Agenda Item 14

Barclay Review of Non-Domestic Rates

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Falkirk Council

Title:	**Barclay Review of Non-Domestic Rates**
Meeting:	**Executive**
Date:	**26 September 2017**
Submitted by:	**Director of Corporate and Housing Services**

1. Purpose of Report

1.1 The purpose of this report is to outline the key changes to Non-Domestic Rates in Scotland recommended by the Barclay Review and the potential impact locally.

2. Recommendations

2.1 It is recommended that Executive:

1) **note the full range of proposals of Barclay Review.**
2) **note the measures which Scottish Government, via the Cabinet Secretary for Finance and Constitution, indicated on 12th September they are committed to taking forward at this stage,**

3. Background

3.1 In summer of 2016 Scottish Government asked Sir Ken Barclay to chair a review of non-domestic rates in Scotland. The role and remit of the review was to make recommendations to enhance and reform non-domestic rates, better support business growth, investment and reflect changing marketplaces.

3.2 In addition, any recommendations had to be revenue neutral and therefore any reduction in income had to be offset by compensating increase in income in other area(s).

3.3 The report was published on 22nd August 2017 and Derek McKay, Cabinet Secretary for Finance and Constitution, confirmed that Scottish Government would respond swiftly to these recommendations. The Scottish Government response was presented to Parliament on 12th September 2017.

3.4 There are a total of 30 recommendations with a number being purely administrative. The implementation dates proposed are between 2018 and 2025 and an extract from the report at Appendix 1 summarises the recommendations. The full report can be found at http://www.gov.scot/Resource/0052/00523643.pdf.

4. Proposals with the largest potential financial impact

4.1 As well as ratepayers the changes affect a variety of groups – Local Authorities, Arm's-length External Organisations (ALEOs), Assessors and Tribunal's Scotland. A summary of the recommendations with a financial impact is provided at Appendix 2. The most significant include introducing a business growth accelerator, reducing the large business supplement and restricting the award of charity relief to smaller number of ratepayers. It is the proposed change to charitable relief which would potentially have the biggest financial impact on Falkirk Council and Falkirk Community Trust.

4.2 The business growth accelerator is aimed at boosting business growth by introducing a 12 month delay before rates are applied to new build property or increased as a result of an existing property being expanded or improved. This is estimated to cost c£45m per annum from April 2018, but it is hoped that this would act as an incentive to investment and improvement in properties. It is also proposed to reduce the large business supplement from 2.6p to 1.3p, which would bring the charge in line with England and act as an incentive for retaining and attracting business. The estimated cost of this proposal is estimated at c£62.5m per annum from April 2020.

4.3 It is proposed that the funding for the business growth accelerator and the reduction in the large business supplement is primarily achieved by adjusting some of the reliefs awarded for business rates, with the most significant adjustment relating to charitable relief. It is this change which will potentially have the biggest impact on the Council and Falkirk Community Trust. It is proposed that primary legislation be introduced to prevent ALEOs from receiving Charity Relief (Mandatory and Discretionary) or Sports Club Relief from a future date. It is estimated that the annual rates yield would increase by c£45-50m per annum but this would be a direct cost to the ALEO(s), including the Falkirk Community Trust which could have rates bill of c£1.2m per annum. Such a change to the rates relief scheme would require primary legislation and it is estimated to be April 2020 before this could become effective.

4.4 Given the need for primary legislation to make changes to rates relief, the report recommends that Scottish Government reduce Local Government funding by c£45m, an amount equivalent to the relief currently awarded to ALEO(s) and the cost of funding the business growth accelerator from April 2018. For Falkirk Council this could equate to just over c£1.2m. However, given that Councils' currently retain the rates collected it is unclear how this funding proposal would work in practice as the amounts Councils' receive through rates would also reduce by £45m as a result of the business growth accelerator.

