

Report of the Head of Finance

REVIEW OF DISCRETIONARY NON-DOMESTIC RATE RELIEF – 2015/2016

1 Purpose of Report

To review the award of discretionary rate relief to business ratepayers for the 2015/2016 financial year and introduce a new policy.

2 Executive Summary

The Borough Council has the discretion to grant relief to charities and not for profit organisations providing they satisfy specified criteria.

3 Appendices

Appendix 1: Summary of policies considered

Appendix 2: Policy

Appendix 3: Summary of policies of neighbouring authorities

Appendix 4: List of organisations affected by proposed policies

4 Proposed Action:

The Committee is invited to RESOLVE that the Discretionary Rate Relief policy in Appendix 2 is implemented from 1st April 2015

5 Background

- 5.1 The Local Government Finance Act 1988, Local Government and Rating Act 1997 & Rating (Former Agricultural Premises and Rural Shops) Act 2001 confer powers on Councils to grant rate relief to charities and not for profit organisations.
- 5.2 The original legislation has now been amended by Section 69 of the Localism Act 2011 to allow local authorities the discretion to award rate relief to all types of businesses.
- 5.3 The intention behind the change was to allow councils the freedom to offer discounts to help attract firms, investments and jobs and not just award relief to not-for-profit organisations. However, 40% of the cost of any discount awarded has to be met from local resources.
- 5.4 At the Resources Committee on 5th February 2014 members resolved to give a full year's notice to all ratepayers in receipt of discretionary rate relief and implement a new policy effective from 1st April 2015.

- 5.5 Members wanted a policy which would make the process clearer for applicants and to provide greater accountability in the award of relief as in the past; reliefs were rolled forward each year irrespective of the level of increase in business rates.
- 5.6 There has also been a national trend in the number of large business properties - specifically empty offices and warehouses - let to charities on a nominal rental figure. If rate relief has already been granted to similar organisations, all be it in smaller properties, a precedent will have been set which could mean the local authority would have to fund relief. This has not happened in Wellingborough yet but has occurred in the areas of two neighbouring authorities. Having a clear but robust policy in place will avoid this occurring.
- 5.7 Before discretionary relief is considered for award, an application needs to be assessed to see if the organisation would qualify for mandatory relief. Mandatory relief is granted to institutions, organisations or trusts established for charitable purposes in respect of property used wholly or mainly for charitable purposes. Mandatory relief is 80% of the rates chargeable
- 5.8 The Council can award discretionary relief either as a top-up to mandatory relief awarded to charities or on its own to other non-profit making organisations, but only where:
- the ratepayer is a charity or trustees for a charity, and the property is wholly or mainly used for charitable purposes (the same as with mandatory relief). As mandatory relief of 80% will already have been awarded, discretionary relief may be applied from 0% to 20%, or
 - the business does not qualify for mandatory relief and the property is not an excepted property (one occupied by a billing or precepting authority), and where all or part of it is occupied by one or more institutions or other organisations which are not established or conducted for profit
- and
- whose aims should be charitable or otherwise philanthropic, or concerned with the promotion of social welfare, education, science, literature or the fine arts, or
 - where the property is wholly or mainly used for the purpose of recreation and all or part of the property is occupied for the purpose of a club, society or other organisation not established or conducted for profit.
- 5.7 In the past, the Borough Council has granted 20% top-up relief for those in receipt of mandatory rate relief or 50% for those not in receipt other than in the case of charity shops, schools or national charities occupying warehouses where no award was made.

