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Local Government Finance Circular No. 13/2020

By e-mail To:
Chief Executives and Directors of Finance of Scottish
Local Authorities
Convention of Scottish Local Authorities (COSLA)

Publication of Relief Recipients Guidance

Dear Chief Executives and Directors of Finance,

In 2019, the Scottish Government formed a working group to advise on establishing guidance on the periodic publication of non-domestic rates relief recipients by local authorities. Members included, amongst others, revenue staff from the local authorities which already publish this information online. This group has provided advice on the Publication of Relief Recipients Guidance and the Publication Template that has been produced.

Please see enclosed at Annex A the Publication of Relief Recipients Guidance.

Local authorities should aim to deliver this recommendation as soon as they are able to and by the 2021-22 billing year it is expected that all local authorities will be able to publish this information quarterly.

We thank all IRRV representatives who have contributed to this guidance.

Yours faithfully,

Non-Domestic Rates Team
Scottish Government



Annex A - Publication of Relief Recipients Guidance

Background

1. The [independent Barclay Review of Non-Domestic Rates](#) published its final report on 22 August 2017 and made 30 recommendations to the Scottish Government.
2. Recommendation 10 of the Barclay Review stated:
A full list of recipients of rates relief should be published to improve transparency to further the broader aim of providing improved information to ratepayers.
3. On 14 December 2017 the Government published the [Barclay Review Implementation Plan](#), accepting the majority of the Review's recommendations, including Recommendation 10.
4. The purpose of this guidance is to provide local authorities with a standard format to use for publication and is intended to be good practice advice.
5. A consistent approach is imperative in order to deliver the intended value of improved transparency and access to non-domestic rates relief data called for by the Barclay Review.
6. This exercise is separate to the Billing System Snapshot (or any other non-domestic rates income returns) and local authorities must still engage with Scottish Government separately for these exercises. The template for publication is in the same order as the Billing System sSnapshot.
7. As the data holders of this information, local authorities are responsible for giving consideration to the General Data Protection Regulation (GDPR) (see below), and for redacting personal information where appropriate.

Format

8. Please see the Excel spreadsheet – 'Relief Recipients Format' – for the necessary headings to be applied. Local authorities should aim to be consistent with the format as set out in the template.
9. If a local authority is unable to fill some of the information columns (e.g. 2010 RV) in because, for example, of difficulties in pulling this data from its software, it may leave this column blank and hide it on the spreadsheet. If hiding the columns creates software challenges in relation to transposing information, it may delete the column(s) that cannot be populated altogether.
10. Any published document of relief recipients should be on Excel, and **not** in PDF or word document format.

11. The document should be published on the council website, and should be easily accessible through the use of a search panel with simple keywords (i.e. *reliefs, relief recipients, relief statistics, etc...*).

12. Relief information should be published on a quarterly basis.

13. Quarterly publication should help local authorities to better respond to freedom of information requests on relief recipients as these can be responded to simply by linking to the relevant publication page under section 27 of the Freedom Of Information (Scotland) Act 2002 which stipulates that information is exempt information if it is held with a view to it being published by a Scottish public authority, *at a date not later than twelve weeks after the request*.

14. The document itself should appear as a link or an attachment and should have the name and publication quarter according to the format:
List of Relief Recipients Quarter X, 20XX [year]

15. The snapshots for quarterly publication should be based on information as at the following dates below, and should be published no later than a month after those fixed points:

Quarter 1 - 1 June

Quarter 2 - 1 September

Quarter 3 - 1 December

Quarter 4 - 1 March

16. The first publication date has been chosen in order to align the fixed point for the next Billing System Snapshot (1 June 2021) with this publication and therefore mitigate against discrepancies between these datasets.

17. Local authorities which believe that they will be unable to deliver quarterly publication by 2021-22 should notify the Scottish Government.

Publication of relief Information

18. The type of reliefs and relief codes that are inputted must be in accordance with the most recent billing system guidance. Please complete the standard format by following the same requirements as set out in the 2020 Billing System Snapshot Guidance which can be accessed at: <https://www.gov.scot/publications/billing-system-snapshot/>.

19. The relief information published - the relief type, code, percentage and amount awarded - must be up to date as at the snapshot days set out above (for example, if a property was previously in receipt of 100% Small Business Bonus Scheme Relief at the previous quarter, but more recently is in receipt of empty property relief, record only the latter relief and relief percentage).