4.5 The Leader of the Council and COSLA have both written to the Cabinet Secretary for Finance and the Constitution, Derek Mackay, expressing concern about proposals and the effect on charitable bodies, in particular charitable trusts set-up to deliver cultural and leisure services. COSLA have requested a meeting with Derek Mackay to discuss these concerns and establish how Scottish Government is minded to respond.

4.6 Tax Incremental Finance (TIF) may also be impacted if the proposal to delay charging rates for new build properties and enhanced/extended properties is implemented. The proposed delay is 12 months and that would mean that TIF would receive no income from such developments in the first year following their completion. However, this could be self-mitigating as the protection from rates for 12 months may help bring forward some more speculative development. At this stage it is therefore too early to identify impact to TIF financial model.

4.7 It is also proposed that day nurseries are exempt from rates, effective from 1st April 2018. This would help ensure the viability of local commercial nurseries and would also relieve Falkirk Council of a modest cost in relation to council run nurseries (c£0.100m per annum).

4.8 There are a number of more modest changes proposed, a number of which are administrative, that cannot be quantified. These include the levying of rates on commercial activities within parks and removing the indefinite exemption from rates for listed buildings which are unoccupied.

5. Scottish Government response

5.1 Scottish Government responded, through Derek Mackay (The Cabinet Secretary for Finance and Constitution), in Parliament on 12th September and confirmed their intent to take forward the vast majority of recommendations.

5.2 Only two recommendations, relating to the valuation of farms and the levying of rates on commercial agricultural processing, have been ruled out at this stage.

5.3 Details of the Scottish Government response to the proposals highlighted in section 4 are provided in paragraphs 5.4 to 5.6 but the full response is provided in Appendix 3.

5.4 In addition Scottish Government have committed again to limit increase in rates bills within hospitality sector to 12.5%, in real terms, in April 2018. This will mean those pubs, restaurants and hotels which saw the largest increase in their rateable value in April 2017 will be afforded some further protection.

5.5 The business growth accelerator, which proposed that no rates would be payable on new build properties for 1 year from completion, will be extended so that no rates are payable until 1 year after they are first occupied. This potentially means that new properties that are not occupied will have no liability for rates indefinitely. This has greater potential to have a detrimental impact on TIF than the original proposal. The full impact cannot be established until the full details are known but it is proposed that this change is effective from 1st April 2018.

5.6 The removal of charitable relief from ALEOs, and the removal of Sports Club Relief, will be subject to further consideration and engagement and no firm commitment was made on this issue. There was also no announcement on whether the proposed reduction in Local Government funding would be implemented. The Cabinet Secretary stated, in response to questioning, that '…it would be a misdirection to suggest that today's announced measures will be funded through a reduction in local government settlement. That will all be part of the budget negotiations that I undertake..'.

5.7 Day nurseries will be exempt from rates from 1st April 2018.

5.8 It was confirmed that the Scottish Government position on the remaining proposals will be clarified by end of the year.

5.9 It is also worth highlighting that a commitment was made to extend the 'Fresh Start' scheme, beyond the recommendations of the review. This scheme affords currently affords certain businesses 50% relief when taking up occupation of certain long-term empty properties. It is now proposed that this relief be extended to 100% relief for up to one year and will be available after a property has been empty for 6 months. This will be available to all property types, including industrial.

5.10 The Scottish Government acknowledges that the proposals they have committed to take forward are not revenue neutral and will have an estimated cost of c. £80m per annum). How this will be funded has not been clarified at this stage and the Cabinet Secretary's response on this issue is contained in section 5.5.

6. Consultation

6.1 No consultation is appropriate at this stage.

7. Implications

Financial

7.1 There is a potential significant financial impact in relation to rates relief for ALEOs.

Resources

7.2 There are no resource implications at this stage.

Legal

7.3 There are no legal implications at this stage.

Risk

7.4 Risks cannot be fully determined at this stage

Equalities

7.5 There are no equalities issues anticipated

Sustainability/Environmental Impact

7.6 No environmental impacts are anticipated.

8. Conclusions

8.1 The Barclay Review report has sought to address the objectives in relation to non-domestic rates (better support business growth, long-term investment and reflect changing marketplaces) within the revenue neutral remit.

