

Report of the Head of Finance

**DISCRETIONARY NON-DOMESTIC RATE RELIEF POLICY**

**1 Purpose of Report**

To review the discretionary rate relief policy for businesses, charities and not-for-profit organisations in the Borough.

**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:	Policy
Appendix 2:	Summary of policies of neighbouring authorities
Appendix 3:	Organisations benefitting from an award

**4 Proposed Action:**

**The Committee is invited to RESOLVE that the Discretionary Rate Relief policy in Appendix 2 is introduced with immediate effect and qualifying organisations be awarded relief backdated to 1<sup>st</sup> 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 5<sup>th</sup> 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 1<sup>st</sup> April 2015. This was implemented but at the meeting on 24<sup>th</sup> June 2015, members asked for it to be reviewed to include small to medium sized local organisations.
- 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.
- 5.7 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.
- 5.6 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 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.
- 6.5 To safeguard the interests of the Council Tax payers but also to allow small to medium sized organisations to benefit from an award, the rateable value limit has been set at 50,000 for those occupying offices, warehouses, stores or other types of industrial unit. Any organisations that occupy properties of these types whose rateable values add up to over 50,000 will not have an award.
- 6.6 The level of 50,000 rateable value follows recent Central Government guidelines in relation small to medium sized enterprises when announcing changes in the Autumn Statements in 2013 and 2014.

## **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.

## **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 There has been a national trend in the number of large business properties - specifically empty offices and warehouses - let to charities on a nominal rental figure to potentially avoid the payment of Non Domestic rates on the empty property. 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 in this borough.

- 9.2 Without introducing a policy for discretionary rate relief, there could potentially be an unlimited obligation to grant relief to large commercial properties. In addition to this future applications from other charitable organisations could not be turned down if they occupy a larger property and this would have a significant financial impact. A robust discretionary rate relief policy would mitigate these risks as it would provide a framework for clear and transparent decisions. Each case would be considered under the framework and recommendations made as appropriate.

## **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

### 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 50,000 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 50,000, 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 in writing.

The applicant 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 2**

### **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 cost to the authority  
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 3

### Organisations Benefitting from New Policy

Organisation Name	Relief for Full Year	Cost to Authority
TEAMWORK 38A OXFORD ST	£3,277.60	£1,311.04
<b>Total</b>	<b>£3,277.60</b>	<b>£1,311.04</b>

