LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

CALL FOR VIEWS ON THE NON-DOMESTIC RATES (SCOTLAND) BILL

SUBMISSION FROM FIFE COUNCIL

1. The Scottish Government’s overall programme of Non-Domestic Rates reform, and how the Bill fits into this.

Fife Council is generally supportive of the direction of travel for the proposed changes within the non-domestic rates system. The bill strikes a fair balance between protection of the income due and encouraging business community.

2. How the Government has responded to the Barclay review, in particular on those recommendations it has rejected in full or part.

Specific proposals in the Bill

The Committee welcomes views on:

3. Section 2 of the Bill which provides that revaluation of properties subject to non-domestic rates would be carried out every 3 years rather than every 5 years.

Fife Council generally supports shorter revaluation periods and changes to the tone date. The changes will require more resource to be deployed especially within the Assessors Service and concerns are evident insofar as there is a limited market for the specialised skills required to carry out 3 yearly revaluations. Fife Council agrees with the Scottish Government that these changes would better reflect the current market conditions when setting the rateable values and should stop the large changes in the valuation roll which were evident in the last revaluation (which was 7 years from the preceding revaluation).

4. Section 3 of the Bill, which (together with section 9) makes provision in relation to new or improved properties. These delay the point at which non-domestic rates are increased because a property has been expanded or improved, or at which a new build property begins to incur liability to non-domestic rates. The underlying aim is to incentivise development and investment in business properties.

Fife Council is supportive of this change to encourage development of new and refurbishment and improvement of currently empty properties. It is suggested that the Valuation Roll needs two markers (not one as stated). A marker for new properties and a separate marker for improved properties. This would aid the assessment of any relief by the Council’s Finance service. It is also suggested the rateable value attributed to the new of refurbished development may also require identification. Fife Council also believes that by specifically excluding splits and mergers, there is a danger that the full policy intention of this relief may not be met given split and/or merged properties may also undergo significant improvement and redevelopment.
5. Section 4, which aims to increase the degree to which parks are subject to non-domestic rates, in recognition of the commercial activities that take place in some parks (eg the running of a café).

Whilst generally supportive that commercial activities should have a level playing field, Fife Council is concerned that there may be unintended consequences and increased workload through administration of reliefs. Properties currently exempt from entry in the Valuation Roll may be run by charities, trusts etc and thus would be eligible for mandatory/discretionary relief or sports club relief in terms of bowling clubs and golf courses which would limited the benefit of any such changes and add pressure to the discretionary rates relief budgets.

6. Section 5, intended as a measure to address a perceived “loophole” that enables owners of holiday homes to avoid both council tax and non-domestic rates by making it more difficult to enter a home on the roll (and, through this, to then claim relief under the small business bonus scheme).

Fife Council welcomes the proposed change as we have seen over 400 dwellings move from the Council Tax list to the Valuation Roll and due to the operation of Small Business Bonus we have noted that all but 2 of these properties do not contribute to any local taxes. The full detail of the change is not included in the primary legislation, but we would urge the Scottish Government to use the criteria for short term holiday let as currently employed by HMRC for tax purpose or consider removing short term holiday lets from the Small Business Bonus Scheme (or both). Fife Council note that additional resources will be required to review these entries and carry out a reassessment based on any new criteria.

7. Sections 6-9, which aim to reduce the current high rate of valuation appeals, which the Scottish Government perceives as speculative. (Increasing the frequency of ratings revaluations in section 2 is also seen as a component of this reform.)

Fife Council would urge a change in wording with regard to the submission of appeals from “may” to “should” submit their appeal by electronic means. We would also encourage standardised formats and not as currently stated in the Act which is at the behest of recipients.

Whist change to the appeals process and measures implemented to improve speed of dealing with the appeals, the introduction of the two-stage process coupled with shorter revaluations will require significant additional resources.

We also welcome the change to the appeals outcomes where currently the outcome is limited to a reduction in rateable value or to remain the same. We do believe it is fair to ratepayers that values may also be increased via appeal hearings. This change would encourage rate payers to engage at an early stage, providing information to inform the valuation.