8.2 The extent to which Scottish Government follow up on these recommendations will become clearer by the end of the year. However the success of these proposals will not be measurable for some time.

8.3 It would appear that there could be significant cost to Falkirk Council/Falkirk Community Trust should the changes to the relief for ALEOs be taken forward.

8.4 Members will be updated when material changes to non-domestic rates are confirmed.

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APPENDIX

1. Barclay Review of Non-Domestic Rates – Recommendations
2. Barclay Review of Non-Domestic Rates – Projected Financial Implications
3. Scottish Government response to Barclay Review of Non-Domestic Rates (12th September 2017)

List of Background Papers:

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973:

Report of the Barclay Review of Non-Domestic Rates

Measures to support economic growth.

1.22 This was core to our remit: to identify any ways in which we believe the rates system could improve and stimulate economic performance. These are our recommendations:

1. A Business Growth Accelerator – to boost business growth, a 12 month delay should be introduced before rates are increased when an existing property is expanded or improved and also before rates apply to a new build property.
2. There should be three yearly revaluations from 2022 with valuations based on market conditions on a date one year prior (the ‘Tone date’).
3. The large business supplement should be reduced.
4. A new relief for day nurseries should be introduced to support childcare provision.
5. Town Centres should be supported by expanding Fresh Start relief.
6. There should be a separate review of Plant and Machinery valuations with particular focus on renewable energy sector valuations and statutory improvements to property including sprinkler systems.
7. The effectiveness of the Small Business Bonus Scheme should be evaluated.

Measures to improve ratepayer experience and administration of the system.

1.23 It is also important to recognise that – alongside headline measures to incentivise investment – more incremental administrative improvements in the rates system can have a positive effect. Therefore we also make the following recommendations:

8. The Scottish Government should provide a 'road map' to explain changes to the rating system and should consult whenever possible on those changes, prior to implementation.

9. There should be better information on rates made available to ratepayers – co-ordinated by Scottish Government.

10. A full list of recipients of rates relief should be published to improve transparency.

11. A "rateable value finder" product should be used – to identify properties that are not currently on the valuation roll, so as to share the burden of rates more fairly.

12. Assessors should provide more transparency and consistency of approach. If this is not achieved voluntarily, a new Scotland wide Statutory Body should be created which would be accountable to Ministers.

13. The current criminal penalty for non-provision of information to Assessors should become a civil penalty and Assessors should be able to collect information from a wider range of bodies.

14. Standardised rates bills should be introduced across Scotland.

15. Ratepayers should be incentivised to sign up for online billing where available except in exceptional circumstances.

16. A new civil penalty for non-provision of information to councils by ratepayers should be created.

17. Councils should refund overpayments to ratepayers more quickly.

18. Councils should be able to initiate debt recovery at an earlier stage.

19. Reform of the appeals system is needed to modernise the approach, reduce appeal volume and ensure greater transparency and fairness.

Measures to increase fairness and ensure a level playing field.

1.24 Finally, any well-functioning tax needs to rely on principles of fairness to remain credible for tax payers and to ensure revenues are not undermined by avoidance tactics. We therefore make the following recommendations:

20. A General Anti-Avoidance Rule should be created to reduce avoidance and make it harder for loopholes to be exploited in future.

21. To counter a known avoidance tactic, the current 42 days reset period for empty property should be increased to 6 months in any financial year.

22. To counter a known avoidance tactic for second homes, owners or occupiers of self-catering properties must prove an intention let for 140 days in the year and evidence of actual letting for 70 days.

23. The Scottish Government should be responsible for checking rates relief awarded, to ensure compliance with legislation.

24. Charity relief should be reformed/restricted for a small number of recipients.

25. To focus relief on economically active properties, only properties in active occupation should be entitled.

26. To encourage bringing empty property back into economic use, relief should be reformed to restrict relief for listed buildings to a maximum of 2 years and the rates liability for property that has been empty for significant periods should be increased.

