

Kilkenny County Council

Internal Audit Report on processing of Vacant Rated Commercial Property Strike Off's for 2023

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Report Distribution

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Introduction

Commercial Rates are a property-based tax levied by Local Authorities on the occupiers of Commercial Properties. The total Rates levied on Commercial Properties in Kilkenny in 2023 was €21,375,074. In November 2022 Kilkenny County Council agreed by resolution at the Annual Budget Meeting to allow a strike off rate of 90% for approved Vacant Rated Commercial Properties in 2023. 257 properties received a strike off to the value of €521,767.58 for 2023. The Local Government Act 1946, Section 14(1) legislates for the Strike Off's for Vacant Rated Commercial Properties as amended by Section 31 of the Local Government Act 2014.

Objective

The objective of this Audit was to review Kilkenny County Council's Policy and Procedure surrounding the processing of Strike Off's for Vacant Rated Commercial Properties.

Approach

Internal Audit assessed the adequacy of key internal controls within the Arrears Management Section of the Finance Directorate to ensure legislative requirements are being followed, required documentation received and evidence that the property was vacant. To qualify for a Rates Vacancy Strike Off the liable person is "bona fide" unable to obtain a suitable tenant at a reasonable rent or the property is vacant for the purpose of the execution of additions, alterations (including demolition or redevelopment) or repairs thereon.

- Internal Audit spoke with Management and Staff in the Arrears Management Section and a walkthrough of the procedure of granting Strike Off's for Vacant Rated Commercial Properties was undertaken.
- All relevant Kilkenny County Council Policy and Procedure documents relating to the Strike Off of Rates of Vacant Commercial Properties were reviewed.

- A random sample of 34 Vacant Rated Commercial Properties (Appendix A) were selected and documentation and evidence of vacancy examined.
- A site visit on 9 properties (Appendix B) across Kilkenny City and County was undertaken.

Scope & Limitations of scope

The Scope of the Audit was limited to 38 sample files of Commercial Properties who had received a vacancy strike off in 2023.

Audit Risk

- Lack of formal written Policy & Procedures for granting of Strike Off's to Vacant Rated Commercial Properties
- Statutory Declaration omitted from some Application Forms
- Possible financial loss for Kilkenny County Council

Co-operation of Management and Staff

Internal Audit received full co-operation from Council Management and Staff throughout the course of this review and would like to thank them for their assistance.

Internal Audit Opinion

Internal Audit's findings and recommendations are detailed below. Based on this Audit of the procedure surrounding granting of Strike Off's to Vacant Commercial Rated Properties within Kilkenny County Council the audit opinion is reasonable. There is sufficient framework of key controls for objectives to be met. Risks are managed but could be stronger. Controls are generally applied but some lapses in the application of controls have been observed. This report was distributed to the Finance Directorate and includes their Management Action Plan.

The report was approved by the Management Team on 27th August 2024.

The Audit Committee reviewed the Audit Report at their meeting of 9th September 2024.

Brigid Webster, Internal Auditor

Findings, Recommendations and Management Comments

<i>Findings</i>	<i>Implications</i>	<i>Recommendations</i>	<i>Management Action Plan & Timeframe</i>
<p>1. Policy & Procedure</p> <p>There is no formal approved written Policy or Procedure in place for the processing of Strike Off's for Vacant Rated Commercial Properties.</p>	<p>In the absence of an approved Policy and Procedure Kilkenny County Council is not ensuring consistency and efficiency in the management of granting of Strike Off's for Vacant Rated Commercial Properties.</p>	<p>Internal Audit recommends that a written Policy and Procedure is approved and implemented immediately. It is noted that a Draft Policy is currently in place.</p>	<p>Debt Collection are in the process of reviewing and updating our existing Draft Procedure Policy on Vacant Properties. This needs to be completed by Debt Collection and signed off by the Head of Finance. It is expected that the policy will be in place by year end to deal with all 2024 vacancies.</p>
<p>2. Application Form</p> <p>The Application Form is not fit for purpose and requires updating and amending.</p> <ul style="list-style-type: none"> ➤ Statutory Declaration not included on all Application Forms. ➤ 24 applications out of 34 reviewed were not witnessed and signed by 	<p>Owner/Lease Holder may dispute the information on the application due to lack of understanding and may refute signing same. From a legal basis a signed witnessed Statutory Declaration Form</p>	<p>Internal Audit recommends that a Statutory Declaration should be included on all Application Forms. This declaration must comply with the provisions of the Statutory Declaration Act 1938.</p>	<p>We are currently reviewing our vacancy application form as part of Draft Procedure Policy and we will have regards to the recommendation in this report.</p>

