Water rates exemption scheme review

SCVO recommendations, Nov 2017

To inform the 2017 Scottish Government review of the water rates exemption scheme, SCVO collected feedback from third sector organisations. Feedback was collected during September 2017, and responses were received from 1,251 third sector organisations via a survey and written responses.

## Recommendations for Scottish Government and providers

1. Clarify guidance for charities, particularly around ‘commercial activities’.

* Guidance should include practical advice for charities in terms of the best options for them, e.g. those with large premises or high rateable value but low water usage.
* Ensure that Scottish Government and Business Stream guidance is identical – currently the examples given in government [FAQs](http://www.gov.scot/Topics/Business-Industry/waterindustryscot/watercharges/Nondomesticcharges/ESFAQs) do not appear in Business Stream document
* Clarity and consistency across providers in application of exemptions
* Work with relevant intermediaries to ensure that guidance is clear for those running specific types of premises are met, for example: charity hubs, village halls and community centres, churches and church halls, museums.

A reasonable threshold should be in place for charities carrying out low levels of ‘commercial activities’. SCVO would suggest a change to the scheme where a de minimis trading income would be permitted under the scheme, enabling those will small levels of commercial activity to benefit from exemption. For simplicity, this could follow [tax law whereb](http://www.sayervincent.co.uk/wp-content/uploads/2015/07/TradingIssuesMadeSimple-SayerVincent-July2015.pdf)y trading within charitable objects is not subject to tax.

Tax rules allow £5,000 non-charitable trading in the year or turnover of less than 25% of the gross income, subject to an upper limit of £50,000.

Currently, charities carrying out a small amount of trading to provide a service and/or ensure an additional sustainable source of income are being penalised, in direct contradiction with Scottish Government’s current policies encouraging Social Enterprise.

Given figures outlined by the Scottish Government highlighted that the scheme is forecast to cost £3.48m in 2017/8 while the expected costs were £6.5 million – some concessions on trading would be affordable and appropriate.

1. Charitable venues with alcohol licenses should be allowed to apply for exemption if alcohol is sold only occasionally as a subsidiary activity to the charities main purpose, and is not open to general public/ passing trade. A reasonable threshold should be in place, e.g. if venue only open part-time, or annual alcohol sales are under £10,000. For simplicity, alcohol sales could be seen as a ‘commercial activity’ and be subject to the same threshold we recommend above. The mere presence of a license or not is a crude measure. The simplest way to counter this would be counting licensed trade as commercial activity and apply the trading rules we have suggested above to licensed trade too.  
     
   This would give parity with the exemption [policy for cafes](http://www.gov.scot/Topics/Business-Industry/waterindustryscot/watercharges/Nondomesticcharges/ESFAQs), e.g. charities are exempt “Where the café is operated on an occasional basis – that is no more than half of any week on average”.
2. Review current thresholds with the potential of adding an additional threshold after the £300,000 cut-off (for example a 25% discount for those with an annual income of £300,000-500,000) or changing the £300,000 threshold to £400,000 which would be less of an administrative burden. Given the underspend on the programme to date, this would appear to be affordable. The scheme administrators to consider a small discount charities over the threshold, *particularly for those which do not operate as businesses but as charities reliant on public donations.*
3. Scottish Government, Scottish Water, Business Stream and providers to build in some flexibility to the current system to allow for unusual circumstances. Capital grants could be exempted using evidence from accounts and a simple appeals process should be agreed for charities whose circumstances mean that they have exceeded threshold on paper, but perhaps have converted to a SCIO, or received a capital grant or one-off payment for a designated purpose.
4. Align the definition of sports clubs with the current business rates (non-domestic rates) policy. In the context of business rates, "amateur community sports clubs" rather than Community Amateur Sports Clubs (CASCs) are able to apply for exemption.
5. Providers to make small improvements to the administration of scheme: reasonable reminder periods, confirmation of exemptions, clearer billing information, and clearer customer contact points.
6. Support and advice for charities who have multiple sites and/or water points to ensure process is as simple as possible.