8. Section 10, which removes eligibility to claim charitable relief from non-domestic rates from mainstream independent schools, and section 11 which
gives the Scottish Ministers the power to issue guidance to local authorities on the appropriate way to use their powers to grant sports club relief.

Fife Council welcomes the change to charitable relief for independent schools and understands the exceptions listed are fair. This brings equity to the charging of rates as local authority run schools are not exempt from payment of rates and neither should independent school sector.

Fife Council is not supportive of statutory guidance being issued by Scottish Ministers on the appropriate way to discharge and use of our current powers as this could be viewed as being at odds with the principle of subsidiarity and local autonomy in applying discretionary relief.

9. Section 12, which aims to address what the Scottish Government describes as a known tax avoidance tactic concerning unoccupied or under-used properties.

Fife Council generally welcomes the introduction of anti-avoidance legislation which has seen a number of schemes designed solely to avoid the payment of rates on empty or under used properties. This will require further resources to “police” such schemes but our view is that the increase in income should far out weigh the cost of the proposed change.

10. Section 13, which will enable councils to initiate debt recovery proceedings for unpaid rates sooner.

Fife Council would like to see the legislation enhanced further than the Scottish Government seem to be proposing. We would advocate a statutory instalment scheme based on the scheme currently employed within Council Tax. We believe the current proposals could be open to abuse with ratepayers who do not wish to pay by monthly instalments, choosing not to pay by this method and thus still being able to pay no rates until the end of September of every year.

11. Sections 14, 18, 19 and 22, which together aim to strengthen the power of assessors to obtain the information they need to carry out their role, and sections 15, 16, 17, 20, 21 and 22 which give local authorities increased powers to obtain information from ratepayers, in order to ensure that the information they have is accurate, and to reduce the risk of fraud.

Fife Council believes there must be more emphasis on the ratepayer to supply information in an electronic form. We also believe there needs to be further clarity on the content of the information notices i.e. where there is no current lands or heritages on the roll. It is suggested the time scale in the Bill should be amended from 56 days to supply to 21 days to supply (which is the case for Local Authorities) as currently ratepayers have 14 days to supply Assessor with information.

Fife Council welcomes the duty placed on ratepayers to notify Local Authorities changes which would affect their rates payable. Fife Council wonders why this duty on ratepayers has not been extended to notifying the Assessor of changes?
Fife Council also believes the statutory offence listed in section 17 needs to be strengthened to a fine up to level 5 (which is the same as for welfare benefit fraud) and also introduce a new offence which is knowingly failing to report a change of circumstance which the regulations require the ratepayer to notify, this would bring the fraud offences in line with other legislation such as benefit fraud.

Fife Council has concerns over the low level of civil penalty that both the Assessor and LA can impose. There is concern on the condition to limit the penalty to £500 or the RV of the property, the concern surrounds circumstances where there is no current or a low RV, thus rendering the condition insignificant to potentially high value properties still to be entered on the Roll or say having undergone significant change.

Fife Council would advocate much larger civil penalties that truly act as a deterrent to ensure ratepayers comply with their duty to supply information and report changes in a timeous manner.

12. Part 4 of the Bill, which give the Scottish Ministers the power to make anti-avoidance regulations to prevent ratepayers gaining an advantage from avoidance arrangements that are considered artificial, and sets out definitions of “advantage” and “artificial”.

Fife Council welcomes these changes and definitions. The full details will be in secondary legislation but believes these changes are long overdue.

Other

13. Do you have any other comments about the Bill? In particular, is there anything not in the Bill concerning non-domestic rates that should be in the Bill?

Fife Council is aware that there will be additional costs associated with the implementation of these changes and would believe these costs should be met by the Scottish Government and not passed onto Local Government to absorb.

We are aware that that COSLA and the Scottish Government are working to identify these costs and arrange suitable funding to be provided. We are also aware that the Finance Committee has also issued a consultation in relation to these costs and Fife Council intends to raise these issues with that committee.