

Barclay Recommendation

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.

Question 1 - What are your views on how the growth accelerator and new unoccupied build should be treated in legislation?

Moray Council Response: *Moray Council believes that it is in the interests of all stakeholders to make the administrative process associated with the growth accelerator and new unoccupied build as streamlined and cost-efficient as possible. On the basis that these reliefs are available to all ratepayers based on their property's circumstances, it believes that there are no merits in having an application based system, and further it also believes that the removal of the cost of such a system would be a positive outcome.*

We would, therefore, support the implementation of a scheme which would result in new build properties, regardless of occupation, only being entered into the Valuation Roll following the expiration of a period of time stipulated at the discretion of Scottish ministers and it would also support a delay in applying to the Valuation Roll any increase in the rateable value of an improved property until the expiration of a period of time stipulated at the discretion of Scottish ministers.

Barclay Recommendation

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

Question 2 – Do you have any comments on three yearly revaluations?

Moray Council Response: *Moray Council, which is responsible for contributing to the funding of its local Valuation Joint Board, is concerned that the movement to a timetable of three-yearly revaluations will very likely require the deployment of additional resources by its Assessor to deal effectively with appeals within a truncated revaluation period. Any such increase in resources will likely have to be funded by local authorities. At a time of increased demands on already pressured local authority budgets, we are concerned that a three-year revaluation timetable would only deliver a marginal change, replacing an efficient and well-proven five-year timetable, at a significant additional cost which many local authorities will likely find difficult to resource.*

Barclay Recommendation

A new power to enable councils to impose an additional levy on rates in certain circumstances.

Question 3 – From 2020 a small number of pilot councils will have a new power to increase rates paid by out of town or predominantly online businesses.

a) Do you agree or disagree with putting in place safeguards?

Moray Council Response: *Moray Council, in general terms, agrees with the proposal and agrees with the need to put in place safeguards to ensure that any scheme is targeted at the appropriate businesses.*

b) Please explain your response to (a) including what the safeguards should be if you agree they are required.

Moray Council Response: *Moray Council believes that the four safeguards outlined in detail in the consultation are reasonable. It feels that it is important that these are in place as they will help to measure the effectiveness of any such scheme in a similar manner across Scotland, thereby ensuring similarity in the measurement of outcomes.*

Question 4 - Do you have any comments on the criteria and process which should be used to assess the pilot scheme(s)?

Moray Council Response: *Moray Council has no specific comments on the criteria and process other than stating that it believes that it is imperative that these are seen to be fair and that the manner in which they are determined is seen to be transparent.*

Barclay Recommendation

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.

Question 5 - What level(s) should this civil penalty be set at?

Moray Council Response: *Moray Council believes that the penalty should be set at 1% of the ratepayer's property's rateable value, with a lower 'floor' of £250 and no upper 'ceiling'.*

Question 6 - How should the penalty be set? Should it be a fixed penalty or proportionate to/banded by rateable value?

Moray Council Response: *Moray Council believes that it would be appropriate to set the penalty as a proportion of the ratepayer's property's rateable value, with a lower 'floor'.*

Question 7 - Do you have any views on who is responsible for administering the penalty and the process for appeals against the penalty notice?

Moray Council Response: *Moray Council believes the Assessor should be responsible for administration of the penalties as these will pertain to requests for information which has been made by his office and to pass the responsibility to another office would add an additional and unnecessary layer of administrative procedure. Any appeal against the decision to levy a penalty should fall within the jurisdiction of the local Valuation Appeal Committee, which already acts as a review body in regard to the Assessor's decisions.*

Question 8 - Which organisations/ individuals should be required to supply necessary information to the Assessors, where applicable?

Moray Council Response: *All persons with an interest in a property, for example, property owners, leaseholders, occupiers, rating agents, etc., should be legally obliged to provide information to the Assessor when a reasonable request for information is made to them.*

Barclay Recommendation

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

Question 9 - What level(s) should this penalty be set at?

Moray Council Response: *Moray Council believes that the penalty should be set at 1% of the ratepayer's property's rateable value, with a lower 'floor' of £250 and no upper 'ceiling'.*

Question 10 - How should the penalty be set? Should it be a fixed penalty or proportionate to/banded by rateable value?

