

Public
Key Decision - Yes

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Business Rates Discretionary Rate Relief Policy

Meeting/Date: Overview & Scrutiny – Environment,
Communities & Partnerships Committee – 2
February 2023
Cabinet – 7 February 2023

Executive Portfolio: Executive Councillor for Customer Services

Report by: Council Tax and Business Rates Manager

Ward(s) affected: All

Executive Summary:

As a Billing Authority, Huntingdonshire District Council (HDC) has the power to set its own Business Rates Discretionary Rate Relief Policy in accordance with Section 47 of the Local Government Finance Act 1988.

Provisions within the legislation allow Billing Authorities to award various types of discretionary relief to qualifying local businesses in order to reduce or remove Business Rates liability.

HDC recognises the importance of businesses to the local economy and the contribution that is made to the community by voluntary, charitable and non-profit making organisations. This policy sets out the qualifying criteria for each of the different types of discretionary relief to ensure support is given appropriately and proportionately.

It will come into effect on 1 April 2023.

Recommendation(s):

The Cabinet is

RECOMMENDED

to approve the Business Rates Discretionary Rate Relief Policy effective from 1 April 2023.

1. PURPOSE OF THE REPORT

- 1.1 The Local Government Finance Act 1988 sets out provision for Billing Authorities to determine a Business Rates Discretionary Rate Relief Policy to provide support to local businesses by reducing or removing Business Rates liability for certain periods of time. In order to do this, a policy has been produced that sets out the different types of relief that can be awarded and the specific qualifying criteria for each relief.
- 1.2 The Council must set out its Discretionary Rate relief policy for the term of the new Local Rating List which is currently expected to be for 3 years from 01 April 2023 – 31 March 2026.

2. BACKGROUND

- 2.1 The current policy came into force on 1 April 2017 with the aim of setting out the types of relief available to businesses for the duration of the Rating List which comes to an end on 31 March 2023. The Valuation office agency has revalued all non-domestic rated hereditaments and assigned a new rateable value to them with effect from 01 April 2023.
- 2.2 This new Rating List comes into effect from that date therefore the policy has been reviewed and amended to ensure that relief is awarded to appropriate businesses. It also reflects the priorities and objectives of the current administration and considers the economic climate.
- 2.3 A minor change to the policy took place earlier in 2022 to include the provision of a time limited relief aimed at supporting businesses affected by the pandemic. That scheme has now ended and has been removed from the proposed policy.

3. KEY IMPACTS

- 3.1 Without careful analysis of the impact of the new rateable values, combined with the “knock on” effects of mandatory reliefs some ratepayers could be unfairly penalised by the resultant changes. The review of the discretionary rate relief policy seeks to address those changes, and smooth any immediate change in rating liabilities which will assist local/rural businesses.
- 3.2 An analysis and forecast of the new rateable values has also been carried out to ensure that when setting our rateable value caps on discretionary relief Huntingdonshire District Council are supporting businesses appropriately and proportionately
- 3.3 As there is a 100% cost to the Council in funding “Localism Reliefs” (section 49, Section 69) it is specifically recommended that these awards are granted in exceptional circumstances. This will be based on the individual merits of an applicant where no other relief is possible and the ratepayer contributes to the amenities of the community and/or the Councils corporate objectives, and it is in the interests of the local Council Taxpayers to do so.

4. COMMENTS OF OVERVIEW & SCRUTINY

- 4.1 The comments of the relevant Overview and Scrutiny Panel will be included in this section prior to its consideration by the Cabinet.

5. TIMETABLE FOR IMPLEMENTATION

- 5.1 Annual bills for National Non-Domestic Rates will be processed and issued on 17 March 2023 and the intention is that wherever possible, the bills will reflect the discretionary rate relief applicable.
- 5.2 Government have yet to release the Legislation which contains the details of the Retail Hospitality and Leisure, Supporting Small Businesses and the Rural Rate Relief thresholds for 2023/24. This is anticipated in the New Year, however, because of this delay and the need for ratepayers to make applications (which will then need to be assessed) will mean that annual bills may be processed without relief on the accounts.

6. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND CORPORATE OBJECTIVES

- 6.1 Through use of discretionary rate relief the Council will contribute to its stated aims of developing stronger and more resilient communities, and its work programme of supporting economic growth in rural communities.
- 6.2 Within the boundaries of the legislation these policies will ensure support will be provided to:
- 6.2.1 Charities, Community Amateur Sports Clubs and Non-profit making companies
 - 6.2.2 Local Newspapers, the only Businesses in a Rural Settlement (Public Houses, Village Shops, Petrol Stations, Post Offices)
 - 6.2.3 Viable Local Businesses who are experiencing Hardship, that are local employers
 - 6.2.4 Viable local businesses that are looking to grow, attract investment or employment to the area

7. LEGAL IMPLICATIONS

- 7.1 There is no legal implication other than for the policy to be formally determined in accordance with the legislation, to enable delegated officers to access and grant discretionary rate relief as appropriate to assist in qualifying local ratepayers.
- 7.2 Providing discretionary relief to ratepayers is likely to amount to a subsidy. Any relief provided by local authorities will need to comply with the UK's domestic and international subsidy control obligations. Ratepayers of

organisations and businesses making an application for any relief under this policy must ensure they are compliant with subsidy allowance amounts.

8. REASONS FOR THE RECOMMENDED DECISIONS

- 8.1 The recommendations are based on ensuring continuing support and fairness to qualifying local ratepayers following the revaluation of the rating list, and taking into account other proposed legislative changes from 01 April 2023, whilst smoothing the financial effects of any changes for both the ratepayer and the Council.

9. LIST OF APPENDICES INCLUDED

Appendix 1 - Discretionary Rate Relief Policy – Charites, Community Amateur Sports Clubs and Non Profit Making Organisations.

Appendix 2 - Discretionary Rate Relief – Section 44a, Section 49, Public Conveniences, Local Newspaper Relief, Rural Rate Relief

Appendix 3 – Localism Relief

Appendix 4 – Supporting small businesses and Retail Hospitality and Leisure Relief

Appendix 5 - Decisions, Payment of Accounts, Appeals and Period of award

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Huntingdonshire District Council Discretionary Rate Relief Policy Appendices

Appendix 1: Discretionary Rate Relief Policy – Charities, Community Amateur Sports Clubs and Non Profit Making Organisations.

1. This policy is to be used to calculate Discretionary Rate relief for charities and Kindred organisations as prescribed in Section 47 of the Local Government Finance Act 1988 (as amended). The rateable values mentioned relate to values in the 2023 Local Rating List for Huntingdonshire
2. Charities, and registered Community Amateur Sports Clubs are entitled to 80% Mandatory rate relief under Section 43 of the Local Government Act 1988. The council has discretion to award an additional 20% in discretionary rate relief. Approval of up to 20% discretionary rate relief shall take into consideration:
 - The extent their activities must meet the Council's corporate objectives and a demonstratable impact to the local community.
 - The extent to which the organisation is local to Huntingdonshire and the benefits of the Authorities residents.
 - The financial position of the applicant.

The following organisations or premises will not be considered for Discretionary Rate Relief regardless of their status:

- Profit making organisations
 - Administration offices for national charities
 - Overseas aid organisations
 - Charity shops and cafes operated by national charities or associated organisations
 - Housing Associations
 - Private schools, colleges, nurseries or schools
 - promotion of religious belief
 - Organisations operating a restrictive membership policy for which a fee is payable
 - Empty properties
 - Car parking spaces
3. Section 47 - Not-for-profit organisations relief
 - A not-for-profit organisation or kindred organisation is one that is not established or conducted for profit, whose objectives are charitable, but is not registered as a charity with HMRC.
 - Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (excepted premises).