<i>Findings</i>	<i>Implications</i>	<i>Recommendations</i>	<i>Management Action Plan & Timeframe</i>
Peace Commissioner, Garda or Solicitor.	would be of benefit if the matter had to go to court.		
<p>3. Vacancy Strike off Rate</p> <p>At the time of Audit 11 properties from the sample of 34 checked had not paid the required 10% rates due for 2023.</p> <p>The 90% Strike Off Rate had been applied to these properties.</p>	<p>Possible financial loss to Kilkenny County Council with an increase in the arrears on Commercially Rated Customer accounts.</p>	<p>Internal Audit recommends that Management should not process the Commercial Property Vacancy Strike Off Rate to a Customer Account until the Rate Balance due (plus arrears, if any) is paid in full to Kilkenny County Council. This should be stipulated on the Application Form and Guidance Documents.</p> <p>Considering Kilkenny County Council has adopted a 50% Vacancy Strike Off Rate for 2024, there is a potential for increased arrears on Commercial Rate Accounts if the remaining 50% due is not collected.</p>	<p>We are currently reviewing all our vacancy strike off arrears with a view to pursuing the debt in the normal way. Reminder letters have issued for all arrears and we will be referring files to our legal team as they arise.</p>
4. Vacant Properties undergoing renovations/vacant			

<i>Findings</i>	<i>Implications</i>	<i>Recommendations</i>	<i>Management Action Plan & Timeframe</i>
<p>pending demolition or re-development.</p> <p>4 properties were noted as vacant and undergoing renovations for a period of 15 years or more. In all four cases it was found that the required documentation was not on file. The following was omitted:</p> <ul style="list-style-type: none"> ➤ Letter from Contractor ➤ Invoice for Renovations ➤ Letter from Architect/Agent ➤ Planning Application Reference 	<p>Potential Financial Loss to Kilkenny County Council. Properties continue to stay vacant with possibly no action taken to get them back into circulation or delisted.</p>	<p>I recommend Management review all properties currently receiving a Vacancy Rate Strike Off for a long period of time. This review should ensure that the relevant documents to prove Vacancy due to undergoing renovations or re-development are submitted. These documents must include but not be limited to the following;</p> <ul style="list-style-type: none"> ➤ Letter from Contractor ➤ Invoice for Renovations ➤ Letter from Architect/Agent ➤ Planning Application Reference <p>I would recommend that properties that are vacant for a long period (period to be decided) are referred to the Regeneration Officer for review and follow up action if applicable.</p>	<p>We will have regard to this recommendation as part of Draft Procedure Policy. We will compile a list of long-term vacancies and refer to the Regeneration Officer in Q3 2024.</p>