## Recommendations for third sector and partners

1. Raise awareness of water rates exemption scheme within sector
2. Ensure guidance is easy to access and understand
3. While we would support non-charitable voluntary organisations to be exempt we recognise difficulty in checking exemption criteria for these organisations. We also recognise that limiting relief to charities and CASCs would be in-line with current charitable exemptions for other taxation, such as business rates.

We recognise that charitable status can bring benefits for a village hall or similar, where being constituted as a SCIO will limit liability of trustees, but can also be complex and onerous for small groups. We therefore recommend that small non-charitable groups work with local Third Sector Interfaces and village hall networks to apply for charitable status where appropriate, and are supported to put simple systems in place which will minimise bureaucracy.

## SCVO analysis of responses to the Sept 2017 Review of Water Rates survey

# Operational issues

## Administration of scheme

* Large numbers of complaints regarding communication with Business Stream.

A large number of respondents complained about aspects relating to administration and communication. These tended to name Business Stream, but not clear if some relate to providers themselves as there seemed to be a lack of clarity around responsibilities.

*“Currently in dispute with Scottish Water Business Stream over its appalling administrative procedures so I have no idea where we stand in relation to this attractive exemption.”*

*“The philosophy is superb but the administrative aspect of Business Stream leaves a great deal to be desired”*

*“Having the exemption is very helpful and an excellent thing for our charity. The only problem we have had is that if there is a problem or mix up (such as a property being sold 10 years ago and therefore no longer our responsibility) it is EXTREMELY difficult to get hold of Business Stream and EXTREMELY difficult to sort the issue out. “*

* Better communication was sought around a range of areas
* timely reminders many respondents claim being given only a very short notice period)

*“The water company did not make us aware well enough that we had to apply each year for eligibility.”*

*“Reminder emails should include the name of the charity. I'm treasurer for two charities which both receive water exemption, and I never know which charity the reminder refers to”*

* confirmation of exemption not standard practice

*“The problem is that we are not notified as to whether we have been granted exemption or not. We always have to phone to see if we have been granted exemption, and that should not be necessary.”*

* Tracking application progress and proof of application

“*While use of an online application process is modern, the absence of responses and an ability to track applications results in an absence of information on application status.”*

*“The application process is a black hole with no check on progress possible. At least one of my applications disappeared and I had to re-apply.”*

*“There is no proof that an application has been completed and sent to you. I have four times (for two different charities) had to re-apply because you did not seem to get the first applications but there was no way I could prove I had done them. Many organisations generate a code number or return email for their clients - please consider doing the same or similar.”*

* Clearer reference numbers and address info on bills

“*the annual reminder currently shows supply Point ID as an 8 digit number. This number is not accepted online as the system requires a 12 digit number. It would be extremely helpful if the reminder showed the number required to access your system as the church treasurer had numerous 'phone calls and e-mails before she was given the numbers required.”*

* **Annual exemption process**

Annual exemption applications may help tackle some problems, eg trustees/ committee members can change every year, and annual process could help keep contact details up to date. However, many felt that the amount of information required annually could be reduced, or the online renewal process simplified. Small charities whose income does not vary significantly and who are well below the income threshold also felt that their exemption should cover a longer period, with a number of respondents suggesting a 3 or 5 years exemption.

Suggestions and comments included:

* Better use of data, eg automated renewal / online access to billing info
* Longer-term exemption for small charities eg if under £10k should only need to re-apply every 5 years
* Having One click renewal ie just confirm income is in under £K would save cost and time for both parties, and could have more detailed check every 5 years or use OSCR data.
* BusinessStream could use OSCR register to check income automatically:

*“The Annual application could be linked to the organisation accounts submitted to OSCR and then automatic renewal of exemption criteria could be considered to avoid individual charities etc. remembering to complete the annual submission.”*

*“I would recommend that any charity registered with OSCR and meeting any eligible criteria, should have automatic exemption without having to apply every year.”*

*“There seems to be an inordinate amount of returns etc for things which could be done enmasse.”*

* Clarity regarding the year being charged and accounts period:

*“There was much confusion about which year the applications were being applied to and several phone calls were required to sort it out.”*

* **Lack of awareness of scheme**

A surprising number of respondents reported not being aware of the scheme until they had received information from OSCR or an intermediary regarding this survey. This is an area where SCVO, VAS and the TSI network, and other intermediaries need to work together on promoting awareness (eg newsletters/web, add to Community Toolkit). Providers should also ensure that information about the scheme is easy to find.

