



## Policy and Resources Committee – 10 March 2014

### Amendments to the Discretionary Rate Relief Policy

**Purpose of report:** To update the Council's Discretionary Rate Relief Policy in line with current policy and business rates retention regime.

#### Attachment(s)

**Appendix 1 - Amended Discretionary Rate Relief Policy**

#### 1.0 Introduction and background

- 1.1 In 2012, Members adopted a formal policy relating to the granting of discretionary rate relief to business rate payers.
- 1.2 The policy introduced a ceiling which limits the Council's contribution toward discretionary rate relief granted to any individual ratepayer to £10,000. Discretionary rate relief is granted when charitable or non-profit making organisations meet the conditions detailed in the policy.
- 1.3 Only two ratepayers were affected by the introduction of the policy and they were subsequently given notice that their rate relief would be reduced from 1 April 2014.
- 1.4 The policy needs to be updated to take into account changes to business rate funding arrangements, an additional power to grant discretionary rate relief in any circumstances and the recently introduced £1000 rate relief for retail premises.

#### 2.0 Changes to business rate funding arrangements

- 2.1 Under the previous funding regime, the cost of granting discretionary rate relief was shared between the Council and central government, as follows:

	<u>Government</u>	<u>Council</u>
If topping up mandatory relief	25%	75%
If granting discretionary relief only	75%	25%

- 2.2 This meant that, if granting discretionary relief only, the maximum amount of relief that could be awarded was £40,000, (where the government contribution is £30,000 or 75% and the Council's contribution is £10,000 or 25%).
- 2.3 From 1 April 2013, the way that business rate income is accounted for has changed under the new Business Rate Retention arrangements. Under the previous regime business rates were redistributed from central government and allocated to local authorities via grant allocation. The new regime allows local authorities to retain more business rates and provides a mechanism to retain a greater proportion of future growth across the district. Business rates are apportioned differently with up to 40% retained by the authority.

- 2.4 The new arrangements affect the way the cost of granting discretionary rate relief is shared. Instead of a 25/75% split, the Council now bears 40% of the cost of granting any such relief. The revised percentage is in line with the new business rates regime.
- 2.5 If the ceiling of £10,000 (mentioned in 1.2 above) is retained, the maximum amount of discretionary rate relief that can be granted would reduce from £40,000 to £25,000.
- 2.6 A review of current claimants has revealed that only one ratepayer will be affected by this change. The amount of relief granted to the ratepayer will reduce from £40,000 to £25,000 from 1 April 2015, as we are required to give twelve months notice of the change.
- 2.6 Officers are in the process of writing to all discretionary rate relief claimants, to make them aware of these changes and to carry out a review of their entitlement to the relief. This forms part of a 5 year review of all relief cases. This review is undertaken to ensure relief is granted correctly and the use of the property hasn't changed.

### **3.0 Additional power to grant discretionary rate relief in any circumstances**

- 3.1 Clause 69 of the Localism Act amended section 47 of the Local Government Finance Act to allow Councils to grant discretionary rate relief in any circumstance, providing certain conditions are met. The Discretionary Rate Relief Policy has been amended to include this aspect, under section 4.4.
- 3.2 It is anticipated that this new power would only be exercised in exceptional circumstances and on a very occasional basis. Applications would be considered by the Chief Finance Officer and any proposed refusal to grant relief would be referred to Members.

### **4.0 Relief for Retail premises**

- 4.1 The Government announced in the Autumn Statement on 5 December 2013 that it will provide a relief of up to £1,000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014-15 and 2015-16.
- 4.2 As the cost of granting the relief is fully funded by central government, East Northamptonshire Council will grant the relief to any ratepayer who fulfils the government's suggested qualification criteria.
- 4.3 A significant amount of officer time has been required to identify the properties that will qualify for this relief in time for the relief to be shown on this year's annual rate bills.
- 4.4 Although the Government have been prescriptive about which businesses this relief applies to there is an small element of local discretion for Council's to decide not to apply the relief for certain businesses.

### **5.0 Equality and Diversity implications**

- 5.1 An Equality Impact Assessment (EIA) was carried out when the draft policy was being produced and only positive or neutral impacts were identified. There are no other impacts arising from the proposed amendments to the policy.