Appendix A - Sample of 34 Vacant Rated Properties in 2023

Custom ID	Laid	Total Vacancy Strike Off	Vacancy Form Completed	Vacancy Form witnessed & signed by Solicitor/Peace Commissioner/Garda	Vacant & Available for Letting	Vacant & Undergoing Renovations	Vacant & pending Re-Development	Evidence Provided	Nature of Vacancy Evidence	Correct percentage applied 90%	10% Received
██████		€865.20	YES	Jan - June Y. July to Dec N	N/A	N/A	YES	YES	Sign - For Sale or Lease - Daft	YES	YES
██████	██████	€228.05	YES	NO	YES	N/A	N/A	YES	Letter from Auctioneer	YES	YES
██████	██████	€1,501.74	YES	NO	YES	N/A	N/A	YES	Daft Advertisement & Receipt	YES	YES
██████	██████	€476.46	YES	NO	YES	N/A	N/A	YES	Letter from Auctioneer	YES	NO
██████	██████	€763.85	YES	NO	N/A	YES - Fire Damage	N/A	YES	Letter from Solicitor. Property sold 8/12/23	YES	YES
██████	██████	€2,006.05	YES	NO	N/A	YES	N/A	YES	Pictures included from 2021. Vacant from 2007-2023	YES	NO
██████	██████	€2,935.80	YES	NO	YES	N/A	N/A	YES	Photo of Available to Rent sign on window	YES	NO
██████	██████	€2,117.27	YES	NO	YES	N/A	N/A	YES	Letter from Auctioneer	YES	YES
██████	██████	€12,298.20	YES	NO	YES	N/A	N/A	YES	Letter from Auctioneer and a site visit by Staff Officer Arrears Management	YES	YES

Custom ID	Laid	Total Vacancy Strike Off	Vacancy Form Completed	Vacancy Form witnessed & signed by Solicitor/Peace Commissioner/Garda	Vacant & Available for Letting	Vacant & Undergoing Renovations	Vacant & pending Re-Development	Evidence Provided	Nature of Vacancy Evidence	Correct percentage applied 90%	10% Received
██████	██████3	€307.30	YES	NO	YES	N/A	N/A	YES	Daft Advertisement (no date)	YES	YES
██████	██████	€443.84	YES	NO	N/A	YES	N/A	YES	Pictures & Facebook advert	YES	YES
██████	██████	€285.52	YES	NO	YES	N/A	N/A	YES	Letter from Auctioneer	YES	YES
██████	██████	€1,166.17	YES	NO	YES	N/A	N/A	YES	For rent picture sign	YES	YES
		€45.44	YES	NO	YES	YES	N/A	YES	Daft Advert	YES	YES
██████	██████	€8,607.68	YES	NO	N/A	N/A	Basement derelict	YES	Property.ie & myhome.ie pictures	YES	NO
██████	██████	€3,674.98	YES	NO	YES	N/A	N/A	YES	Myhome.ie advert and letter from Auctioneers re rent in Sept 2023	YES	YES
██████	██████	€2,039.40	YES	NO	YES	N/A	N/A	YES	Rental sign	YES	YES
██████	██████	€1,097.57	YES	NO	YES	N/A	N/A	YES	Daft Advertisement	YES	YES
██████	██████	€2,760.30	YES	NO	N/A	N/A	YES	YES	Letter from Architect	YES	YES
██████	██████	€1,076.40	YES	NO	YES	N/A	N/A	YES	Sign for Rent and Facebook Advertisement	YES	YES
██████	██████	€2,028.60	YES	NO	YES	N/A	N/A	YES	Letter from Auctioneer for sale or lease	YES	YES

Custom ID	Laid	Total Vacancy Strike Off	Vacancy Form Completed	Vacancy Form witnessed & signed by Solicitor/Peace Commissioner/Garda	Vacant & Available for Letting	Vacant & Undergoing Renovations	Vacant & pending Re-Development	Evidence Provided	Nature of Vacancy Evidence	Correct percentage applied 90%	10% Received
██████	██████	€2,700.00	YES	NO	YES	N/A	N/A	YES	Letter from Auctioneer	YES	NO
██████	██████	€15,836.00	YES	Witnessed by Accountant	N/A	N/A	YES	YES	Planning Application ██████	YES	YES
██████	██████	€1,011.60	YES	Witnessed by Auctioneer	YES	N/A	N/A	No letter but signature from Auctioneer	Vacant rates form signed by Auctioneer	YES	YES
██████	██████	€612.75	YES	Witnessed by Rates Collector JK	YES	N/A	N/A	YES	Email from Auctioneer. Myhome.ie for sale advert	YES	NO
██████	██████	€445.45	YES	YES	N/A	N/A	YES	YES	Letter from Solicitor. Planning Ref included	YES	NO
██████	██████	€1,414.60	YES	YES	YES	N/A	N/A	YES	Daft link/ marketed by Auctioneer. No letter attached	YES	NO
██████	██████	€22,603.35	YES	YES	N/A	N/A	YES	YES	Letter from Property Company	YES	NO
██████	██████	€3,142.80	YES	YES	YES	N/A	N/A	YES	Letter from Auctioneer.	YES	NO