Moray Council Response: *Moray Council believes that it would be most appropriate to set the penalty as a proportion of the ratepayer's property's rateable value, with a lower 'floor' and no 'ceiling'*

Question 11 - Do you have any views on who is responsible for administering the penalty and the process for appeals against any penalty notice?

Moray Council Response: *The local authority should be responsible for administration of the penalties as these will pertain to requests for information which has been made by it and to pass the responsibility to another office would add an additional and unnecessary layer of administrative procedure. Any appeal against the decision to levy a penalty should fall within the jurisdiction of the local Valuation Appeal Committee, which already acts in regard to some decisions made by the local authority and would be – and would be seen to be - independent of the local authority.*

Question 12 - Should this be a mandatory penalty or one that the Council has discretion over (please indicate your preference and add any comments)?

Moray Council Response: *It is Moray Council's preference this penalty is discretionary as that ensures that it is only levied in appropriate scenarios.*

Barclay Recommendation

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

Question 13 - How should the debt recovery changes be communicated to ratepayers?

Moray Council Response: *Any change to the procedure for the recovery of Non-Domestic Rates should be communicated by a number of mechanisms:*

- (1) The Scottish Government should communicate it directly to ratepayers via national broadcast, print and social media;*
- (2) The Scottish Government should communicate it directly to national organisations (e.g. CBI, FSB, etc.) so that they may disseminate it to their membership;*
- (3) Local authorities should communicate it directly to ratepayers via local radio, print and social media; and*
- (4) Local authorities should communicate it directly to local branches of national organisations and local business organisations (e.g. chambers of commerce) so that they may disseminate it to their membership.*

Question 14 - What are your views on whether Councils should retain discretion over debt recovery to allow for any extenuating circumstances?

Moray Council Response: *Moray Council believes that local authorities should retain discretion over debt recovery and enforcement of unpaid non-domestic rates. This permits them to ensure that recovery is performed in a manner which is appropriate to the circumstances of ratepayers within the local authority's boundaries.*

Barclay Recommendation

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

Question 15 - How should this change be communicated to ratepayers?

Moray Council Response: *Any change to appeal procedure should be communicated by a number of mechanisms:*

- (1) *The Scottish Government should communicate it directly to ratepayers via national broadcast, print and social media;*
- (2) *The Scottish Government should communicate it directly to national organisations (e.g. CBI, FSB, etc.) so that they may disseminate it to their membership;*
- (3) *Assessors should communicate it directly to ratepayers via local radio, print and social media;*
- (4) *Assessors should communicate it directly to ratepayers on the receipt of an appeal; and*
- (5) *Assessors should communicate it directly to local branches of national organisations and local business organisations (e.g. chambers of commerce) so that they may disseminate it to their membership.*

Question 16 - Do you have any points about the change to allow valuation appeals to increase?

Moray Council Response: *The Moray Council believes that it is appropriate that, if a ratepayer submits an appeal and the result of that appeal is a determination for whatever reason that the initial rateable value of the property should be increased, then the revised rateable value should be attached to the property on the Valuation Roll and the ratepayer will become liable to pay the increased amount of rates. This is a fair outcome. We believe that it is entirely proper that, should the ratepayer instigate an appeal, the outcome of it should be recorded on the Valuation Roll, regardless of whether it is to the advantage or to the detriment of the ratepayer.*

Barclay Recommendation

A General Anti-Avoidance Rule (GAAR) should be created to reduce avoidance and make it harder.

Question 17 - When the General Anti Avoidance Rule is introduced, do you have any recommendations or principles that this should encompass?

Moray Council Response: *Moray Council would welcome the introduction of a General Anti-Avoidance Rule (GARR) as it is keen to maximize the payment of rates and minimize the opportunities for avoidance of the payment of legally incurred taxation debts. We would like to see the introduction within GARR of an annual review of this legislation so that any new 'loopholes' which are being exploited can be closed promptly by remedial legislation.*

Barclay Recommendation

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.

Question 18 – How do we raise awareness of this change among ratepayers?

