

Central Bedfordshire Council

EXECUTIVE - 13 January 2015

NATIONAL NON DOMESTIC RATES, DISCRETIONARY RATE RELIEF POLICY

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This report relates to a Key Decision

Purpose of this Report

1. The purpose of the report is for Executive to review and approve the Council's draft Discretionary Rate Relief Policy.

RECOMMENDATIONS

The Executive is recommended to:

1. **approve the National Non Domestic Rates Discretionary Rate Relief Policy.**

Comments from Overview and Scrutiny

2. The Corporate Resources Overview and Scrutiny Committee reviewed the proposals set out below at its meeting on 16 December 2014 and recommended to the Executive that the proposed Discretionary Rate Relief policy be approved.

Background

3. National Non-Domestic Rates (NNDR) are payable by owners of non residential premises in accordance with the Local Government Finance Act 1988. Until April 2013 business rates were collected by the Council and passed to Central Government, who then distributed the returns nationally.

4. From April 2013, changes to the Local Government Finance regime have meant that income from business rates now more directly impacts the Council's financial position. The Council now retains 49% of business rates collected (subject to a further levy), with 1% payable to the Bedfordshire Fire and Rescue Authority and 50% payable to Central Government, resulting in a net retention of 37%.
5. Awards of discretionary rate relief will reduce the rates yield and, therefore, will directly affect the Council's finances.
6. The Council has discretionary powers to award rate relief in certain circumstances and it is generally recognised to be good practice to adopt a Policy to assist with the exercise of this discretion to ensure that applications are considered in a fair and consistent manner.
7. The Local Government Finance Act 1988 and the Localism Act 2011 require the Council to maintain a Discretionary Rate Relief Scheme to award business rates relief of up to 100% to certain organisations which operate within specified criteria.
8. These criteria cover:
 - Charitable bodies already in receipt of mandatory relief at 80% – the Council has further discretion to 'top up' this relief to 100% of the rates due;
 - Registered community amateur sports clubs (CASCs) already in receipt of mandatory Relief at 80% – again the Council has further discretion to 'top up' this relief to 100% of the rates due;
 - Non-profit making organisations – the Council has discretion to grant 'standard' discretionary rate relief of between 0-100% of the business rates due;
 - Property that is in a qualifying rural settlement and is a qualifying foods shop, general store, Post Office, sole public house or sole petrol station already in receipt of mandatory relief of 50% – the Council has further discretion to 'top up' this relief to 100% of the rates due;
 - Businesses to which the Council considers it wishes to grant relief – the primary reason will be to encourage regeneration in Central Bedfordshire. In this regard;
 - There are 2 specific categories of property for which 100% discretionary relief can be awarded on a time limited basis (See section 13 of Appendix A):
 - New Build Empty Property
 - Long Term Empty Property

There is also the award of £1,000 Retail Rate relief in respect of

qualifying retail premises (See section 12 of Appendix A). Following the recent Autumn Statement the Chancellor announced that this relief will be increased to £1,500 for 2015-16.

9. The Council also has the power to reduce or remit the business rates charged in certain circumstances where the applicant organisation is enduring temporary financial difficulties. This is known as Discretionary 'Hardship' Relief (DHR) and may be awarded where the Council is satisfied that:
 - The ratepayer would sustain financial hardship if the Council did not do so; and,
 - It is reasonable for the Council to grant relief, with regard to the interests of its Council Taxpayers.
10. Prior to the creation of Central Bedfordshire Council, each legacy District Council had its own set of policies and guidance on the application of rate relief and Officers have been working to a Central Bedfordshire Council guidance document which follows accepted good practice but a formal Policy has not previously been agreed by Members.
11. The Council last reviewed awards of Discretionary Rate Relief in 2012 and in light of the financial constraints on the Council's budget and recent Government initiatives it is appropriate to formally adopt a Policy and to then review all existing awards of relief in line with the updated Policy.
12. The proposed Policy at Appendix A details the circumstances in which the Council has discretion to award rate relief.
13. There is a statutory requirement to consider the interests of local Council Taxpayers when determining an award of discretionary rate relief on the grounds of hardship or under the general power to award relief. The proposed Policy also introduces a requirement to consider the interests of local Council Taxpayers when determining an award of rate relief in respect of partly occupied properties. Whilst this is not a statutory requirement it is considered appropriate to consider these interests given the potential impact on the Council's overall financial resources.
14. In certain circumstances the award of rate relief may assist in securing longer-term benefits for the Council and local residents, for example, should an award encourage the development of new or enhanced business properties leading to economic growth, increased employment opportunities for residents and growth in the Non-Domestic Rating tax base. The proposed Policy requires each application for rate relief to be considered on its individual merits and allows sufficient flexibility to enable awards to be made where there are longer-term benefits, subject to an award being considered to be in the best interests of local Council Taxpayers.

