

COMMITTEE	Finance, Policy and Resources
DATE	4 December, 2014
DIRECTOR	Corporate Governance (Acting)
TITLE OF REPORT	Business Rates Appeals Sub Committee
REPORT NUMBER	CG/14/165
CHECKLIST COMPLETED	Yes

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1. PURPOSE OF REPORT

The Committee is required to establish a body to hear appeals against rating liability under section 238 of the Local Government (Scotland) Act 1947. An appeal has now been received and must be considered.

2. RECOMMENDATION(S)

- (1) That the Committee establishes a small Business Rates Appeals Sub Committee comprising five members and that arrangements are made to hear the current appeal;
- (2) That training be provided to the nominated members and possible substitutes prior to the hearing of the appeal;
- (3) That the Senior Democratic Services Manager be appointed clerk to the sub committee and authorised to delegate in writing the day to day operation of the sub committee to a Committee Services Officer in his team; and
- (4) That the procedure appended to this report for the making and hearing of appeals be adopted.

3. FINANCIAL IMPLICATIONS

There will be minor operational costs arising from establishing another sub committee.

4. OTHER IMPLICATIONS

There is a legal requirement for a body of members of the authority to be established to hear appeals made in terms of the legislation.

## 5. BACKGROUND/MAIN ISSUES

- 5.1 A liable business ratepayer is held to be the owner of a non-domestic subject, tenant, sub tenant or person in occupation. The existence or otherwise of a lease is not conclusive in determining rateable occupation but rather three tests have to be satisfied; these are possession, actual use and permanence. Where a dispute over liability arises, the Council as Rating Authority must look to which party has more (or less) of the three principal tests.
- 5.2 Ratepayers have the right of appeal to a Valuation Appeals Committee in respect of valuation matters, or to their Rating Authority where rates have been improperly charged. Section 238 of the Local Government (Scotland) Act 1947 allows an appeal on the basis that the person named is not liable or a mistake has been made in the amount of rates demanded.
- 5.3 An appeal has now been received in terms of the above section and the Council is required to establish a body to hear it. It is proposed that a small Rating Appeals Sub Committee be established to hear the appeal, comprising five (three Administration, two Opposition) members, and that arrangements be made to have the appeal heard. An appeal to the courts against collection has been made and this is currently sisted, being due to call again on 8 January, 2015.
- 5.4 It is proposed that the Senior Democratic Services Manager be appointed as clerk to the sub committee, and that he be authorised to delegate the day to day operation of the sub committee, in writing, to a Committee Services Officer in his team.
- 5.5 It is proposed that the appended procedure for the hearing of appeals be adopted.
- 5.6 All members of the sub committee, and substitutes, shall be trained prior to hearing an appeal.

## 6. IMPACT

Corporate – This Sub Committee will hear appeals against the identification of an individual as being responsible for the payment of business rates and so the outcome of any appeal will have an impact on the collectability of those rates. The establishment of the Sub Committee is also a statutory requirement and so it require administrative and legal support from Legal and Democratic Services. Legal support will be provided by a different team to that which will be supporting the service in any appeal.

Public – Individuals who believe that they have been assessed wrongly as being responsible for business rates will be able to appeal and to

appear before the Sub Committee in person, thereby improving transparency in the rates collection process.

7. MANAGEMENT OF RISK

The Sub Committee is a statutory requirement and so it would be a risk not to establish it. As stated above, the ability of the appellant to present their case in person provides added transparency and reassurance to the business rates collection process.

8. BACKGROUND PAPERS

None.

9. REPORT AUTHOR DETAILS

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