6 Discussion

- 6.1 The council cannot have a blanket policy of either awarding or refusing every application for discretionary rate relief. Even when a policy is in place, every application must be looked at individually on its own merits to determine how it fits with the guidelines or aims of the council.
- 6.2 The reason to have a policy however is to ensure that when considering whether it is appropriate to grant discretionary rate relief, the needs of the community and the interests of the council tax payers are taken into account, bearing in mind the Council's priorities.
- 6.3 Most other local authorities, including neighbouring ones, either cap the financial amount awarded, the percentage of relief granted or have a cut off limit up to a certain sized rateable value. Policies also contain guidelines favouring local charitable or not-for-profit organisations over national ones.
- 6.4 Three potential policies have been considered. Each one offered different advantages but all three made the process for applying clearer for organisations and more robust as well as safeguarding the future discretionary rate relief budget. A summary of these is shown in Appendix 1.
- 6.5 When making the recommendation, care has been taken to consider not just the financial cost to the authority and the potential savings but also the impact this policy would have on the charitable and not-for-profit sector specifically small local organisations. A summary of the costs for each policy considered and those affected is shown in Appendix 4

7 Legal Powers

- 7.1 Section 47 of the Local Government Finance Act 1988 gives the Council the discretionary power to grant relief to non-profit making organisations.
- 7.2 The Local Government Finance Act 1997 gives the Council the authority to backdate the award of discretionary relief within specified periods.
- 7.3 Section 69 of the Localism Act 2011 allows local authorities the discretion to award rate relief to all types of businesses.
- 7.4 Regulation 2 of the Non Domestic Rating (Discretionary Relief) Regulations 1989 SI 1989/1059 states that when a billing authority varies a determination they must inform the ratepayer in writing and give notice of one full financial year.

8 Financial and Value For Money Implications

There is no longer a budget for discretionary rate relief as this was changed as part of the new Business Rate Retention scheme but any cost is funding forgone from rate retention.

9 Risk Analysis

- 9.1 Without a policy for discretionary rate relief, there could potentially be an unlimited obligation to grant relief to large commercial properties.
- 9.2 There has been a rise in the trend of the letting of large warehouses and offices to charities and other not for profit organisations to avoid rate liabilities payable by landlords and owners on empty properties. The Borough Council could be left in the position of having to award relief if there is no robust rate relief policy in place.

10 Implications for Resources

Qualifying organisations become eligible for the free three waste bin collections once approval is granted for full relief.

11 Implications for Stronger and Safer Communities

None

12 Implications for Equalities

None

13 Author and Contact Officer

Richard Watson, Consortium Business Rate Manager

14 Consultees

Samantha Knowles, Principal Accountancy Manager
Nigel Robinson, Principal Revenue and Benefits Manager

15 Background Papers

None

Appendix 1

As stated in section 4, policy two is the recommended option to be agreed.

Policy One

Caps the total amount of relief payable to charitable ratepayers at a cost to the local authority of £10,000 per organisation.

Excludes all charity shops and schools.

Excludes national organisations with no specific affiliation to the Wellingborough area (excluding staff and employees).

Grants relief to small qualifying properties in rural settlements.

Local not for profit organisations demonstrating a benefit to residents of the Borough receive an award of 50% of the rates payable will be made to a maximum cost to the authority of £10,000 per organisation.

No award made to political organisations or private for profit companies.

Policy Two

Excludes relief from being granted to properties with a rateable value of over 18,000 (in line with the Government definition of a small business in the small business rate relief scheme) when it is an office, warehouse, store or other type of industrial unit.

Excludes all charity shops and schools.

Excludes national organisations with no specific affiliation to the Wellingborough area (excluding staff and employees).

Grants relief to small qualifying properties in rural settlements.

Local not for profit organisations demonstrating a benefit to residents of the Borough receive an award of 50% of the rates payable will be made to a maximum cost to the authority of £10,000 per organisation.

No award made to political organisations or private for profit companies

Policy Three

Excludes relief from being granted to properties with a rateable value of over 35,000 when it is an office, warehouse, store or other type of industrial unit.

Excludes all charity shops and schools.

Excludes national organisations with no specific affiliation to the Wellingborough area (excluding staff and employees).

Grants relief to small qualifying properties in rural settlements.

Local not for profit organisations demonstrating a benefit to residents of the Borough receive an award of 50% of the rates payable will be made to a maximum cost to the authority of £10,000 per organisation.

No award made to political organisations or private for profit companies

Appendix 2

Discretionary Rate Relief Policy

The Borough Council of Wellingborough is committed to providing support and relief to charitable organisations in the district whose aims are in line with the objectives of the authority.

