

Policy and Resources Committee

9 January 2017

Discretionary Rate Relief Policy Review

Purpose of report

To present a reviewed and amended Discretionary Rate Relief policy to members for consideration.

Attachment

Amended Discretionary Rate Relief policy.

1.0 Background

- 1.1 In 2012, members approved the adoption of a policy for granting Discretionary Rate Relief to business rate payers in East Northamptonshire.
- 1.2 The policy has been reviewed in response to legislative changes, forthcoming changes to the rating system and a new rating list, effective 1 April 2017. The new version of the policy, with draft amendments, accompanies this report

2.0 Amendments to the policy

- 2.1 Section 4 of the policy has been amended to include a process for determination of an application for Hardship Relief. This is detailed at 4.1.2 of the Discretionary Rate Relief Policy.
- 2.2 A new heading, 'Charitable/Not for profit organisations', has been inserted at 4.2 of the policy to correct an omission in section 4 of the policy.
- 2.3 'Retail Premises Relief' (prev. Section 4.5) and 'Reoccupation Relief' (prev. Section 4.6) have been removed as they were introduced for a limited period only and did not apply after 31 March 2016.
- 2.4 In Section 4.3 of the policy, Rural Rate Relief, it is likely that the Rateable Value ranges and possibly the % levels of Mandatory Relief will be changed by statute for the new Rating List that becomes effective 1 April 2017. In order to avoid the need to revisit the policy when the legislation is received, it may be prudent to delegate authority to the Revenues Manager to make any changes required by statute.
- 2.5 The policy has been re-numbered consequent to the above changes, and relief for partly occupied properties, also known as Section 44A relief, has been included at 4.5.
 - 2.5.1 Section 44A enables the local authority to grant relief for a short period where a property is partly occupied. The way it works is that the authority can ask the Valuation Office Agency (VOA) to issue a certificate apportioning the rateable value between the occupied and unoccupied areas. Once the certificate is issued, the authority must grant full relief from rates on the unoccupied part for the operative period of the certificate.
 - 2.5.2 The discretion of the billing authority only extends to whether or not it wishes to request the Section 44A certificate (and thus grant relief) and the question of what is a 'short period'. In any event, the relief ends if the property becomes completely unoccupied, if there is a change in the extent of partial occupation, at the end of a rating period or if a new S44A certificate comes in to effect.

- 2.5.3 Applications for S44A relief should be considered on their merits and so it would be inappropriate to have a blanket policy. However it would be reasonable to state in general terms that the council considers 'short-term' to mean 3 months for non-industrial properties and 6 months for industrial properties, in line with empty property rating exemption periods.
- 2.5.4 It is proposed that applications for S44A relief be determined by the Finance Manager in consultation with the Revenues Manager.

3.0 Important issues to consider

- 3.1 In recent years, the amount of relief we grant to businesses has increased considerably, particularly S44a relief. Applications for this relief have previously been determined at officer level and no formal guidance has been available to applicants. Including this relief in the policy will provide greater transparency for applicants, along with a more formal control mechanism for determining applications.

4.0 Equality and Diversity Implications

- 4.1 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.

5.0 Legal Implications

- 5.1 The Council has statutory power to award discretionary rate relief under:
S44A
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.
- 5.2 With the exception of S44a relief, 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.

6.0 Risk Management

- 6.1 There are no significant risks arising from the proposed recommendations in this report. Having a policy in place goes some way toward mitigating the risk of appeals against rejected applications

7.0 Resource and Financial Implications

- 7.1 With the exception of the S44A relief, the Council's financial exposure is limited by the £10,000 ceiling, set out in 1.6 of the policy. S44A relief cannot be limited by a financial ceiling as the council is obliged to apply the relief if the certificate is issued.
- 7.2 The following table shows the amount of S44a relief that has been paid in previous years.

2013/2014	2014/2015	2015/2016	2016/2017
81,472	669,928	674,950	200,930

- 7.3 The inclusion of S44A relief in the policy will ensure the council has a framework to work within so that the award of discretionary relief can be used in future in the most effective, efficient and economical way for the council.