- In awarding discretionary relief, priority will be given to those organisations that provide greatest value to the community as well as considering overall affordability in terms of loss of income to the council.
- The organisation must bring a net social, environmental or economic benefit to the community, and in this way contribute to the sustainable development of the District.
- In addition, it should demonstrate that its activities directly meet a local need, either by contributing to or implementation of the District Councils Corporate objectives.
- Membership should generally be open to all members of the community. Organisations which provide and seek to encourage the use of such facilities to all sections of the community will receive more sympathetic consideration than those, which make no effort.
- Clubs or organisations will not be considered if they have membership rates set at such a high level as to exclude the general community.
- Preference will be given to organisations that provide facilities, which indirectly relieve the Council of the need to do so or enhance and supplement those which it does provide.
- All applications will be considered on the merits of the individual case. Any application will need to be supported with copies of their latest articles of association/memorandum clearly stating the objectives of the organisation along with their latest certified accounts.
- Once granted, relief will be awarded for a fixed period providing there is no change in the organisation's activities.
- Unoccupied properties will not qualify for relief
- The Rateable value limit for this relief is £51,000.

Appendix 2: Discretionary Rate Relief – Section 44a, Section 49, Public Conveniences, Local Newspaper Relief, Rural Rate Relief

Section 44a (part-occupation) Relief

1. Occupation of part of a property is considered occupation of the whole. Where a property is only partly occupied for a short period of time the Council has discretion under Section 44A of the Local Government Finance Act 1988 to award a part empty relief. This is achieved by the council requesting that the Valuation Office Agency (VOA) provide a certificate to certify the rateable value of the occupied and empty areas.
2. Applications will only be considered where the occupied and unoccupied parts can be easily defined and segregated.
3. No award shall be made where it appears to the Council that the reason that part of the property is unoccupied is wholly or mainly for the purposes of applying for Section 44A relief.
4. S44A relief will not normally be awarded in respect of different operative periods that contain the same area of unoccupied property that existed in preceding operative periods.
5. Rate relief under this section will not usually be awarded where the partial occupation may be considered to arise due to the ordinary day to day nature of the business(E.G the operation of a warehouse).
6. For the purposes of these guidelines a period of up to 12 calendar months shall be considered to be temporary and longer periods shall not be considered temporary.
7. In the absence of a statutory definition of “short time” relief will only be awarded in line with normal empty property limits. I.e., Up to 6 months for all commercially assessed properties and 3 months for all others. *
8. A ratepayer making an application shall provide a plan clearly showing the dimensions of the occupied and unoccupied areas of suitable quality for the VOA to apportion the rateable value(s).
9. All applications will be subject to an inspection to verify the vacant areas, therefore retrospective application will not be considered.
10. Awards of Section 44A relief shall end at the earliest occurrence of one of the following:
 - The end of the statutory period for which empty relief maybe allowed* (See Above)
 - The end of the financial year i.e., 31 March in any year.
 - All or part of the unoccupied area becoming occupied.
 - The whole of the property becoming occupied
 - The ratepayer ceasing to be liable for the property.
 - The Council is unable to verify, following reasonable notice, that the area remains unoccupied.

Section 49 – Hardship Relief

1. The Council has discretion under Section 49 of the Local Government Finance Act 1988 to grant full relief, or part, on the grounds of “Hardship” but must first be satisfied that:
 - The ratepayer would sustain hardship if the Authority did not do so, *and;*