### **6.0 Legal implications**

- 6.1 The Council has statutory power to award discretionary rate relief under S47 (as amended by S69 of the Localism Act 2011) and S49 of the Local Government Finance Act 1988 and S42A & S42B of the Local Government & Rating Act 1997. The Council cannot grant discretionary relief in respect of 'excepted hereditaments'. An 'excepted hereditament' is one where the Council or precepting authority would be liable to pay the rates. Additionally, case law has established that, where a discretionary power

exists, it must be applied fairly and not arbitrarily.

## 7.0 Financial implications

7.1 The Council's financial exposure is limited by the £10,000 ceiling, set out in 1.6 of the policy. These changes do not affect the Council's financial exposure in any way. However, the changes to the policy are necessary as they impact on the amount of relief that an individual ratepayer can receive. They do not have any impact on the £10,000 ceiling which remains unchanged.

## 8.0 Risk Management

8.1 There is a risk that the ratepayer could be adversely impacted as a consequence of the reduction in the amount of discretionary rate relief they receive. However, the twelve months notice period will allow an organisation time to review their circumstances.


## 9.0 Corporate outcomes

9.1 The Policy contributes to the Council's priority outcomes in the following ways:-

9.2 Good Value for money – The policy provides a framework to ensure applications are determined in an efficient manner. The policy also safeguards the interests of local council tax payers by ensuring funds allocated for the award of discretionary relief are used in the most effective, efficient and economical way.

## 10.0 Recommendation

10.1 That the amendment to section 1.6 and insertion of sections 4.4 and 4.5 to the Discretionary Rate Relief Policy be endorsed and adopted.

<b>Legal</b>	Power: S47 (as amended by S69 of the Localism Act 2011) & S49 of the Local Government Finance Act 1988 and S42A & S42B of the Local Government & Rating Act 1997.				
	Other considerations:				
<b>Background Papers:</b>					
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<b>Date: 28 February 2014</b>					
<b>CFO</b> 28/02/14		<b>MO</b>		<b>CX</b>	

(Committee Report Normal Rev. 22)



East  
Northamptonshire  
Council

# Business Rates Discretionary Relief Policy



This policy sets out this Council's scheme for charities, institutions, clubs and rural businesses.

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## Change History

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V0.3	05072012	Includes P & R amendment to appeal process
V0.4.1	04102012	Includes consultation feedback
V 1.0	04102012	First published version
V 1.1	20022014	Included Clause 69 and section 47 relief

**NB: Draft versions 0.1 - final published versions 1.0**

## Consultees

Internal	External
Business Rates Officer	Business rate customers
S151 Officer	
Head of Customer & Community Services	

## Distribution List

Internal	External
Business Rates Officer	Business rate customers
Members	
Head of Customer & Community Services	

## Links to other documents

Document	Link
Rural rate Relief - Guidance notes	
Equality Impact Assessment	

## Additional Comments to note

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## 1.0 Introduction

- 1.1 Discretionary Rate relief is available to a variety of organisations. It can be granted in its own right or as a supplement to Mandatory Rate Relief. This policy sets out this Council's scheme for charities, institutions, clubs and rural businesses.
- 1.2 The policy has been written in such a way as to allow ratepayers to identify how they can maximise their rate relief and see that relief has been granted in a fair and transparent manner.
- 1.3 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.
- 1.4 Discretionary relief can be given to charitable bodies in addition to mandatory relief. Thus, up to 100% relief can be achieved.
- 1.5 Non-profit making bodies (ineligible for mandatory relief) can be granted up to 100% discretionary relief of rates.
- 1.6 From 1/4/2013, where the billing authority grants discretionary rate relief, the cost of relief will be split through the local and central share under the Non Domestic Rating (Rate Retention) Regulations 2013

\* **The maximum amount that the Council will contribute in any financial year to an individual ratepayer is £10,000.** This will be reviewed periodically. This limit allows the Council to make more accurate budgetary provision for Discretionary Rate Relief whilst maintaining equality and continuing to support local businesses.