27. Sports club relief should be reviewed to ensure it supports affordable community-based facilities, rather than members clubs with significant assets which do not require relief.

28. All property should be entered on the valuation roll (except public infrastructure such as roads, bridges, sewers or domestic use) and current exemptions should be replaced by a 100% relief to improve transparency.

29. Large scale commercial processing on agricultural land should pay the same level of rates as similar activity elsewhere so as to ensure fairness.

30. Commercial activity on current exempt parks and Local Authority (council) land vested in recreation should pay the same level of rates as similar activity elsewhere so as to ensure fairness.

1.28 Table 1 (below) summarises the estimated financial impact of each of our recommendations. Where a number does not appear, these relevant recommendations carry no cost, are administrative or the cost rounds up to less than £0.1 million. While these reforms provide a small surplus in 2018-19 and 2019-20 and a small deficit in 2020-21 and 2021-22 we believe these modest sums are within the margins of rounding error on a total tax take of £2.8 billion.

Table 1: Our recommendations - with projected financial implications.

Recommendation		**Financial Impact (£ million)**			
No	**Description**	2018-19	2019-20	2020-21	2021-22
1	Business growth accelerator	-45	-45	-45	-45
2	Three yearly revaluations				
3	Reduction in large business supplement			-62.5	-62.5
4	New relief for day nurseries	-7	-7	-7	-7
5	Expanding fresh start relief to benefit town centres	-2	-2		
6	Review of plant and machinery valuation				
7	Review of Small Business Bonus Scheme				
8	‘Road map’ for future rates changes				
9	Provision of better information				
10	Relief recipients to be published				
11	Employ rateable value finder product	1	1	1	1
12	More transparency & consistency from Assessors				
13	Greater information gathering power for Assessors				
14	Standardised rates bills across Scotland				
15	Incentivise online billing				
16	Penalty for non-provision of information to councils				
17	Councils to make refund payments faster				
18	Enable quicker debt recovery from ratepayers				
19	Reform of the appeals system				
20	General anti avoidance rule (GAAR)			21	21
21	Close empty property relief loophole			Covered under GAAR (above)	
22	Close SBBS second homes loophole				
23	All relief awards to be checked for errors	3	3	3	3
24	Reform charity relief	45	45	50	50
25	Relief restricted to properties in active occupation	7	7	12	12
26	Reform empty property relief			15	15
27	Sports relief for affordable community facilities			3	3
28	All property should be on valuation roll				
29	Commercial agricultural processing			2	2
30	Commercial activity on parks etc.			1.5	1.5
Net Financial Impact		**2**	**2**	**-6**	**-6**

RESPONSE TO THE BARCLAY REVIEW OF NON-DOMESTIC RATES

Introduction

1. In 2016, the Scottish Government asked Ken Barclay to lead an external review of non-domestic rates, and report by summer 2017. That report, containing 30 recommendations, was published on 22 August 2017[1].

2. The 2017-18 Programme for Government published on 5 September 2017 initiated the Scottish Government's response[2]. It agreed to:

   - more regular revaluations with a shorter lag from the valuation 'tone date' following the next scheduled revaluation in 2022;
   - new rates relief for day nurseries;
   - extension of the current 'Fresh Start' relief to incentivise re-use of empty properties; and
   - a separate review of plant and machinery valuation, with particular focus on renewable energy and on statutory property improvements.

3. The Government's Programme also committed an urgent response to the remaining recommendations and an implementation plan by the end of the year, in line with Scottish Ministers' pledge to respond swiftly to the Barclay review.

4. Accordingly the Cabinet Secretary for Finance and the Constitution, Derek Mackay, made a ministerial statement to Parliament regarding the Scottish Government's response on 12 September 2017 – only three weeks after the Barclay publication.