With this in mind, this policy:

- 1 will ensure ratepayers are treated in a fair and consistent manner by establishing a framework to ensure applications are determined efficiently.
- 2 will ensure relief is only granted to those organisations which contribute to the Council's objectives.
- 3 will ensure the finances of ratepayers and council tax payers in the area are protected by ensuring awards are only made where they are in the local interest.

This policy relates to the rate relief that the Council has a discretionary power to award under Section 47 (as amended by Section 69 of the Localism Act 2011) and Section 49 of the Local Government Finance Act 1988 and Section 42A & Section 42B of the Local Government & Rating Act 1997 as well as the Local Government and Rating Act 1997 & Rating (Former Agricultural Premises and Rural Shops) Act 2001.

The Council cannot grant discretionary relief in respect of excepted hereditaments (where the Council or another precepting authority would be liable to pay the rates).

The Council can award discretionary relief either as a top-up to mandatory relief awarded to charities or on its own to other not-for-profit organisations, but only where:

- the ratepayer is a charity or trustees for a charity, and the property is wholly or mainly used for charitable purposes.
- the business does not qualify for mandatory relief and where all or part of it is occupied by one or more institutions or other organisations which are not established or conducted for profit, and
- whose aims should be charitable or otherwise philanthropic, or concerned with the promotion of social welfare, education, science, literature or the fine arts, or
- where the property is wholly or mainly used for the purpose of recreation and all or part of the property is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

Who Qualifies for Discretionary Rate Relief

Each application for discretionary rate relief will be considered on its own merits, but for guidance, the following notes will apply:

- 1 The rateable value limit for receiving relief is 18,000 if the organisation is occupying an office, warehouse, store or other type of industrial unit. This is in line with the Government's definition of a small business under small business rate relief legislation. This is the total rateable value for all properties the responsibility of an organisation added together, not just one individual assessment. If an organisation occupies a property or properties whose rateable values add up to over 18,000, no relief will be awarded.
- 2 No relief will be granted to any organisation at a property where the main use of it is as a charity shop or a school.
- 3 National charities with no specific affiliation to the Wellingborough area (apart from staff or volunteers) will not be awarded any discretionary relief.
- 4 Sports clubs that have been registered with the Inland Revenue as community amateur sports clubs will be treated the same way as charities.
- 5 Ratepayers with a bar will not be awarded any discretionary rate relief unless they can demonstrate that the takings are a significant help to the running expenses of the not-for-profit organisation.
- 6 No relief will be awarded to political organisations or companies which operate for private gain

Levels of Relief

If a decision to award relief is made, the following levels will apply:

- 1 Where 80% mandatory rate relief has already been awarded, an award of 20% discretionary rate relief will be made.
- 2 Where no mandatory rate relief has been awarded, an award of 50% discretionary rate relief will be made.
- 3 Where 50% mandatory rate relief has been awarded to a qualifying property in a rural settlement area, an award of 50% discretionary rate relief will be made.

How to Apply

Applications will only be considered where a written application is received on an official form from the ratepayer, or where the ratepayer is an organisation a person properly authorised to make an application on behalf of the organisation.

The application will include a copy of the organisation's memorandum and articles of association, or rules of the association, together with copies of the audited accounts and balance sheets for the last two years.

The Council shall request such any additional supporting evidence as it considers necessary to enable the Council to properly assess the merits of the application.

Ratepayers submitting an application shall set out, as part of the application; the benefits that the ratepayer considers will accrue to the Borough's council taxpayers as a result of the award.

If any of the supporting documentation is not supplied, the application will not be considered for an award.

Discretionary rate relief will not normally be awarded in respect of any day prior to the day that an application is received together with all supporting information. However, in exceptional circumstances consideration may be given to awarding rate relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting the application earlier.

Appeals

Formal appeals regarding discretionary relief are by way of judicial review under Section 138 of the Local Government Finance Act 1988 and must be heard in the High Court.

However, the Council is happy to initially review any decision made. Appeals should be submitted to the Council's Resources Committee for a review.