## 2.0 Scope

- 2.1 This policy relates to the rate relief that the Council has a discretionary power to award under S47 (as amended by S69 of the Localism Act 2011) and S49 of the Local Government Finance Act 1988 and S42A & S42B of the Local Government & Rating Act 1997. The Council cannot grant discretionary relief in respect of 'excepted hereditaments'. An 'excepted hereditament' is one where the Council or another precepting authority would be liable to pay the Rates.



### 3.0 Policy outcomes

3.1 The outcomes to be delivered by this policy are:

Policy outcomes	Links to corporate outcomes
<ul style="list-style-type: none"><li>• Will ensure ratepayers are treated in a fair, consistent and equal manner.</li><li>• Will establish a framework to ensure applications are determined in an efficient manner.</li><li>• Will ensure relief is granted to organisations which contribute to the Council's corporate priorities.</li><li>• Safeguards the interests of local council tax payers by ensuring funds allocated for the award of discretionary relief are used in the most effective, efficient and economical way.</li></ul>	<ul style="list-style-type: none"><li>• Good value for money.</li></ul>

## 4.0 Discretionary Rate Relief Policy

### 4.1 Hardship Relief

The Council will grant rate relief in respect of rates on both occupied and unoccupied properties where it is satisfied that the ratepayer would sustain hardship if it did not do so, and it is reasonable for the council to do so having regard to the interests of its council tax payers.

- 4.1.1 The 'test' of hardship need not be confined to financial hardship; all relevant factors affecting the ability of a business to meet its liabilities for rates will be taken into account. Likewise, the 'interests' of council tax payers may go wider than direct financial interests. For example, the prospects of an area might be affected by a company going out of business, or an area's amenities might be reduced by the loss of the only village shop.
- 4.1.2 The levels of relief that the Council will grant to institutions and organisations within East Northamptonshire are detailed below. **\*Note** - these are all subject to the financial limit set out in 1.6 above.
- 4.1.3 The Council has a duty to consider the cost to its' council tax payers of granting discretionary rate relief. Thus, where there is income from a bar, the relief is restricted. This recognises the potential for a club with a bar to raise its own funds via bar surplus rather than being reliant upon public funds.

Category	Notes	Relief Amount
Halls and Rooms (Including Village shops, Community Halls, Women's Institutions)	Where the principal form of income is from lettings or charitable sources	100%
Youth Organisations	Including Scouts and Guides, Youth Clubs and Sports Clubs provided solely for young people	100%
Voluntary Organisations, associations and bureaux	St Johns Ambulance Brigade, British Legion and W.R.V.S including day centres for the elderly or disabled and hostels. Serve, CAB, Volunteer Centre. Organisations providing Social Welfare	100%
Educational	Colleges and Universities and Academies Where the organisation supports local industry and the wellbeing of the community through training facilities to the locality	100%
Charity Shops	Shops that are operated by local charities to raise funds which are used for the benefit of the people in the council's district (The shop must sell wholly or mainly donated goods and the proceeds of the sale must be applied for the purposes of a charity.)	20%
Sporting Organisations	Includes sporting organisations apart from those purely for the young	

	Where at least 50% of the membership is drawn from the council's district and there is no bar income	100%
	Where under 50% of the membership is from the council's district or where the organisation is supported by bar income	25%
	Where organisations have youth involvement, rateable value under £16,500 and a bar run on a self financing basis	50%
	Note: the supply of drinks after a match/game is not classed as bar income	
Theatrical Societies and Preservation Societies	Premises used for theatrical productions and storage of theatrical scenery. Organisations concerned with preserving the past.	50%
	Where supported by bar income	25%
Community Amateur Sports Clubs	Registered CASCs will receive 80% Mandatory relief supplemented by discretionary relief	20%

## 4.2 Rural rate relief

4.2.1 Where the Ratepayer is the occupier of a post office, general store, public house, petrol filling station or food shop, they must, subject to the application of rateable value thresholds, be granted 50% mandatory rate relief. The council will increase the level of rate relief in these cases by allowing discretionary rate relief as detailed in the following tables (Subject to the financial limit set out in 1.6 above).