*“*every bill should state at foot of bill that exemptions are available for small charities”

*“Perhaps you need to ask oscr to disseminate information about the scheme, not just a survey about something I've never heard of.”*

*“This is the first I have heard of an exemption scheme. Communication of the scheme is non existant, therefore how can the scheme be working well???????”*

*“The charity received no relief on water rates, was not informed there was a scheme for charities rates relief. Make it mandatory for water companies to inform charities about the scheme and provide everything needed to register/apply.”*

Other comments

* Complaints re lack of helpline or email support
* Direct Debit problems and issues with overly keen Debt collection agencies
* Accessibility eg blind people
* Smallest charities automatically renewed

## Multiple premises / meter points / Supply Point Identification Numbers (SPIDs)

Clearer guidance as some confusion *“It was not clear at the outset that charities with more than one account number need to apply separately for each number.*”

Clearer billing info with name of charity, ID of individual premises, whether exempt or not (and reason for decision) would help, as would clearer online interface for multiple sites.

Several respondents seem to have one site but multiple providers (one had 3, but was able to negotiate so one became sole provider)

“*Our church and halls are on the same site but allocated to two different companies. The two companies perform very differently in terms of alerting you when you need to reapply for exemption, in advising you of the progress of your application and one doesn't actually notify you at all.”*

*“We have three buildings and because we breach the turnover limit we have to pay three lots of water rates. This is manifestly unfair.”*

*“One of our buildings (our Church Hall) is with Scottish Water and that is all smooth and efficient. The Church (which has no running water and no drain) is through Clear Business Water and , although we have eventually got full exemption, they have been taking payment from us for 18 months (I stopped the direct debit after that). I have still to receive a refund. “*

*“I am the General Treasurer of a church denomination which has several congregations under the one number. As the total turnover for the denomination is above the threshold, the local congregations are unable to obtain the exemption.”*

*“We rent an office in Norton Park with 20+ other charities. Until this year this was managed by the charitable operator of the building, Albion Trust, but have recently all had to apply for exemption individually (for rates additionally) which has been an enormous amount of work for no particular gain. Billing was commenced prior to completion of the exemption process and during consultation on the change with very poor communication.”*

*“One application to cover all accounts relating to the Charity. We complete 3 applications, one for our head office, and 2 for our outdoor activity centres. It would be useful to link these, so only one application is required.”*

## Rateable value bearing little relation to actual water usage

Water rates felt to be very expensive in comparison with other charges eg waste, particularly for those with premises with very low water usage:

*“We run a community charity shop raising funds for the small groups within the village. Because we have clothing for sale we are not eligible for exemption from water rates . Last year we paid £398.67 to Clearwater. Which seems very excessive when we only need water for the toilet and wash basin and for the occasional kettle.”*

*“We are still paying a lot of money - about £1000 a year and all we have is two toilets with small wash hand basins and one kitchen sink - no dishwasher, no washing machine, no showers. We are told that what we are paying for is mostly the supply, not the usage. However we are part of a large block of flats. It doesn't seem fair.”*

*The criteria is too rigid and does not allow for the wide variety of charities. We stage an annual agricultural show and use water on ONE day per year. We have to fit the same criteria as an organisation using water 365 days of the year.*

# Policy and eligibility

## Income thresholds

The majority of respondents were generally in agreement with the income thresholds.

However, a number of respondents are concerned that the current system has little flexibility for appealing ‘one-off’ situations where income is received for a specific purpose.

Further, some noted that all charities should be exempt, in line with business rates relief.

Others felt that there should be an additional tier for medium sized organisations, instead of the current sharp cut-off which was seen as being too blunt an instrument.

