REPORT TO: CORPORATE COMMITTEE ON 29 AUGUST 2023

SUBJECT: PROPOSED SELF-CATERING UNIT TRANSFER POLICY

BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)

1. REASON FOR REPORT

1.1 To consider the Council's policy for dealing with self-catering units removed by the Assessor from the Valuation Roll for non-conformity with the legislative test.

1.2 This report is submitted to the committee in terms of Section III (B) (11) of the local authority's Scheme of Administration relating to the administration of the levy, collection, payment and recovery of Non-Domestic Rates (NDR).

2. RECOMMENDATION

2.1 It is recommended that Committee approve a policy that the Council does not exercise a discretionary power permitting it to request that in exceptional circumstances the Assessor retains in the Valuation Roll any self-catering unit which does not conform to the legislative requirement of being available for let for 140 days per year and actually let for 70 days per year.

3. POLICY DECISION

3.1 Background

3.1.1 Properties which are available for let for 140 days per year and are actually let for 70 days per year are entitled to be classed as self-catering units. Such a classification permits them to be inserted on the non-domestic Valuation Roll. The resulting liability for the payment of Non-Domestic Rates translates to a potential entitlement to relief under the Small Business Bonus Scheme. If the self-catering unit attracts maximum relief, it will pay no local taxes.

3.1.2 There are currently 520 self-catering units liable for the payment of Non-Domestic Rates. The majority of these did not pay rates in previous years, having received Small Business Bonus Scheme relief.

3.1.3 Although self-catering businesses are a valued piece of the tourism sector, a proliferation of second homes with limited self-letting (*i.e*. less than 70 days per year) places additional unwelcome pressure on the local housing market.

3.1.4 In 2017 the Barclay Commission published its review of Non-Domestic rating undertaken for the Scottish Government. Recommendation no.22 of its report was *"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."* Scottish Government accepted the majority of the commission's recommendations, including no.22.

3.1.5 The Scottish Government's acceptance of this recommendation became law in The Council Tax (Dwelling and Part Residential Subjects) (Scotland) Amendment Regulations 2021. This came into force on 1 April 2022.

3.1.6 The Assessor is currently reviewing the conformity of self-catering-units in the financial year 2022-23 to the letting test of being available for let for 140 days per year and are actually being let for at least 70 days per year. Any which fail this test will revert to the Council Tax Valuation List from 1 April 2022, becoming liable for the payment of Council Tax and losing any entitlement to Small Business Bonus Scheme relief.

3.2 Proposal

3.2.1 There is provision in paragraph 5B of The Council Tax (Dwelling and Part Residential Subjects) (Scotland) Amendment Regulations 2021 that if there are "exceptional circumstances" which prevent a property meeting the letting test, councils may instruct their Assessor to retain it in the Valuation Roll.

3.2.2 It is proposed that at this time the Moray Council agrees not to exercise the discretionary power made available to it in paragraph 5B of The Council Tax (Dwelling and Part Residential Subjects) (Scotland) Amendment Regulations 2021.

3.2.3 This means in practice that if the Assessor identifies a property as having failed to conform to the legislative letting test, it will revert to the Council Tax Valuation List and thereby become liable for the payment of Council Tax in accordance with its entry on the List.

3.2.4 There is no immediate advantage to the Council in seeking to go beyond the requirement that a self-catering unit prove letting as stated in the legislation. On the contrary, following the same criteria as the Assessor means clarity for those operating self-catering units.

3.2.5 If future unforeseen circumstances made the economic environment in Moray unfavourable to the operation of self-catering units, the policy proposed in paragraph 3.2.2 would be reviewed and a further report brought to this committee for consideration.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

No council/community planning priority implications for council arise from the content of this report.

(b) Policy and Legal

The discretionary power to instruct the Assessor to retain a property in the Valuation Roll is contained in The Council Tax (Dwelling and Part Residential Subjects) (Scotland) Amendment Regulations 2021.

(c) Financial implications

The transfer of former self-catering units to the Valuation List where there is no exemption from the payment of Council Tax comparable to the Small Business Bonus Scheme will potentially result in increased Council Tax receipts for the Council. It is not possible at the time of writing to quantify the extent any such potential increased income as the number of former self-catering units which may revert to the Valuation List is unknown.

(d) Risk Implications

No risk implications for the Council arise from the content of this report.

(e) Staffing Implications

No additional workload for the Taxation Team result from implementation of the proposed policy.

(f) Property

No property implications for the Council arise from the content of this report.

(g) Equalities/Socio Economic Impact

No equalities implications for the Council arise from the content of this report.

(h) Climate Change and Biodiversity Impacts

No Climate Change and Biodiversity implications for the Council arise from the content of this report.

(i) Consultations

The Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, and the Chief Financial Officer have been consulted in the preparation of this report and their comments incorporated in its content.

5. CONCLUSION

5.1 It is recommended that the proposed policy is implemented in accordance with the content of this report.

Author of Report:	James Taylor, Taxation Manager.
Background Papers:	
Ref:	SPMAN-1293228629-898