Ratepayers currently receiving Rate Relief

Summary of Discretionary Awards	Value of Awards
180 registered charities receiving 20% "Top Up" Charity relief	£251,160
92 not for profit or charitable organisations receiving up to 100% relief	£322,202
22 rural businesses receiving up to 100% relief	£40,260
294 awards of discretionary relief totalling	£613,624
Summary of Mandatory Awards	
387 registered charities receiving 80% mandatory relief	£5,897,403
29 rural businesses receiving 50% mandatory relief	£42,450
10 sports clubs receiving mandatory relief (CASC's)	£111,881
426 awards of mandatory relief totalling	£6,051,734
Small Business Rate Relief (Fully funded by Central Government)	
2,343 small businesses receiving relief	£4,319,088
Retail Relief (Introduced w.e.f. 1 April 2014) (Fully funded by Central Government)	
1,161 businesses awarded relief	£1,029,269
Grand Total of Rate Reliefs awarded in 2014/15	£12,013,715

Developments in Government Policy for Rate Reliefs

15. In 2013 the Government announced some policy initiatives in order to support businesses. Rather than introduce these as mandatory adjustments as it has with Small Business Rate Relief, it has requested that, if Councils wish to award reliefs, that they use discretionary powers conferred under Clause 69 of the Localism Act 2011 which amended section 47 of the Local Government Finance Act (LGFA) 1988 to allow local billing authorities to fund their own local discounts.
16. With effect from 1 April 2012, the Council is able to grant business rates discounts entirely as it sees fit within the limits of the primary legislation and European rules on state aid.

17. The powers under Section 47 of the LGFA 1988 can be used to grant specific reliefs that the Government has initiated, namely, Retail Relief, New Build Empty Property Relief and Long Term Empty Property Relief.
18. As granting the reliefs will reduce the level of Business Rates income, the Government has advised that it will finance the full cost of any awards made as per paragraph 17 above. Clearly as these reliefs align to Council policy and encourage new business and investment, as well as support local shops or community services it is advantageous to enable Central Bedfordshire Council ratepayers to receive these reliefs.
19. It is therefore proposed that these reliefs are incorporated in the Discretionary Rate Relief (DRR) policy and that the reliefs are automatically applied to appropriate business rate accounts.

Summary of Consultations and Outcome

20. In order to ensure that the Council's final Policy for the Award of DRR properly reflects the needs of local rate payers and that the Council complies with its statutory equality duty a 6 week public consultation process was undertaken.
21. It was recognised that it is important to consult with current recipients of DRR to advise of the proposed review of the Policy, especially where they might be adversely affected. A letter was issued to all recipients of DRR as well as a number of internal stakeholders including our own economic policy team, seeking views on the Policy. The letter directed the recipients to the Council's website where the proposed Policy was available and where there was the opportunity to put views forward.
22. The consultation ran from 5 September 2014 until it closed on 17 October 2014. The consultation invited responses to 21 questions.
23. Eighty Four consultation responses have been received from a cross section of organisations, including sports clubs, non-profit organisations, local charities, village shops, owners of high street retail outlets, village hall committees, as well as our own Business Support Officer, providing differing views to the proposed Policy.
24. Feedback from the consultation was generally very positive. In particular between 77% and 83% either agreed or strongly agreed with the majority of the draft Policy. The only exceptions related to the question on support for businesses that temporarily occupy part of a premises, where 63% supported the award of relief, and a question about the level of relief awarded to high street retail outlets where 60%

supported the current level of support which is set nationally by Central Government.