Where a property is in receipt of more than one relief, a separate record (row in the spreadsheet) should be entered for each relief type as per the Billing System

Snapshot Guidance. The relief figure used is to be for the financial year of publication, and not a cumulative award over multiple years.

20. Where possible, local authorities should also publish information relating to lands and heritages subject to rating exemptions, if that information is held (for example churches and other religious buildings).

Publication of occupier information

21. As a relief can only be requested by a rateable occupier, it is the primary occupier's name and non-domestic property information that must feature (note: correspondence addresses should **not** feature on the list).
22. Vacant premises should still have a rateable occupier, who should be listed in this publication. Where a local authority is unable to determine the occupier, this cell should be left blank.
- 23. The publication of this information must give due regard to GDPR including the assessment and exclusion of personal information, where required.**
24. Each local authority will have its own [data protection officer](#) responsible for making sure it is compliant with data protection legislation and developing relevant guidance to assist it in meeting its data protection obligations. It is for the local authority's data protection officer to decide:
- whether the information in question constitutes personal data or business information; and
 - if it is considered personal data, what the relevant [legal basis for processing](#) it is to ensure that publication is lawful.
25. Local authorities should put in place processes to remove or anonymise any information that they deem to be personal data that should not be published.
26. While the Information Commissioner's Office (ICO) have advised the Scottish Government that that when it comes to data protection in relation to sole traders and Scottish partnerships, any identifiable data constitutes personal data, that does not necessarily mean however that this information can never be used or put in the public domain.
27. Individuals can also be businesses for example, so it is necessary, when considering data relating to their business, to balance their rights as individuals against the public interest when considering whether or not to put information relating to a relief award on a property they are the rateable occupier for in the public domain.
28. Fundamentally, local authority data protection officers should consider what harm and/or detriment there may be to the individual in the information being in the public domain. To determine this, it is necessary to consider the nature of the information and whether it would disclose anything that might be in any way harmful to, or a breach of fundamental rights for, the individual.

29. We request that each local authority provide the aggregate amount of relief awarded to those ratepayers whose individual details are not provided. This can appear in a separate Excel worksheet in the same document.

For publication pre-April 2021/privacy notice

30. Full lists should be published, but in accordance with GDPR, any data that could be considered personal information should be redacted. For instance, personal data regarding sole traders, employees, partners and company directors should be anonymised.

31. The Scottish Government recommends the use of an automatic redaction process involving the filtering out of non-GDPR compliant data; or data that could be considered personal data of a third party under the Freedom of Information (Scotland) Act 2002 s.38 (1) (b). This may involve filtering out necessary information (e.g. if the name starts with Mr or Mrs, it might be assumed that it is a sole trader; councils may then do further manual checks on their lists). Some local authorities that already publish relief recipient data have employed a contractor to design this, while others have developed the code internally.

32. Local authorities may also rely on an entirely manual redaction approach. However, given this may be labour-intensive, we recommend automating the initial triage if possible.

Future reliefs and Future publication (from April 2021 after publishing a privacy notice)

33. From 1 April 2021, we will advise that each rates relief application include a privacy notice (see the associated privacy notice document).

34. The aim of the privacy notice is to ensure that individuals understand that if they are in receipt of relief, this information will be publicised.

35. This publication is seeking to increase transparency around the use of public funds through NDR relief awards. The privacy notice may enable compliant publication of information. Further, on the basis that the information in question is unlikely to disclose any truly 'personal' data about individuals themselves there may be no data protection impediment to publishing the information.

36. Local authorities may consider whether the privacy notice satisfies requirements under GDPR to publish information of any rateable occupier, including sole traders and partnerships.

37. On the basis that some local authorities may renew relief on a multi-annual basis without requiring an annual application (for example SBBS), we propose that all existing relief applications contain a copy of the privacy notice, and that the notice also be incorporated as part of annual billing.

38. Distinguishing between a 'natural person' and a business entity, such as a sole trader, for the purpose of publication may be challenging, and we propose that

from 2020-21 relief application forms ask applicants to declare whether they are any of the following:

- Individual
- Sole Trader
- Private Limited Company (LTD)
- Public Limited Company (PLC)
- Limited Liability Partnership (LLP)
- Charitable Organisation