

Report of the Head of Finance

DISCRETIONARY NON-DOMESTIC RATE RELIEF REVIEW:TEAMWORK

1 Purpose of Report

To review the decision to remove discretionary non-domestic rate relief from Teamwork, 38a Oxford Street, Wellingborough, NN8 4JG

2 Executive Summary

The Borough Council has the discretionary power to grant relief to non-profit making organisations providing they satisfy specified criteria.

3 Appendices

A – Discretionary rate relief policy.

4 Proposed Action:

The Committee is invited to RESOLVE not to award 20% top up discretionary non-domestic rate relief to Teamwork, 38a Oxford Street, Wellingborough, NN8 4JG.

5 Background

- 5.1 A discretionary rate relief policy was requested by members of the Resources Committee, discussed at the meeting on 17th December 2014 and introduced effective from 1st April 2015. The policy is shown in appendix A.
- 5.2 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.
- 5.3 The Committee also wanted to have a clear and robust policy in place to protect reliefs awarded and avoid awarding to organisations occupying larger properties in the borough. The concern was that this would set a precedent if applications were received from other similar bodies occupying larger properties and could have a significant financial impact on the authority.
- 5.4 Teamwork was one of the four organisations affected by this policy.
- 5.5 There is no formal right of appeal against the decision to award or not to award discretionary rate relief other than by judicial review in the High Court. Members

however, wanted to offer ratepayers the chance to re-submit an application in the first instance rather than incurring significant costs if they decided to follow this route.

6 Discussion

- 6.1 Ratepayers automatically qualify for 80% mandatory rate relief if they are a charitable organisation and are occupying the property solely or mainly for charitable purposes irrespective of its size. They are then entitled to apply for top up rate relief of 20% which is purely at the discretion of the local authority.
- 6.2 It is up to each local authority to have a policy which considers whether it is appropriate to grant discretionary rate relief bearing in mind the Council's priorities and taking into account the needs of the community and the interests of the council tax payers.
- 6.3 Teamwork qualifies for the 80% reduction. This appeal is against the decision to cut the 20% discretionary rate relief.
- 6.4 Teamwork has been in occupation of the property in Oxford Street and in receipt of 80% mandatory and 20% discretionary rate relief since 1999. They provide work placed therapy, education and personal care.
- 6.5 The aims of the organisation are to promote the preservation of mental health and to assist in relieving and rehabilitating persons suffering from mental disorder or conditions of emotional or mental distress requiring advice or treatment in Northamptonshire and in particular by the provision of facilities for work placed therapy.
- 6.6 The property is described as a workshop and premises and has a rateable value of £34,000
- 6.7 The discretionary rate relief policy prohibits the awarding of relief at properties of this sort with a rateable value of above £18,000. This limit was set as it is the government's definition of a small organisation under the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2012.
- 6.8 If relief is granted in this instance, relief cut from the other three organisations affected would also have to be reconsidered.

7 Legal Powers

- 7.1 Section 47 of the Local Government Finance Act 1988 (as amended by Section 69 of the Localism Act 2011) 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 to 1st April 2015.

8 Financial and Value For Money Implications

- 8.1 The amount of discretionary rate relief under consideration is £3,352.40.
- 8.2 The proportion of this relief to be directly borne by the council taxpayers is £1,341
- 8.3 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

| Nature of risk | Consequences if realised | Likelihood of occurrence | Control measures |
|---|---|--------------------------|---|
| Without abiding by the policy for discretionary rate relief, there could potentially be an unlimited obligation to grant relief to large commercial properties. | Future applications from other charitable organisations cannot be turned down if they occupy a larger property with a significant financial impact. | High | A robust discretionary rate relief policy |

10 Implications for Resources

None

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

Nigel Robinson, Revenue Service Manager

15 Background Papers

Application form, Constitution of organisation, Copy of accounts

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. Requests for a review should be submitted to the Council's Resources Committee.

The request for a review should be made in writing, must detail the reasons why the members should reconsider their decision 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.