* Requests to keep current thresholds as vital to many charities, and raise in line with inflation

*“If the exemption thresholds are increased and more charities became liable then the cost to the charity sector will be such that many charities would cease to exist.”*

* Requests to have additional ‘tiered’ discounts

*“We have gone from paying nothing to a bill for £2,200 as we are just now over the eligibility criteria.”*

* Flexibility within system to allow for one-offs e.g. legacy, building/repairs grants, or property sale as money raised is often restricted and charity needs to find money to pay for water charges despite the fact their unrestricted income has not changed.
* SCIO re-organisation – a number of charities becoming SCIOs have to transfer assets into ‘new’ body, giving artificially high income:

*“Our Befriending Project were advised by OSCR that we did not meet the criteria in the year 2015-16 because of a technical issue re. changing our Accounts from SCO to SCIO and the need to close our Accounts and re-open in the same financial year, thus giving a 'false reading' of an income of over £300k when in fact it was under £200k. We feel this should have been taken into consideration*.”

Comments /suggestions:

* Exemption should be based on Net income not Gross income
* Income figures should exclude designated funds
* Funding received for projects has to be spent on that activity and it is difficult to meet additional costs
* Should exclude assets sales when funds are being ‘transferred’ into new assets
* requests to increase threshold levels
* requests to increase thresholds in line with inflation
* should be in line with other key thresholds, eg audit, other relief schemes, and not arbitrarily set
* if no desire to change threshold, could we assess opportunity to introduce de minimis threshold for ‘commercial activity’

## Criteria

Several respondents suggested a ‘review’ process for unusual or borderline cases.

*“There should be a process in place where an applicant can have their individual case circumstances reviewed in a fair and just way.”*

*“Although as my organisation did not fit 'neatly' into the eligibility criteria, I wished there was more opportunity within the form to include other information relevant to the application”*

*“Criteria has to change to take into consideration the wide variety of charitable organisations. There is an unjustness about the present criteria.”*

Voluntary organisations not registered with OSCR

* many voluntary orgs are not exempt as, ironically, they feel they are too small for the administrative burden of charitable status
* Credit unions

## Compatibility with other exemption schemes

Some respondents suggested that the system would be simpler to understand if it mirrored other schemes, Business Rates and rates relief in particular.

*“Link exemptions with OSCR membership and Local Authority rates relief applications for Charities and for a five year period; i.e. if the charity is registered as such with OSCR and is receiving rates relief they only have to renew their Water Rates exemption every five years, or when something else changes.”*

*“All registered charities, which are monitored by OSCR, should qualify for exemption. in Edinburgh we are exempt from rates, but not water charges; it doesn't make sense.”*

*“Should be included with other schemes, including Rates relief and Trade waste.”*

## Sports clubs

The SSA have flagged issues with the definition of sport, recommending that changes be made to align the definition with the current business rates (non-domestic rates) policy. In the context of business rates, "amateur community sports clubs" rather than Community Amateur Sports Clubs (CASCs) are able to apply for exemption. This is seen as a small but important difference and would better reflect the environment of sport in Scotland. We are aware that the SSA have offered to establish and operate a scheme for this, if they were given financial support.

In alignment with our previous comments on the alcohol license, the SSA have also suggested that the automatic exclusion of a club from rates relief based on a bar licence is removed. In the context of sports clubs, they have suggested an alcohol license be instead recognised as a member benefit for club members which would not breach the idea of competition because of the practical measures which are, and indeed can be, taken by clubs.

## ‘Commercial’ activities

* clearer guidance on what counts as commercial
* reasonable thresholds re value of commercial activities (often small-scale, subsidising charity activities)

*“When sales are part of income, there should be an exemption for charities of say £10,000 because they are not trading as businesses but trying to support their charitable purposes.”*

*“The criteria for commercial activity needs to be made very clear. For example, we still receive non-domestic rates relief even although we operate a cafe because the local authority believes 'commercial activity' is far in excess of our turnover.”*

### Cafes

Current exemption allows for part-time cafes, but would benefit from clarity and some consideration of turnover.

