

## **REPORT TO CUSTOMER FOCUS / STRATEGIC SCRUTINY COMMITTEE**

Date of meeting: 3 July 2025

Report of: David Hodgson, Strategic Director of Corporate Resources

Title: Business Rates – Empty Property Relief ‘Box Shifting’ – 6 Month Update

### **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 provide members with an update of the impact of the measure introduced by Central Government to tackle the practice of ‘box shifting’ in respect of empty property relief (EPR).

#### **2. Recommendations:**

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

#### **3. Reasons for the recommendation:**

- 3.1 On 3 October 2024 Members of Customer Focus Scrutiny Committee requested an update in 6 months’ time on the impact of the change of law that increased the EPR re-set period from 6 weeks to 13 weeks.

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

- 4.1 The level of empty property relief granted following the change in legislation was expected to fall from an average of 65% to 50% in respect of those businesses who use the practice of ‘box shifting’.

#### **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 amended the period specified in regulation five of The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 from 6 weeks to 13 weeks.

## 6. Report details:

### Background

- 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. However, if the premises are re-occupied for a specified period and becomes empty again, another period of Empty Property Relief can be claimed. In some cases, this can become a pattern.
- 6.2 The practice of box shifting – a form of business rates avoidance – is used by some landlords to claim empty rates relief by simply putting boxes in an empty commercial space and declaring it occupied.
- 6.3 From the 1<sup>st</sup> of April 2024 an empty property is required to be occupied again for a period of 13 weeks or more, before it becomes eligible for another period of EPR when it falls empty again. Prior to this it had to be occupied for 6 weeks or more, before it became eligible for another period of EPR.

### Update

- 6.4 The Council granted empty property relief of £3.046m and £2.865m for the financial years 2023/24 and 2024/25 respectively; a reduction of £181k. Whilst this is not a significant reduction, there are other factors that impacted on the level of EPR such as increased business rates liabilities and reduction in transitional relief.
- 6.5 When we reported the change in legislation to this committee in October 2024, Officers estimated that £150k additional business rates will be payable as a result of the re-occupation period increasing from 6 weeks to 13 weeks, of which the Council will retain around £35k as business rates is shared with government (50%), DCC (9%) and Devon & Somerset Fire (1%). The actual position is therefore close to the initial estimates.
- 6.6 The level of reduction is consistent with the findings of the Local Government Association, who reported in February 2025 that the move to 13 weeks has not helped materially to reduce business rates avoidance.
- 6.7 The number of businesses that display patterns of 'box shifting' has remained steady at circa 60, so the change in the re-set period does not seem to be a deterrent. However, to provide some context to Members, the overall number of businesses granted EPR stood at 603 in 2024/25, so those practicing 'box shifting' represent only 10% of businesses awarded EPR.
- 6.8 As a worked example, the table below shows the maximum amount of EPR granted to the business in respect of the financial years 2023/24 and 2024/25, which reflects the move from a 6-week re-set period to a 13-week re-set period:

| Financial Year | Gross Rates Payable | Empty Property Relief | % of relief granted | Rates Payable |
|----------------|---------------------|-----------------------|---------------------|---------------|
| 2023/24        | £5,346.25           | £3,893.54             | 73%                 | £1,377.71     |

|         |           |           |     |           |
|---------|-----------|-----------|-----|-----------|
| 2024/25 | £5,346.25 | £2,656.78 | 50% | £2,689.47 |
|---------|-----------|-----------|-----|-----------|

## Consultation

- 6.9 The Government have committed to consult on a General Anti-Avoidance Rule (GAAR) for England shortly. This will provide an opportunity for local authorities to feedback and to seek a further extension to the empty property re-set period, such as to the six months originally consulted on.

## 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

Report Author:

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

Background papers used in compiling this report: -

None

Contact for enquires:

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