out administration of empty property relief on non-domestic properties efficiently, effectively and fairly. By doing this the Council:
 - a. helps reduce the cost of Non-Domestic Rates while a property is empty;
 - b. demonstrates a provision of a quality service to customers.
 - c. evidences fairness in awarding relief

3. AIMS OF THE POLICY

- 3.1 The main aim of this policy is to set out how Scottish Borders Council will interact with Non-Domestic Rates payers in the administration of empty property relief and.
 - 3.1.1 Ensure that all staff involved in awarding empty property relief operate a fair and consistent process;
 - 3.1.2 Demonstrate the Council’s commitment to the delivery of quality services to our customers;
 - 3.1.3 Minimise losses to the Council from incorrectly awarding empty property relief.

4. EMPTY PROPERTY RELIEF ADMINISTRATION

- 4.1 Empty property relief will be awarded in respect of all applications that meet the eligibility criteria specified below, and fulfil all the requirements of the application process.
- 4.2 In order to be considered for empty property relief, an application must be fully completed and submitted with the appropriate supporting evidence. Applications are assessed by Customer Advice and Support Service staff. Customer Advice and Support Service staff are responsible for awarding and ending relief as well as administering any appeals and dealing with enquiries that arise.
- 4.3 Scottish Borders Council will award the new levels of relief to all existing empty properties which are in place on 31 March 2023 and continue to qualify under the revised conditions. The new award period will commence from 1 April 2024 no matter what level of relief was awarded previously.
- 4.4 For new awards of relief, the rateable occupier (or other who are held liable) will need to [make an application](#) to Scottish Borders Council for the relief to be applied.

5. EMPTY PROPERTY DEFINITION

- 5.1 Empty properties are defined as those rateable entries which are not currently occupied and in use and is empty of all movable fixtures and fittings. Consideration must be given to the underuse procedure. Part occupied properties, covered by Section 24A to the Local Government Scotland Act (1966) and certain new buildings covered by Non Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2022 as Amended are not included in this policy.

6. RATES OF EMPTY PROPERTY RELIEF

- 6.1 Empty property relief is awarded when a land and heritage is unoccupied. Relief can be awarded as follows.
 - 6.1.1 50% reduction can be awarded for the first three months of the property being empty, after which time, the level of reduction awarded will reduce to 10% for a maximum period of 9 months. No relief is awarded following this 12 month period.
 - 6.1.2 Properties unoccupied due to insolvency or where occupation is prohibited by law, will be awarded 100% relief indefinitely.
- 6.2 To allow a period of transition following the introduction of this policy, any property which was empty and in receipt of 50% relief on 31 March 2024, will continue to receive the remainder of the 3 month award followed by 10% relief until 31 March 2025 if the property remains empty during this period. Any property which was in receipt of 10% relief on 31 March 2024 and remains empty during 2024/25 will continue to receive this relief until 31 March 2025.
- 6.2 The person or company entitled to use the property will be the person liable to pay the bill.

7. UNDERUSE OR NON-USE OF LANDS AND HERITAGES

- 7.1 Where a ratepayer receives a reduction other than unoccupied property relief under section 24A and 24B of the Local Government (Scotland) Act 1966 Act, we can consider under use or non-use, using the following 2 conditions:
 - 7.1.1 the lands and heritages are not being used (suggesting that any unoccupied property relief that is available in respect of the lands and heritages ought to apply instead of whatever relief is being received).

7.1.2 the lands and heritages are being used only minimally, meaning the amount of relief being received is greater than would be received if any available unoccupied property relief applied, and the ratepayer's main reason for not leaving the lands and heritages empty is to obtain that greater amount of relief.

7.2 Where the lands and heritages are not being used or there is a significant difference between the actual use of the lands and heritages in comparison to the extent which they could reasonable be used, rates relief will not apply in respect of the lands and heritage.

7.3 Where an empty property becomes occupied for a period of 6 weeks or less and then becomes unoccupied again, the period of occupancy is ignored for the purpose of the calculation of entitlement to any reduction by way of empty property charges.

8. BACKDATING

8.1 An application for empty property 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 but only for the prior period during which the requirements continue to be met.

8.2 Applications for the immediately previous financial year may be considered provided sufficient evidence is submitted in support of the application however the decision whether to award is at the discretion of Council Officers. The award will be made based on the policy that was in place at that time.

9. RECONSIDERATIONS AND APPEALS

9.1 Once an application has been processed, the ratepayer will be notified in writing of the decision. If the ratepayer disagrees with the decision, they may ask for a reconsideration in the first instance by writing to the Customer Advice and Support Service Manager.

9.2 Reconsiderations must be made in writing within 28 days of the decision being notified.

9.3 If that reconsideration is unsuccessful, the ratepayer may then make an appeal to the Director of Resilient Communities where the appeal will be considered at an internal appeal hearing by a panel of no less than three senior Council Officers.

9.4 The appeal to the Director of Resilient Communities must be made in writing within 6 weeks of the outcome of the reconsideration decision.

9.5 An internal appeals hearing will take place within 2 months of the date of the appeal submission.