*“I think too few small, rural charities are able to be in the scheme as they are likely to be providing cafes or tearooms a day or two a week to help generate revenue and to provide a local service to scattered communities and visitors.”*

### Gift shops

A number of respondents feel that there is a lack of clarity and consistency around shops, especially small museum gift shops

*“I would welcome clarity over the question of charities operating small shops within their premises. There is no provision for adjudicators using any discretion as to the scale of shop operations relative to the overall (in our case) museum. I would welcome an appeals process, and thus some identification of the department of Scottish Water dealing with applications. Currently, the process hides behind Business Stream, through which all correspondence has to be routed.”*

*“Charities operating social enterprise activities should qualify. There is a strong message that Charities need to be more self-supporting financially and therefore should be able to conduct a level of income raising without if affecting this exemption.”*

### Alcohol licenses

As noted above alcohol licensing is a big issue and the exemption should take into account number of nights alcohol is sold and the profit level from sales, as very few can be regarded as commercial businesses. Many village halls and small theatres have an alcohol license so that alcohol can be sold at events or performances. This is either important to ensure that people hire the venue for their celebrations, or a small source of income. Most sell alcohol only on a few days, and are usually only selling to event attendees not the general public, thus even in areas where there is a licensed business (which in some rural areas there is not) they create no realistic competition for local business.

*“We are very aggrieved that we have to pay for this as, although we hold a permanent alcohol licence, we do not operate like a shop or pub and our bar is only used when the community need it throughout the year. Being a charity I feel that full exemption should be for us too, as our bill was astronomical and we shall struggle to pay such a hefty bill every year!! I feel that we are being punished for holding a permanent alcohol licence.”*

“*We used to be exempt but now we aren't as we have a permanent alcohol licence, even though the bar is open less than 1 dozen times in a year. I believe this is very unfair. We are a very small hall in a very small community and struggle to raise funds continually for the basic costs of the hall. We receive no support from anyone.”*

### Museums

There was a strong call in the responses, particularly from the museum sector to allow for reasonable low level trading activity. It would be useful to ensure guidance and criteria meets needs of museums by consulting with Museums Galleries Scotland.

*“Yes, small charities operating cafes to support income should be exempt. As our local authority support diminishes, we are told to be more sustainable. We run a cafe to earn income, but are effectively now taxed as we try to earn from this particular income stream.”*

“*We recommend either the application of a "de minimis" approach which in such cases would for the purposes of this scheme disregard small-scale trading activities (perhaps below a certain value of turnover), or which would apply a principle of apportionment. We understand that Ministers intended that the scheme should not include sites such as "charity shops" where premises are used to generate funds for charitable purposes through trading, but cannot believe that they intended to wholly exclude those charities which undertake some trading activity to raise funds which occupy sites where water supply arrangements predating the scheme's implementation are shared between areas used exclusively for charitable purposes and areas used for trading*.”

### Churches

Churches and church halls appear to have water rates related issues that would benefit from clear guidance agreed between Scottish Government, Business Stream, and church lead bodies.

* Many have v low occupancy rates and water usage, and low incomes
* Unfair to be charged based on surface area of property – should be based on usage.
* Some problems where a number of congregations are bundled under a single charity number for ease of admin
* Church and Hall, partial use of hall causes problems.
* Church and hall usually two separate applications

*“The actual application process and administration is cumbersome - we have 4 buildings, and have to make separate applications for each building/supply point. When confirmation is received it is often not clear which building it applies to. It is unclear why it is necessary to re-register from scratch every year. At the very least it would help if the system retained all the registration details and just sought confirmation that the circumstances have not changed.”*

## Social Enterprise and SG agendas

Scottish Government is currently very supportive of Inclusive Growth and social enterprise agendas. The Community Empowerment bill is also encouraging communities to take ownership of local assets. However, some respondents feel that policies encouraging growth are being undermined by conflicting policies which penalise increased income, particularly through enterprise.

*“There is confusion within the sector. There is an element of fear amongst a growing number of organisations that expanding much needed activity to meet increasing needs and therefore increasing turnover exposes them to me costs which they may struggle to meet and therefore they take the decision to remain small and their potential impact locally is lost. It is also unfair for organisations with a turnover of just over the limit. Many of these organisations are providing much needed public services with decreasing public funding and therefore meeting a lot of activity costs from other income and reserves but are also being penalised by having to meet an ever increasing level of taxation/charges - water rates, drainage rates, potential reversal of exemptions for business rates, apprentice levy etc”*