Custom ID	Laid	Total Vacancy Strike Off	Vacancy Form Completed	Vacancy Form witnessed & signed by Solicitor/Peace Commissioner/Garda	Vacant & Available for Letting	Vacant & Undergoing Renovations	Vacant & pending Re-Development	Evidence Provided	Nature of Vacancy Evidence	Correct percentage applied 90%	10% Received
██████	██████	€316.81	YES	YES	N/A	N/A	YES	YES	Letter from Builder, property was flooded, awaiting flood relief scheme for Freshford Village.	YES	YES
██████	██████	€2,061.00	YES	YES	YES	N/A	N/A	YES	Letter from Auctioneer property for letting	YES	YES
██████	██████	€6,359.00	YES	YES	YES	N/A	N/A	YES	Letter from Auctioneer property available to let	YES	YES
██████	██████	€1,640.79	YES	YES	N/A	N/A	YES	YES	Spoke with Staff Officer, Arrears Management for history on this property	YES	NO
██████	██████	€538.60	YES	YES	YES	N/A	N/A	YES	Advertisement from Property Company	YES	YES

Appendix B - Sample Inspected Vacant Properties

Customer ID	Vacancy Form Completed	Vacancy Form signed by Solicitor/Peace Commissioner/Garda	Vacant & Available for Letting	Vacant & Undergoing Renovations	Vacant & pending Re-Development	Evidence Provided	Nature of Vacancy Evidence	90% Applied	10% Received	Audit Notes
██████	YES	NO	YES	N/A	N/A	YES (photo of sign)	Available to Rent sign on window	YES	NO	Vacant sign in window. Picture taken.
██████	YES	NO	YES	N/A	N/A	YES	Sign for Rent on door	YES	NO	Vacant sign in window. Picture taken.
██████	YES	NO	NO	YES		Small photo	Not acceptable	YES	YES	Vacant since 2004. No signage. Picture taken. Could not access property.
██████	YES	NO	N/A	N/A	YES	YES	Photos	YES	YES	Vacant for 15 years or more - pictures taken. Spoke to owners who said that sewage and parking are the issues for Bridge St. Property has been renamed, it just has a display window. This done for aesthetic appearance.
██████	YES	NO	N/A	NA/	YES	YES	Photos	YES	YES	Vacant for 15 years or more pictures taken. Spoke to owners who said that sewage and parking are the issues for Bridge St. Property has no signage.
██████	YES	NO	N/A	N/A	Basement derelict	YES	Property. i.e. & myhome.ie pictures	YES	NO	Vacant and advertised
██████	YES	NO	YES	N/A	N/A	YES	Daft advertisement	YES	YES	Units now occupied
██████	YES	NO	YES	N/A	N/A	YES	Sign for Rent and Facebook advert	YES	YES	Spoke to Staff Officer, Arrears Management. This property is rented to another individual who is trying to get planning to extend hours past 5 p.m. vacant rates applied at present. Vacant & for rent sign in window.
██████	YES	Witnessed by Auctioneer	YES	N/A	N/A	No letter Auctioneer signature	Vacant rates form signed by Auctioneer	YES	YES	Vacant for couple of years, KCC Fire notice in window. Picture taken.