The appeal should be made in writing, must detail the reasons for the request and also include:

- 1 Any additional information relevant to the application that was not available at the time the decision was made.
- 2 A more detailed explanation if there are good grounds to believe the application or supporting Information was not interpreted correctly at the time the decision was taken.

Appendix 3

Summary of schemes of neighbouring authorities

Corby Borough Council

Has a yearly budget of £35,000
Maximum per organisation of £10,000
Organisations with core or devolved funding do not qualify.
Organisations with several premises only receive relief for the largest one.
No relief awarded to any organisation with a bar.
Political and private for profit companies excluded.
Each case looked at on its own merits to determine level of award.

Daventry District Council

Maximum per organisation of £10,000
Political and private for profit companies excluded.
Award of relief cut by 50% if the organisation has a bar.

East Northamptonshire Council

Maximum per organisation of £10,000
Award of relief cut by 50% if the organisation has a bar.
50% awarded if half of membership is not from the council's area.
50% awarded if used for theatrical productions or storage of theatrical scenery.
50% awarded for organisations concerned with preserving the past.

Kettering Borough Council

Maximum rateable value for any property is set at 25,000
No relief granted to an organisation without a specific affiliation to the area.
Local charities pay 10% if they have reserves up to and including £1,000, 15% if above £1,000 but no more than £2,500 and no relief awarded if they have reserves over £2,500
Sporting associations with 75% or more residents in the area receive 15% relief, 50% to 74% receive 10% relief, 25% to 49% receive 5% relief and if less than 25% no relief is granted.
Associations split between active and social members have 10% awarded if 66% or more of members are active, if 33% to 65% an award of 5% is made and if the number is less than 33%, no award is made.
Bar takings are taken into account and an award is based on the takings of the bar and also the price comparison when looked at other bars in the Kettering area. If prices are over 25% less than average prices for the borough, no award is made.

Northampton Borough Council

No relief granted to an organisation without a specific affiliation to the area
All charity shops excluded.
All organisations pay 5% unless they co-locate with another charitable association when full relief is granted.

Political and private for profit companies excluded.

South Northamptonshire Council

Maximum rateable value for any property is set at 16,500

No relief granted to an organisation without a specific affiliation to the area.

Political and private for profit companies excluded.

Each case looked at on its own merits to determine level of award.

Appendix 4

Organisations Affected by Each Policy

As stated in section 4, policy two is the recommended option to be agreed.

Organisation Name	Relief for Full Year	Cost to Authority
<u>Policy One</u>		
REFUGEE RELIEF 10 SAXON COURT	£1,132.70	£453.08
PHOENIX RESOURCE CENTRE 20 VAUX ROAD	£15,231.20	£6,092.48
LEISURE AND COMMUNITY PART LTD WAENDEL LEISURE CENTRE	£27,715.00	£11,086.00
Total	£44,078.90	£17,631.56
<u>Policy Two</u>		
REFUGEE RELIEF 10 SAXON COURT	£1,132.70	£453.08
TEAMWORK 38A OXFORD ST	£3,277.60	£1,311.04
ACTION FOR CHILDREN PENRITH DRIVE	£3,470.40	£1,388.16
PHOENIX RESOURCE CENTRE 20 VAUX ROAD	£15,231.20	£6,092.48
Total	£23,111.90	£9,244.76
<u>Policy Three</u>		
REFUGEE RELIEF 10 SAXON COURT	£1,132.70	£453.08
ACTION FOR CHILDREN SURESTART HOUSE	£3,470.40	£1,388.16
THE CASTLE (W'BORO) LTD. CASTLE WAY	£4,627.20	£1,850.88

LEISURE AND COMMUNITY PART LTD REDWELL LEISURE CENTRE	£10,314.80	£4,125.92
PHOENIX RESOURCE CENTRE 20 VAUX ROAD	£15,231.20	£6,092.48
LEISURE AND COMMUNITY PART LTD WAENDEL LEISURE CENTRE	£27,715.00	£11,086.00
Total	£62,491.30	£24,996.52