Property Description	Rateable Value	Mandatory Relief	Discretionary Relief
Sole Village Post Office	£8,500 or less	50%	50%
Sole General Store	£8,500 or less	50%	50%
Sole Public House	£12,500 or less	50%	25%
Sole Petrol Filling Station	£12,500 or less	50%	25%
Sole Rural Food Shop	£8,500 or less	50%	50%

4.2.2 Where there is no entitlement to Mandatory relief because the property is in a higher rateable value band, the Council will grant Discretionary Relief as detailed in the following table, and subject to the financial limit set out in 1.6 above.

Property Description	Rateable Value	Discretionary Relief
Sole Post office	£8,501 to £16,500	100% Discretionary
Sole General Store	£8,501 to £16,500	100% Discretionary
Sole Public House	£12,501 to £16,500	50% Discretionary
Sole Petrol Filling Station	£12,501 to £16,500	50% Discretionary
Sole Rural Food Shop	£8,500 to £16,500	100% Discretionary

4.3 Section 47 of the Local Government Finance Act 1988, as amended by the Local Government and Rating Act 1997 allows Councils to grant Discretionary Rate Relief to other businesses situated in rural settlements, provided the council is satisfied that a) the property is used for

purposes which benefit the local community and b) that it would be reasonable for the council to grant relief, having regard to the interests of the council tax payers of the District. The maximum amount of Discretionary relief that can be granted in these cases is 100% and this is subject to the financial limit set out in 1.6 above.

4.3.1 If the Council receives an application under S47, and the application satisfies the criteria in 4.3 above, the application will be determined by the Chief Financial Officer.

#### **4.4 Local Business Rates Discount under Clause 69 of the Localism Act 2011**

4.4.1 Clause 69 of the localism Act 2011 amends section 47 of the Local Government Finance Act 1988 to supplement the limited circumstances in which local authorities can currently give discretionary relief with a power to grant relief in any circumstances.

4.4.2 From 1 April 2012, authorities can grant local discounts entirely as they see fit within the limits of the primary legislation and European rules on state aid. However, the following conditions must be met.

4.4.3 Each application must be made in writing and will be considered on its own merit.

4.4.4 The council's finances must allow for a reduction to be made. **\*Note-** This is subject to the financial limit set out in 1.6 and the full amount will be financed by the council taxpayers

4.4.5 It must be in the interests of the council tax payers for the local authority to apply a local discount.

4.4.6 All other eligible discounts/ reliefs have been identified and awarded to the ratepayer.

4.4.7 Discounts will be granted for a fixed period not exceeding 12 months.

4.4.8 If the Council receives an application under S47, the application will be determined by the Chief Financial Officer.

#### **4.5 Relief for Retail premises**

4.5.1 The Government announced in the Autumn Statement on 5 December 2013 that it will provide a relief of up to £1,000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014-15 and 2015-16.

4.5.2 This relief will be granted under section 47 and central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).

4.5.3 The government guidelines define 'retail properties' as 'Hereditaments that are being used for the sale of goods to visiting members of the public', including shops, restaurants, cafes and drinking establishments. Further detailed definition can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/275589/Business\\_Rates\\_Retail\\_Relief\\_guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275589/Business_Rates_Retail_Relief_guidance.pdf)

4.5.4 Although this is a discretionary relief, the Government has stated that it expects local government to grant relief to qualifying ratepayers. As the cost of granting the relief is

fully funded by central government, East Northamptonshire Council will grant the relief to any ratepayer who fulfils the government's suggested qualification criteria.

## **4.6 Appeals**

- 4.6.1 There is no statutory right of appeal against a decision made by the Council regarding discretionary rate relief. However the Council recognises that ratepayers should be entitled to have a decision reviewed objectively if they are dissatisfied with the outcome of their application.
- 4.6.2 An applicant wishing to appeal must write to the Revenue Manager within four weeks of being notified of the outcome of their application.
- 4.6.3 The applicant's letter must state clearly why the applicant feels the decision should be reviewed. It should also include any additional information that the applicant believes is relevant or helpful to the reviewer.
- 4.6.4 The appeal, and any additional information, will be reviewed by a panel of members who will be appointed by the Leader of the Council.
- 4.6.5 Notification of the panel's decision will be sent to the customer within four weeks of receipt of their letter of appeal.