25. Specific comments were received which generally supported the existing provision of rate reliefs and asked that the level of reliefs are not reduced. In particular several respondents mentioned the need to support local organisations and rural businesses as opposed to national charities.
26. The proposed Policy reflects the general expectations of organisations which may be eligible for DRR and no amendments are required.
27. It is important to note that as a result of the introduction of this policy there is likely to be little impact on the majority of organisations in receipt of DRR.
28. The results of the consultation can be seen at Appendix B.

Reason for urgency

29. Not applicable

Council Priorities

30. By awarding financial assistance to businesses, charities and organisations associated with sport, the arts and well being, the proposed Discretionary Rate Relief scheme is designed to support the Council's Medium Term Priorities of:
 - Enhancing Central Bedfordshire – creating jobs, managing growth, protecting our countryside and enabling businesses to grow.
 - Improved educational attainment.
 - Promote health and wellbeing and protecting the vulnerable.

Corporate Implications

31. Risk Management
32. There is a risk that a ratepayer dissatisfied with an award of rate relief or the refusal of an award may seek a judicial review of the decision. This risk can be mitigated by putting in place a formal Policy to assist in the consideration of awards and by consulting local non-domestic ratepayers as part of the process of determining the Policy.
33. There is a risk that the financial resources available to the Council may be diminished through the award of rate relief. The proposed policy requires that the interest of Council Taxpayers are taken into account in considering any award and, therefore, awards will only be made where the benefits of the award are considered to outweigh any disadvantages, including a reduction in financial resources.

Legal Implications

34. The Local Government Finance Act 1988, as amended, gives the Council discretionary powers to award rate relief in certain circumstances. This Policy relates to the exercise of these discretionary powers in accordance with:
- (i) Section 44(a) of the Local Government Finance Act 1988, which relates to properties that are only partly occupied for a temporary period;
 - (ii) Section 49 of the Local Government Finance Act 1988 which allows the Council to award rate relief, having given consideration to the interest of local Council Taxpayers, where it considers that the ratepayer would suffer hardship should an award not be made;
 - (iii) Section 47 of the Local Government Finance Act 1998 as amended by Section 69 of the Localism Act 2011 which gives the Council a general power, having given consideration to the interest of local Council Taxpayers, to award rate relief to any ratepayer.
35. In exercising a discretionary power the Council is required to act in a reasonable manner and a decision taken under discretionary powers may be challenged by way of judicial review should an applicant be dissatisfied with a decision. Establishing an agreed policy for the exercise of this discretion in a manner which is fair, consistent and transparent will assist in minimising the risk of a decision being found to be unreasonable should an application be made for judicial review.

Financial Implications

36. Rate relief is not separately funded by Central Government. From April 2013, with the localisation of business rates, the existing costs of mandatory and discretionary reliefs have been accounted for within local authorities' business rates baselines. However, any changes in these costs are shared as a cost between central government (50%), the Council (49%) and the Fire Authority (1%). This was confirmed in the Local Government Finance Act and in the detailed calculations to provide baseline funding for 2013/14. The Council now collects business rates and receives an amount from the National Non Domestic Rates Collection Fund which is 49% of the net income after appeals, and other losses incorporating an adjustment for mandatory and discretionary reliefs. This figure is then subject to an additional levy, leading to a net retention of c.37% of the total NNDR income.

37. The budget for discretionary rate relief falls within the Business Rate Retention Scheme and in 2014/2015 the budget totals £613,000, which is payable to 294 organisations.

Equalities Implications

38. Public authorities have a statutory duty to advance equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
39. By awarding financial assistance to businesses, charities and organisations associated with sport, the arts and well being, and also considering the needs of rural communities the policy will have a positive impact in terms of helping promote equality of opportunity and supporting access to local services and activities.

Conclusion and next Steps

40. The introduction of a Member agreed Policy for Discretionary Rate Relief will deliver an equitable and transparent decision making process.
41. It is recommended that the DRR Policy be introduced from 1 April 2015 and that a review of all current awards of relief be undertaken before 1 April 2015 in order to give advance notice to current beneficiaries of any changes to their entitlement. Any negative change in entitlement requires at least one full financial year's notice being given to the ratepayer before an award of relief can be reduced.

Appendices

42. The following Appendix is attached:
Appendix A – Discretionary Rate Relief Policy
Appendix B – Public Consultation Results

Background Papers

43. The following background papers, not previously available to the public, were taken into account and are available on the Council's website:

None