Measures to support economic growth

5. The Scottish Government's objective in responding is to support sustainable economic growth – stimulating economic investment, reducing red tape, improving transparency and reducing tax avoidance. Having studied the Barclay report and listened to business, we are acting swiftly and decisively.

6. Indeed, we are going further than Barclay on certain key aspects – underscoring our commitment to a competitive business environment and Scotland being the best place in the UK to do business.

7. To stimulate new development, not only are we accepting Barclay's flagship recommendation for a 'business growth accelerator' – whereby new properties will pay no rates for an initial 12 months (following their entry on the valuation roll) and

[1] www.gov.scot/Publications/2017/08/3435
[2] www.gov.scot/Publications/2017/09/8468

existing premises subject to improvement and/or expansion will face no associated rates increases for the subsequent 12 months (in all cases irrespective of whether the property is occupied). We are also providing that new properties are only entered on the valuation roll once they are first occupied – removing uncertainty for investors and developers while balancing considerations of fairness and revenue generation.

8. Together these measures are a double boost for economic investment and growth in Scotland – measures that are simply not available elsewhere in the UK.

9. We are also going beyond Barclay on the 'Fresh Start' scheme – which incentivises re-use of empty property – by extending the increased rates relief to all property types. This will mean an extra stimulus for regenerating town centres and industrial activity alike.

Measures to improve ratepayer experience and administration of the system

10. The Scottish Government agrees that, alongside action on the substance of the tax, certain process and transparency improvements can be made.

11. The fitness-for-purpose of the system relies not only on the expertise and application of professional practitioners and advisers across the public and private sectors, but also fundamentally on the views, experience and evidence of business.

12. Correspondingly, there is a great opportunity for improvement, collectively, across the non-domestic rates system. The Scottish Government is determined to play its part, and also to engage actively with all stakeholders and drive improvements in partnership.

13. Accordingly, we will take forward the detailed recommendations for better administration and work with our delivery partners and wider stakeholders to help ensure better customer experiences compatible with the modern business world.

Measures to increase fairness and ensure a level playing field

14. The final grouping of Barclay recommendations majored on fairness, including addressing tax avoidance. We agree this is fundamental to the credibility and sustainability of non-domestic rates.

15. Notwithstanding the systemic difficulties in tackling tax avoidance, we will redouble our efforts by pursuing all the associated recommendations.

16. Barclay has also made some specific recommendations about certain existing reliefs and exemptions. Having engaged with relevant stakeholders since the Barclay report published, we are of the view that further consideration and

engagement are still required to come to a duly informed position on these recommendations.

17. Accordingly we will engage further with stakeholders and bring forward proposals in due course as we develop our implementation plan.

Additional actions proposed by the Scottish Government

18. In line with its remit, the Barclay review did not directly consider the 2017 revaluation and its effects. In this respect the Scottish Government has already acted to target additional support where it was most needed in light of the revaluation and in the context of the 2017-18 budget – including within the hospitality and renewables sectors and for office space in Aberdeen city and shire.

19. Having duly engaged with stakeholders we now propose further support in this vein for 2018-19. Specifically we propose a further 12.5 per cent real-terms cap on increases to 2018-19 rates bills for the same property types benefiting from this year's cap.

20. For the hospitality sector this will continue transitional relief at a significant level for all but the very largest properties, while continuing consideration is duly given to the associated valuation methodology for licensed premises. The Scottish Government welcomes the on-going dialogue between the Scottish Assessors Association and the sector in this respect.

21. For Aberdeen city and shire offices, the further cap will continue to target support in light of this local area being that most affected by the downturn in the oil and gas sector.

22. And for the hydropower sector, which benefited from the cap this year, we instead propose a new interim relief pending completion of the separate review of plant and machinery valuation recommended by Barclay. We propose to set this rates relief at 60 per cent, subject to an appropriate upper property value threshold.