- It is reasonable for the Authority to do so, having regards to the interests of persons liable to pay Council Tax set by it.
2. The ratepayer must submit a comprehensive application, together with all last 2 years audited accounts. (Bank statements) and any other information reasonably required
 3. The application would have to show what action it has already taken to lessen their hardship. This should include, but not limited to:
 - seeking independent professional advice
 - re-negotiating with creditors,
 - re-structuring their business and pricing structure
 - demonstrating a clear business plan is in place to address the hardship.
 4. It would also need to demonstrate what significant detrimental effect on the local community, it would have should it cease to trade. This would include, but not limited to, local employment and the importance of the company to the local area.
 5. Every case will be considered on its own merits, and we will have particular regard to evidence of exceptional or unforeseen circumstances to justify reduction.
 6. Hardship Relief would not be considered in the following circumstances:
 - Where the business is profitable, or where the business has experienced a minor loss in trade in comparison to the annual turnover of the business
 - Where the drawings/remuneration of the Director(s) or proprietor are above a “reasonable” amount.
 - Where the business is new and hardship relief is being requested to fund the initial progression of the business
 - Where the property is empty
 - Where a similar facility is already being provided within the same locality or within a reasonable distance

Public Conveniences

1. In 2021 the Non-Domestic Rating (Public Lavatories) Bill came into force which gives public lavatories 100% relief from business rates, it would apply retrospectively from 1 April 2020.
2. The relief will not apply to toilets of a larger unit of rateable property (a “hereditament”), for example, toilets in public libraries. It amends Part 3 of the Local Government Finance Act 1988 to ensure that, in relation to an eligible hereditament which consists wholly or mainly of a public lavatory, the chargeable amount will be zero.
3. This provides, in effect, a 100% mandatory relief for eligible public lavatories in England and Wales.
4. The relief will be applied automatically to the business rates account.

Local Newspapers Relief

1. This relief is available for office space occupied by local newspapers up to a maximum of one discount per hereditament, per title.
2. The premises must be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters. The relief is not available for magazines.
3. Each application will be considered on its own merits following receipt of a written application
4. Where any other types of relief are applicable to the property, these will be applied first. The relief will be applied against the net bill.
5. The sum of £1,500 relief is limited to a maximum of one discount:
 - Per newspaper title; and
 - Per hereditamentAwards will be made annually, up until 2024/25.

Rural Rate Relief

1. Mandatory Rural Rate Relief is available for post offices, village shops, petrol filling stations and public houses subject to rateable value restriction, where they are the only business of that type in the rural settlement.
2. Properties that will benefit from the relief will be hereditaments that:
 - The sole general store, food shop or post office with a rateable value of up to £8,500 or
 - The sole public house or petrol filling station with a rateable value of up to £12,500
3. The Rural Settlement List is reviewed annually and designates settlements within a rural area which have a population of 3,000 or less. The rural settlement list is published on our website under the business rate relief pages.
4. Where possible ratepayers entitled to relief under this local scheme will be identified by Huntingdonshire District Council. Ratepayers who believe they might be entitled to this relief should contact the Business Rates team.
5. The Government announced in the Autumn Statement on 23 November 2016 that the relief will double from 50% to 100% from 1 April 2017.
6. As a measure the government is not changing legislation, instead local authorities are required to adopt a local scheme and decide each individual case using their discretionary relief powers introduced by the Localism Act (under Section 47 of the Local Government Finance Act 1988).
7. Anyone who is entitled to mandatory Rural Rate Relief will be eligible for the increased level of discount to 100% off their business rates bill.
8. Where a property meets the above qualifying criteria, but the rateable value is above the defined limits but below £16,500 the Council has discretion to award relief.
9. Discretionary relief maybe considered where the rateable value of the property is below £16,500 and
10. The property is used for the benefit of the local community and the award is in the interests of Council Taxpayers.

