

# REPORT TO CUSTOMER FOCUS SCRUTINY COMMITTEE

Date of meeting: 3 October 2024

Report of: David Hodgson, Strategic Director for Corporate Resources

Title: Business Rates – Empty Property Relief ‘Box Shifting’

## Is this a key decision?

Scrutiny is a non-decision-making committee.

## Is this an Executive or Council Function?

Executive.

### 1. What is the report about?

- 1.1 To brief members on business rates empty property relief and how owners of businesses use the practice of ‘Box Shifting’ to evade business rates and to explain recent changes in legislation in respect of empty property relief.

### 2. Recommendations:

- 2.1 For Members to note the content of the report.

### 3. Reasons for the recommendation:

- 3.1 To raise awareness of the practice of ‘box shifting’ by businesses to obtain empty property relief and the measures introduced by the Government to help tackle it.

### 4. What are the resource implications including non-financial resources

- 4.1 The changes in legislation in respect of empty property relief is expected to result in a reduction in the amount of empty property relief granted, as the re-set period for occupation has increased from 6 weeks to 13 weeks.

### 5. What are the legal aspects?

- 5.1 The Local Government Finance Act 1988 – Section 45 Unoccupied Hereditaments, Liabilities and Reliefs.
- 5.2 The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 – Regulation 5 - A hereditament which has been unoccupied and becomes occupied on any day shall be treated as having been continuously unoccupied for the purposes of regulation 4(a) which, subject to regulation 5, has been unoccupied for a continuous period not exceeding three months and (b) which is a qualifying industrial hereditament that, subject to regulation 5, has been unoccupied for a continuous period not exceeding six months; if it becomes unoccupied again on the expiration of a period of less than six weeks beginning with that day.

5.3 The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2024 -. these Regulations amend the period specified in regulation 5 of The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 from 6 weeks to 13 weeks.

## **6. Report details:**

6.1 Empty Property Relief (EPR) operates by providing owners of empty non-domestic properties with 100 percent relief for the first three months (or six months for industrial properties) after a property becomes empty. If the property remains empty once the relief period ends, the owner must pay the property's full business rates liability.

6.2 Prior to the 1<sup>st</sup> of April 2024 should an empty property be occupied again for a period of six weeks or more, it became eligible for another period of EPR when it falls empty again. The six-week period of occupation required to be eligible for another period of EPR is known as the 'reset period'.

6.3 Local authorities responded to a consultation exercise undertaken in 2023 by Central Government, that there was widespread abuse of EPR through repeated artificial occupation.

6.4 One practise identified as a particular issue by Local Authorities was the use of 'box-shifting'; a method of artificial occupation which involves moving items into a building, solely to satisfy the six-week occupation condition. Items are then removed once the reset period is complete, rendering the building unoccupied and eligible for another period of EPR.

6.5 Consensus amongst respondents to the consultation identified 'box shifting' as the most common method of business rates avoidance.

6.6 This process can be used as many times as needed until the owner finds a long-term tenant. Typically, this provided for a 65% reduction in business rates.

6.7 While the most impactful method of business rates avoidance is using artificial occupation to gain repeated access to EPR, other avoidance methods exploit different aspects of the system, including:

- Landlords renting to companies which immediately file for liquidation, exempting the landlord from rates until the lease is disclaimed;
- Ratepayers delaying completion of building projects in order to avoid being readded to the rating list;
- Ratepayers stripping down or dismantling part of their property in order to remove it from the rating list; or,
- Landlords approaching charities to occupy their properties in order to avoid paying business rates.

6.8 In response to the consultation, Central Government introduced new legislation from 1<sup>st</sup> April 2024, properties that have already benefited from EPR will be required to be occupied for a minimum period of three months (thirteen weeks) instead of six weeks, before they can benefit from a further period of relief.

6.9 It will mean more rates will be paid and only a 50% discount can be achieved on average instead of the previous 65% average.

- 6.10 The treasury estimates, nationally, this will produce an additional £40 million in tax revenues each year.
- 6.11 The practice of artificial occupation of properties to enable Empty Property Relief to be claimed multiple times takes place in Exeter City with an estimated 58 accounts making use of the practice of 'box shifting'.
- 6.12 The Council granted empty property relief of £2.7m and £3m during 22/23 and 23/24 respectively.
- 6.13 The Revenues Lead is working with the Business Rates Manager to establish a process for monitoring the impact of the extended empty property relief reset period, from 6 weeks to 13 weeks, so that the impact during the 2024/25 financial year can be quantified and reported back to Members, if requested.

**7. How does the decision contribute to the Council's Corporate Plan?**

- 7.1 Contributes to a well-run council.

**8. What risks are there and how can they be reduced?**

- 8.1 Undertaking regular property inspections to identify properties which are now occupied thereby reducing the loss of income to the Council.

**9. Equality Act 2010 (The Act)**

- 9.1 No impact.

**10. Carbon Footprint (Environmental) Implications:**

- 10.1 None.

**11. Are there any other options?**

- 11.1 None.

**Director:** Dave Hodgson, Strategic Director for Corporate Resources

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**Local Government (Access to Information) Act 1972 (as amended)**

Background papers used in compiling this report:-

None

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