8.0 Constitutional Implications

8.1 There are no constitutional implications arising from the proposals made in this report.

9.0 Customer Service Implications

9.1 There are no customer service implications arising from the proposals made in this report.

10.0 Corporate Outcomes

10.1 The amended policy will contribute to the following corporate outcomes:

- Effective management – The policy provides a framework to ensure applications are determined in an efficient manner.
- Good Value for money – 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.



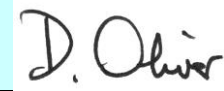
11.0 Recommendation

11.1 The Committee is recommended to

1. After consideration, endorse the amendments to the council's Discretionary Rate Relief policy; and
2. Delegate authority to the Revenues Manager to make changes to the rateable value ranges and % levels in section 4.3.1 and 4.3.2 of the policy in response to legislative changes relating to the 2017 Valuation List.

(Reasons:

- *To accord with legislation or the policy of the Council*
- *Consistency with previous decisions)*

Legal	Power: Local Government Finance Act 1988 and Local Government & Rating Act 1997				
	Other considerations: ODPM guidance regarding the extent of the council's discretion with regard to S44A relief				
Background Papers: The policy was previously amended by this committee on 30 June 2014.					
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Date: December 2016					
CFO		MO		CX	



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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Document Version Control

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Next review date	2018

Change History

Issue	Date	Comments
V0.2	12062012	Includes CMT comments
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
V 1.2	10032014	Includes P & R amendments re 1.6, 4.4 and 4.5
V 1.3	30062014	Includes P & R amendments re 4.6 and 4.6.4
V 1.4	09012017	Include S44A. Review and amend.

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	

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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 granting discretionary relief.
- 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 S44A, S47 (as amended by S69 of the Localism Act 2011), S49 of the Local Government Finance Act 1988 (LGFA 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">• Will ensure ratepayers are treated in a fair, consistent and equal manner.• Will establish a framework to ensure applications are determined in an efficient manner.• Will ensure relief is granted to organisations which contribute to the Council's corporate priorities.• 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.	<ul style="list-style-type: none">• Good value for money.

4.0 Discretionary Rate Relief Policy

4.1 Hardship Relief

- 4.1.1 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.
- 4.1.2 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.
- 4.1.3 An application for Hardship relief will be determined by the Chief Finance Officer or, in his absence, by the Finance Manager.

4.2 Charitable and Not-for-profit organisations

- 4.2.1 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.
- 4.2.2 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	20%

	(The shop must sell wholly or mainly donated goods and the proceeds of the sale must be applied for the purposes of a charity.)	
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%

4.3 Rural rate relief

4.3.1 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%

4.3.2 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

4.3.3 Section 47 of the Local Government Finance Act (LGFA) 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.

4.3.4 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, and the application satisfies the criteria in 4.4 above, the application will be determined by the Chief Financial Officer in consultation with the Chairman of the Policy and Resources Committee or, if the Chairman is unavailable, the Leader of the Council.

4.5 Relief for partly occupied hereditaments under S44A

4.5.1 Section 44a of the LGFA 1988 enables the council to grant relief for business premises that are partly occupied for a short time only. In the context of this relief, the council generally considers 'short term' to mean 3 months for non-industrial properties and 6 months for industrial properties, in line with the statutory periods applicable under the empty property rating regulations.

4.5.2 This relief cannot be granted retrospectively.

4.5.3 The applicant must submit a written request, accompanied by a plan detailing the occupied and unoccupied areas. A visit may be necessary in order to confirm the detail of the occupied and unoccupied areas.

4.5.4 Each application will be considered on its own merit and will be determined by the Finance Manager, in consultation with the Revenues Manager.

4.5.6 If an application for S44a relief is successful, the council will ask the Valuation Office Agency to issue a certificate, apportioning the rateable value between the occupied and unoccupied parts. The relief will be granted in accordance with 4.5.1 above.

- 4.5.7 The relief ends if the property becomes completely unoccupied, if there is a change in the extent of partial occupation, at the end of a rating period or if a new S44A certificate comes in to effect.
- 4.5.8 This relief is not subject to the financial restriction under 1.6 above.

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.