Appendix 3 Section 69 relief – Localism Act

1. Section 69 of the Localism Act 2011 amends the 1988 Act to allow local authorities the discretion to award rate relief to all types of businesses, The cost of any relief awarded is fully funded by the Local Authority.
2. As the costs of such relief is borne solely by council taxpayers of the borough, it is essential that relief is only given to those ratepayers who will bring significant benefit to the area.
3. Applications for rate relief under this section of the Policy will normally only be considered favourably where the Council is satisfied that an award will result in tangible benefits to local residents and in particular where the award will directly result in attracting businesses, investment or jobs to the local area
4. Every case would be considered on its own merit and any award would be an exception rather than the rule and would be time limited.
5. Written applications will be accepted and reviewed in consultation with the Councils economic development team.
6. Applications will need to be supported by a minimum of:
 - Details of the business and its importance to the local community. Examples could include (but not limited to) the benefits of employment, uniqueness of business, growth
 - Copies of last 2 years accounts
 - Copy of Business Plan
 - Clear reasoning for the request
 - Details of the number of people that are, or who will be, employed by the business that reside in Huntingdonshire. Details of future employment opportunities and business growth
 - Any other evidence that the ratepayer feels supports their application
 - Details of other support received from other sources, or support requested from other sources
7. Any relief granted is at a Maximum of £20,000 and for one financial year only

Appendix 4 Retail Hospitality and Leisure and Supporting Small Businesses

Retail, Hospitality & Leisure

At the Autumn Statement on 17 November 2022 the Chancellor announced the introduction of a new business rates relief scheme for retail, hospitality and leisure properties in 2023/24. This will support the businesses that make our high streets and town centres a success and help them to evolve and adapt to changing consumer demands. The 2023/24 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality and leisure properties with a 75% relief, up to a cash cap limit of £110,000 per business.

Hereditaments that meet the eligibility for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of the following conditions for the chargeable day:

they are wholly or mainly being used:

i. as shops, restaurants, cafes, drinking establishments, cinemas or live music venue

ii. for assembly and leisure; or

iii. as hotels, guest & boarding premises or self-catering accommodation

Relief will not be awarded to -

Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g. banks, building societies, cash points, bureaux de change, short-term loan providers, betting shops)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, employment agencies, estate agents, letting agents)
- Post office sorting offices

All possible qualifying properties will be identified based on the property description given to an assessment by the Valuation Office Agency, and the relief will automatically be awarded and should show on your annual bill for 2023/24.

To claim the Retail, Hospitality and Leisure relief the business must not have exceeded either the £110,000 cash cap for 2023/24 or the Small Amounts of Financial Assistance limit of £315,000 over 3 years (including 2023/24).

Supporting Small Business Rate Relief

At the 2022 Autumn Statement the Chancellor announced that the 2023 Supporting Small Business (SSB) scheme will cap bill increases at £600 per year for any business losing eligibility for some or all Small Business Rate Relief or Rural Rate Relief at the 2023 revaluation.

Appendix 5 Decisions, Payment of Accounts, Appeals and Period of award

Decisions

Decisions regarding rate relief will be communicated to the ratepayer in writing. If the decision is a refusal of the relief, full reasons for the refusal will be provided in the letter.

Payment of Instalments

Ratepayers must continue to pay any rates that fall due whilst their application is pending. If payments are not received in line with the bill, the Council will continue with its normal recovery procedures to secure payment.

Appeal rights

1. There is no statutory right of appeal against a decision regarding discretionary rate relief unless the decision is so unreasonable that no reasonable person could have reached it ('Wednesbury principles').
2. However, Huntingdonshire District Council recognises that ratepayers should be entitled to have a discretionary decision reviewed if dissatisfied with the outcome.
3. Only the ratepayer or authorised agent may appeal against the decision not to award relief, or the level of relief awarded. Appeals must be made within 14 days of the notification of decision.
4. Appeals must be in writing specifying reasons why a decision should be amended and supported by relevant new or additional evidence. An appeal will be deemed to be discontinued if further evidence requested from the ratepayer has not been received within 14 days of the request.

Period of award

All awards will be for the awarded for the duration of the rating list, from the date awarded on the decision notice, unless there is a change in circumstance. The Council will look to contact recipients for confirmation of entitlement and potential renewal of relief, with the exception of Section 49, Section 69 and Section 44a Relief.