Moray Council Response: *Moray Council believes that any change to empty property relief are legislative and should be publicised across Scotland by Scottish Government. This could be done via a number of mechanisms:*

- (1) *The Scottish Government should communicate it directly to ratepayers via national broadcast, print and social media;*
- (2) *The Scottish Government should communicate it directly to national organisations (e.g. CBI, FSB, etc.) so that they may disseminate it to their membership;*

Question 19 – Do you have any further comments around the 6 month reset period for empty property relief?

Moray Council Response: Moray Council believes it is important that Scottish Government takes steps to close the legislative loophole which permits ratepayers to place a small amount of goods in a property and claim that it is occupied, thereby resetting the period of empty property relief. We believe that revised legislation should make it clear that any period of occupation must be meaningful and that it must result in the property being in active use.

Barclay Recommendation

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

Question 20 - Should there be any local discretion in the application of this policy?

Moray Council Response - Moray Council does not believe that there should be any local discretion in the application of this policy. It believes the requirement for the availability for letting for 140 days per annum and the leasing of the property for 70 days per annum should be defined in legislation.

Question 21 - If your answer to question 18 is yes, under what circumstances should this discretion apply?

Moray Council Response – (on the basis that the reference in Question 21 to Question 18 is actually a reference to Question 20) Moray Council recognises that there may be exceptional circumstances in which it may not be possible for the ratepayer to offer the property for let for 140 days per annum. In order to ensure recognition of such a scenario, we suggest that a discretionary relief is made available for use in such circumstances. It is envisaged that such a discretionary power should be framed in such a way to ensure that its use is not a regular occurrence.

Barclay Recommendation

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

Question 22 - How should independent schools with exceptional circumstances such as specialist music schools be treated?

Moray Council Response: Moray Council believes that legislation put in place by Scottish Government should convey to local authorities the ability to identify independent schools which provide a curriculum which is of such an exceptional nature that it may attract an award of rates relief. The extent of any award of relief should be assessed by the local authority, any amount being proportionate to the 'specialist' content of the school's curriculum. It believes that the legislation which underpins any such treatment will require to be very tightly framed to minimize any potential for dispute in regard to its interpretation.

Barclay Recommendation

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

Question 23 - How should active occupation be defined?

Moray Council Response: Moray Council believes that in seeking to define 'active' occupation there is a danger that any definition will have the potential to create loopholes which are open for exploitation. We are more comfortable with the assumption that the General Anti Avoidance Rule will be utilised in cases where a property is not in active use and an award of relief is sought other than empty property relief.

Barclay Recommendation

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.

Question 24 - What are your views on whether Councils should have discretion in the application of this measure for properties, so that local circumstances can be accounted for?

Moray Council Response – *Moray Council believes that it is appropriate to introduce a discretionary element to the calculation of the rates which are payable in relation to vacant listed properties. We believe that while it is desirable to promote the reoccupation of such properties across Scotland, the circumstances of these properties may make it difficult to bring them quickly back into use. We believe therefore that granting local authorities discretion in regard to listed properties will help to ensure that any revision to legislation is not applied in a 'broadbrush' manner, which may result in the delivery of undesirable outcomes.*

Barclay Recommendation

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.

Question 25 - How should affordable/ community sports facilities be defined?

Moray Council Response – *Moray Council believes that an affordable/community sports facility should be defined as an entity:*

- (i) the rateable value of which is below a ceiling determined by Scottish Ministers;*
- (ii) open to all members of the community without any form of discrimination on any grounds;*
- (iii) membership fees (if present) should be set at a minimal level which will be affordable by all members of the community;*
- (iv) staffed by persons who are volunteers and do not receive any payment or wage for fulfilment of their duties;*
- (v) if a bar and/or catering facilities are present, these are operated by volunteers and generate revenue below a ceiling determined by Scottish Ministers;*

Barclay Recommendation

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.

Question 26 – How should commercial activity on parks be defined?

Moray Council Response – *Moray Council believes that commercial activity should be defined as any activity which is conducted by any entity other than a Scottish local authority and which is conducted in pursuit of a significant monetary gain, the detail of the latter point being determined by Scottish Ministers.*