LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

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

SUBMISSION FROM WEST LOTHIAN COUNCIL

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.

West Lothian Council is supportive of this proposal as it will help to smooth out any major changes in rateable values due to underlying movements in property markets between revaluations. It is important however that sufficient resources are provided to local Assessors offices to facilitate this change. It will also allow the removal of transitional arrangements for certain property types. These can be both confusing and administratively time consuming.

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.

West Lothian Council is supportive of this measure as it should encourage more development in various sectors of the property market. However, implementation needs to be simple and straightforward. In this respect, it would be preferable to only have one fixed period, and for the new property not to be entered into the Valuation Roll until the 12 month period from completion has expired. This would minimise the impact on existing council collection resources. Notwithstanding the foregoing, the proposals in the Bill to amend the 1975 Act appear to achieve this, albeit in a different way.

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 (e.g. the running of a café).

As many individual commercial activities on public parks are already captured by the rating valuation process (e.g. caravan sites, cafes etc.) and have their own rateable values, it is difficult to see what would be captured here. Presumably, it would apply to those activities where permits are issued by the authority such as golf courses, boating ponds, putting greens and the like. As many of these are seasonal, do not bring in large amounts of revenue, and do not provide large amounts of net revenue, it is difficult to see how the costs of entering such activities in the Valuation Roll would be an effective or efficient use of scarce resources.
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).

West Lothian Council supports the proposed change for self-catering accommodation, but on the basis that there shall be an element of discretion to cover extenuating circumstances. e.g. family bereavement and executry issues.

The council is also of the view that a national guidance framework should be developed by the Scottish Government in order to ensure that there is consistency in the application of any discretionary powers across local authorities.

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.)

West Lothian Council supports in principle measures to reduce the number of speculative appeals lodged, especially where these unnecessarily tie up scarce resources in Assessors’ departments. Notwithstanding this, the proposals in Section 3 of the Bill appear to provide a framework to try and achieve this.

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.

West Lothian Council believes that there should be no exceptions in relief for independent schools. If the occupier is a charity, then the relief should be based around that fact and that fact only, rather than seek to create any exemptions due to specific circumstances.

It is worth noting in this respect, that the Scottish Government took the view when dealing with the issue of charitable relief for council ALEOs that there should be no exceptions to the cut-off date for relief, despite the fact that some councils had a very strong case that exceptional circumstances should apply in their own individual circumstances.

On this basis, the council is of the view that the actions of the Scottish Government should be consistent in this area, and is of the view that any exemptions granted in this area should not be to the financial detriment of the local authority concerned.

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

West Lothian Council is of the view that due to the complexities of arriving at a practical and effective definition of “active occupation”, the proposed change should be covered through the application of the proposed “anti-avoidance” rules.
The Council is supportive of the general principle being introduced to encourage economic use of listed buildings. However, unlike other buildings these tend to be much more complex, both in terms of their history, construction, community association and planning and listed building restrictions. All of these factors affect the development or redevelopment of the building involved, its end use and its marketability for sale and lease.

Other individual factors such as former schools which are covered by the School Sites Acts provide further complications which are time consuming to resolve. This makes the period of 2 years proposed seem unreasonable, and it is suggested that a more reasonable period would be 5 years. In the event that the 2 year period is retained, then it is considered important that local authorities should have the power to exercise discretion.

The council supports a proposed change to the reset period in principle, however, it does not support the 6 months period as proposed. Many commercial landlords, both public and private, provide leases of commercial and industrial properties for shorter periods than 6 months. In many cases, this can be on a month to month basis. West Lothian Council is of the view that a reset period of 3 months or 90 days is a more reasonable period to apply so as not to unfairly disadvantage those landlords who are supporting local economic development objectives through the use of short term easy in, easy out style tenancies.

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

West Lothian Council generally supports early debt recovery action. However, it is important to retain an element of discretion to cover extenuating circumstances e.g. the recent issues with IT systems at TSB resulting in non-payments of business rates accounts. This does not appear to be recognised in the Bill.

**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.**

West Lothian Council is generally supportive of these provisions. The responses to each are the same as those lodged with the original consultation by the Council in autumn 2018.

**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”.**

West Lothian Council is generally supportive of these provisions. The responses to each are the same as those lodged with the original consultation by the Council in autumn 2018.
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?

West Lothian Council believes that The Non-Domestic Rates (Day Nursery Relief) (Scotland) Regulations 2018, and the reliefs which they provide, whilst being very welcome in general terms are much more favourable to the private sector, and some local authorities than others. In essence, many local authorities, including West Lothian, have chosen to streamline their educational estate through creating small individual campuses containing both primary schools and nurseries on the same site in order to achieve management and other efficiencies. One effect of this has been that the Assessor, when valuing these for rating purposes has entered them in the Valuation Roll as a “unum quid”, notwithstanding the fact that in many cases the nursery and primary elements are separate buildings.

It appears that currently, there are no legitimate grounds of appeal against this situation. This is not reflected in the 2018 Regulations, meaning that local authorities are unable to take advantage of this valuable relief. The Non-Domestic Rates (Scotland) Bill currently under scrutiny would be an ideal vehicle through which to remedy this unintended consequence arising from the Regulations, and redress the balance whereby councils are able to obtain the nursery reliefs which were surely intended to benefit all nursery schools and early educational establishments, rather than a selective number. In this context, it is worth bearing in mind that in this council, is responsible for in excess of 90% of nursery and early years’ education and child care provision in the area.