Conclusion

23. A full list of the Barclay recommendations indicating the Scottish Government's position is annexed.

24. Subject to associated scrutiny from the Scottish Parliament, the Scottish Government will continue to engage stakeholders to inform its implementation plan which will be published by the end of the year.

Scottish Government
12 September 2017

ANNEX: SUMMARY OF BARCLAY RECOMMENDATIONS AND SCOTTISH GOVERNMENT POSITION *

** recommendations numbered as per Barclay report*

RECOMMENDATIONS ACCEPTED BY SCOTTISH GOVERNMENT

1. A Business Growth Accelerator – to boost business growth, a 12 month delay should be introduced before rates are increased when an existing property is expanded or improved and also before rates apply to a new build property.

2. There should be three yearly revaluations from 2022 with valuations based on market conditions on a date one year prior (the ‘Tone date’).

4. A new relief for day nurseries should be introduced to support childcare provision.

5. Town Centres should be supported by expanding Fresh Start relief.

6. There should be a separate review of Plant and Machinery valuations with particular focus on renewable energy sector valuations and statutory improvements to property including sprinkler systems.

7. The effectiveness of the Small Business Bonus Scheme should be evaluated.

8. The Scottish Government should provide a ‘road map’ to explain changes to the rating system and should consult whenever possible on those changes, prior to implementation.

9. There should be better information on rates made available to ratepayers – co-ordinated by Scottish Government.

10. A full list of recipients of rates relief should be published to improve transparency.

11. A “rateable value finder” product should be used – to identify properties that are not currently on the valuation roll, so as to share the burden of rates more fairly.

12. Assessors should provide more transparency and consistency of approach. If this is not achieved voluntarily, a new Scotland wide Statutory Body should be created which would be accountable to Ministers.

13. The current criminal penalty for non-provision of information to Assessors should become a civil penalty and Assessors should be able to collect information from a wider range of bodies.

14. Standardised rates bills should be introduced across Scotland.

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17. Councils should refund overpayments to ratepayers more quickly.

18. Councils should be able to initiate debt recovery at an earlier stage.

19. Reform of the appeals system is needed to modernise the approach, reduce appeal volume and ensure greater transparency and fairness.

20. A General Anti-Avoidance Rule should be created to reduce avoidance and make it harder for loopholes to be exploited in future.

21. To counter a known avoidance tactic, the current 42 days reset period for empty property should be increased to 6 months in any financial year.

22. To counter a known avoidance tactic for second homes, owners or occupiers of self-catering properties must prove an intention let for 140 days in the year and evidence of actual letting for 70 days.

23. The Scottish Government should be responsible for checking rates relief awarded, to ensure compliance with legislation.

RECOMMENDATIONS WHICH THE SCOTTISH GOVERNMENT CONSIDERS REQUIRE FURTHER CONSIDERATION & ENGAGEMENT

24. Charity relief should be reformed/restricted for a small number of recipients.

25. To focus relief on economically active properties, only properties in active occupation should be entitled.

26. To encourage bringing empty property back into economic use, relief should be reformed to restrict relief for listed buildings to a maximum of 2 years and the rates liability for property that has been empty for significant periods should be increased.

27. Sports club relief should be reviewed to ensure it supports affordable community-based facilities, rather than members clubs with significant assets which do not require relief.

30. Commercial activity on current exempt parks and Local Authority (council) land vested in recreation should pay the same level of rates as similar activity elsewhere so as to ensure fairness.

RECOMMENDATION WHICH THE SCOTTISH GOVERNMENT WILL CONSIDER IN THE CONTEXT OF FUTURE BUDGETS

3. The large business supplement should be reduced.

RECOMMENDATIONS WHICH THE SCOTTISH GOVERNMENT PROPOSES NOT TO TAKE FORWARD

28. All property should be entered on the valuation roll (except public infrastructure such as roads, bridges, sewers or domestic use) and current exemptions should be replaced by a 100% relief to improve transparency.

29. Large scale commercial processing on agricultural land should pay the same level of rates as similar activity elsewhere so as to ensure fairness.