

Agenda Item	10
Report No	RES/08/21

THE HIGHLAND COUNCIL

Committee: Corporate Resources Committee

Date: 25 February 2021

Report Title: Non-Domestic Rateable Premises and Commercial Waste Services

Report By: Executive Chief Officer, Resources and Finance

1. Purpose/Executive Summary

- 1.1 The Highland Council has a statutory duty to provide a waste collection service for domestic premises, which are generally defined as those that are subject to council tax. However, the cost of waste collection is not included in non-domestic rate charges and businesses are required to arrange for and meet the costs of this service directly via either The Highland Council or private sector operators.
- 1.2 The Assessor determines whether a property is subject to council tax or non-domestic rates and thereafter, the Council must bill accordingly. While properties regularly move between these local tax systems, there has been a notable increase in the volume of taxpayers' change requests since the introduction of Covid-19 business grants and the linkages with non-domestic rates.
- 1.3 When a property moves from council tax to non-domestic rates, the date of change can be retrospectively applied over several financial years, giving rise to chargeable commercial waste services for the retrospective period. Credit balances on the closed council tax accounts are routinely transferred to the arising non-domestic rates accounts and are netted off the rates bills that are due for payment. In some cases, no rates are payable following the award of 100% relief, negating the need to transfer any credits. In all cases, after the relevant transfers have been made to the non-domestic rates accounts, any remaining council tax credits are automatically refunded to the taxpayer. Collection of the charges for commercial waste services is not currently embedded in the council tax credit process.
- 1.4 This report seeks to introduce a policy that, in the circumstances set out in this report, will enable any available credit on a council tax account, after first being used to reduce the non-domestic rates bill, to be used to reduce any outstanding commercial waste service costs based on the level of service provided during the relevant period that arise when a property transfers retrospectively to non-domestic rates.

2. Recommendations

2.1 Members are invited to:

Agree

- i. in the circumstances discussed in Section 5 below, that the available credit on a council tax account, after first being used to reduce the associated non-domestic rates bill, will be further used to reduce the arising commercial waste services charges;
- ii. that this policy is implemented with immediate effect and will apply to all properties that the Assessor transfers from the council tax list to the non-domestic rates valuation roll from the date of policy implementation.

Note

- i. any residual credit remaining on the council tax account, after the processes set out in the first recommendation are complete, will be automatically refunded to the taxpayer in line with current procedures.

3. Implications

3.1 **Resource:** This policy can be implemented with limited impact on the resources within the Revenues team and will support collection of the Council's important income stream from commercial waste services.

3.2 **Community (Equality, Poverty and Rural):** This policy will apply to premises subject to non-domestic rates including those in rural areas.

3.3.1 **Legal:** The Council's Sundry Debts system is already used to collect charges for commercial waste services, involving a £15 charge per invoice, for businesses that do not opt to pay by Direct Debit. The Prescription and Limitation Act 1973 makes provisions to raise sundry debt invoices five years from the date of the obligation and therefore provides for any retrospective periods that may arise from movements between council tax and non-domestic rates within the 5-year prescribed limit.

3.3.2 The Waste (Scotland) Act 2012 provides for the collection, transport and treatment of dry recyclable waste and food waste, and for related matters and places a duty of care on producers of waste.

3.3.3 Section 45 of the Environmental Protection Act 1990 imposes a duty on waste collection authorities to arrange for the collection of commercial waste from premises in its area if the occupier of the premises requests it to do so. The business is liable to pay a charge for such a service.

3.4 **Climate Change/Carbon Clever:** There are no specific climate change/carbon clever impacts arising from this policy change although responsible disposal of commercial waste and appropriate processing thereafter have positive environmental impacts.

3.5 **Risk:** It is reasonable to assume that in some cases, there will not be sufficient residual council tax credit, after first reducing the non-domestic rates bill, to fully cover the arising commercial waste services charges. The Council's standard procedures for income collection and recovery will apply in these circumstances.

4. Closed Council Tax Accounts

- 4.1 When the Assessor transfers a property from the council tax list to the non-domestic rates valuation roll, the Council's Revenues team closes the council tax account and creates the non-domestic rates accounts. This may result in a council tax credit, particularly when the Assessor's changes are applied retrospectively. The credit is routinely transferred to the non-domestic rates account to reduce the billed amount for the rate payer.
- 4.2 The Council Tax bill is made up of two separate charges. The first being council tax which contributes to the general provision of council services, including domestic waste collection services. The second element relates to domestic water and wastewater charges which the Council collects on behalf of Scottish Water.

5. Properties transferring to Non-Domestic Rates

- 5.1 When a property is entered onto the non-domestic rates valuation roll, the Revenues team proactively awards the maximum relief that is available. In some instances, this is an automatic award whereas some relief schemes require the rate payer to complete an application form. Up to 100% relief is available in certain circumstances thus reducing the rates payable to £0.00. In these cases, the full amount of any arising credit on the closed council tax account would be available to reduce the arising commercial waste services charge. Extracts of three live council tax and non-domestic rates accounts are provided at Appendix 1 for illustrative purposes.
- 5.2 The Council is not responsible for the collection of water and wastewater charges in respect of non-domestic premises. Instead, business water rates have been competitive in Scotland since 1 April 2018, enabling business customers to choose their supplier.

6. Commercial Waste Services

- 6.1 Businesses have many responsibilities including the duty of care to deal responsibly with any waste their business produces. Business waste includes any waste that comes from construction, demolition, industry, agriculture and any commercial activity - including any that is operated from a person's home. This duty of care starts from the moment the waste is produced to when it is received by a business that is authorised to deal with it. The Highland Council and licensed private waste disposal companies provide such commercial waste services.

Designation: Executive Chief Officer Resources and Finance

Date: 27 January 2020

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Background Papers: Prescription and Limitation Act 1973

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Extract of Live Accounts for Illustrative Purposes

(a)	(b)	(c)	(d)	(e)	(f)	(g)
Property Identifier and Council Tax Band	Date Assessor transferred property	Effective Date of Change determined by the Assessor	Full council tax credit amount following closure of council tax account	NDR payable following award of up to 100% relief	The Highland Council's Commercial Waste Charges	Net council tax credit after commercial waste charges are fully recovered
A (Band E)	July 2020	August 2017	£6,287.12	£0.00	£660.00	£5,627.12
B (Band E)	June 2020	October 2014	£10,554.27	£0.00	£1,320.00	£9,234.27
C (Band B)	June 2020	June 2014	£7,876.37	£0.00	£1,320.00	£6,556.37

Notes

- i. In each of these cases, the taxpayer requested their property to be removed from council tax and transferred to non-domestic rates. The Assessor considers such requests and once decided, The Highland Council must bill accordingly.
- ii. Some Covid-19 Business Grants require the business premises to be registered for non-domestic rates. This has increased the volume of requests received from taxpayers seeking to transfer from the council tax system to non-domestic rates.
- iii. **In column (c)**, the effective date of change fixes the date that the liability for council tax ends and non-domestic rates begins.
- iv. In each of the live cases set out in the above table, the rateable values enabled 100% rates relief to be awarded as reflected in the payable amounts set out in **column (e)** thus making available the full council tax credit for commercial waste services.
- v. **Column (f)** provides details of the commercial waste charges for each taxpayer and represents important income for the Council (£3,300).
- vi. **Column (g)** sets out the amounts that are available to refund to the individual taxpayers after commercial waste charges are deducted.