

**HUNTINGDONSHIRE DISTRICT COUNCIL**

<b>Title:</b>	National Non-Domestic Rates Discretionary Rate Relief Policy effective from 1st April 2017
<b>Meeting:</b>	Overview and Scrutiny Panel (Performance and Customers) – 1st February 2017 Cabinet – 9th February 2017
<b>Executive Portfolio:</b>	Executive Councillor for Strategic Resources, Councillor J A Gray
<b>Report by:</b>	Local Taxation Manager
<b>Ward(s) affected:</b>	All

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**Executive Summary:**

The Council, in its role as Billing Authority, has the power to set its own discretionary rate relief policy in accordance with Section 47 (as amended) of the Local Government Finance Act 1988.

Every rating assessment (legally referred to as a “Hereditament” in the legislation which are allocated a “rateable value”) is undergoing a revaluation by the Valuation Office Agency, in its statutory duty of compiling and maintaining “Local Lists” which billing authorities must bill according to, with the new list becoming effective from 1 April 2017 (the last such revaluation was 1 April 2010, as the Government postponed the 5-yearly revaluation due in 2015).

The revaluation can cause significant changes in rateable values, especially after a period of 7 years, and with the Government (as announced in the Chancellor’s Autumn Statement) changing other mandatory reliefs from 2017/18, it is essential that the council takes the opportunity to review its discretionary rate relief policy to ensure against inequalities, anomalies, and unintended consequences- including financial cost to the collection fund.

**RECOMMENDED**

- To approve the Discretionary Rate Relief Policy as prescribed in Appendix 1 (Charities, Community Amateur Sports Clubs, and Non-Profit Making Organisations), and Appendix 2 (Section 44a “Part-Occupation” Relief and Section 49 “Hardship” Relief)
- To approve the Discretionary Rate Relief Policy of awarding relief under Government Proposals in all instances where the Council is 100% reimbursed by Section 31 “Burden Grant” e.g. Rural Rate Relief in 2017 pending the required change in primary legislation.
- To approve the granting of Discretionary Rate Relief for qualifying ratepayers (subject to state aid rules) in the Alconbury Weald Enterprise Zone.
- To approve the award of Section 47 “Localism Reliefs” only in highly

exceptional cases where no other alternative relief is applicable, and the ratepayer aids benefit to the amenities of the community and/or to the aims of the Council's Corporate Plan

- To approve the delegated powers to award Discretionary Rate Relief to the Head of Customer Service and the Local Taxation Manager.
- To approve the delegated power to deal with appeals against Discretionary Rate Relief decisions to the Corporate Director.

## **1. PURPOSE OF THE REPORT**

- 1.1 The purpose of this report is to set the Council's Discretionary Rate Relief Policy for the term of the new Local Rating List which is currently expected to be (for 5 years) until 31 March 2022.

## **2. BACKGROUND**

- 2.1 Section 47, and certain other minor provisions (i.e. S44a and S49) of the Local Government Finance Act 1988 enables the "Billing Authority" (Huntingdonshire District Council) to grant, under its own policy, certain discretionary rate relief to local ratepayers where qualifying criteria are met.
- 2.2 At its meeting of 11 February 2010 Cabinet approved the current discretionary rate relief policy for the duration of the current (1 April 2010) Local Rating List.

## **3. KEY IMPACTS**

- 3.1 The Legislation states certain "thresholds" for rated properties to be eligible of discretionary rate relief i.e. most pertinently for Rural Rate Relief where mandatory rate relief (provided for under S43) will be increased from 50% to 100% with a different threshold limit for Post Offices and Rural Shops, Public Houses, and Petrol Filling Stations .
- 3.2 Without careful analysis of the impact of the new rateable values, combined with the "knock on" effect of the new mandatory reliefs some ratepayers could be unfairly penalised by the resultant changes. The review of the discretionary rate relief policy seeks to address these issues, and to sooth any immediate change in rating liabilities to assist local/rural businesses.
- 3.3 An analysis and forecast on the effect on the both the Council and the individual ratepayer has also been carried out to ensure that the revised cost to the both are not significantly higher, when mitigated by the proposed change in policy. The reimbursement of the 100% Rural Rate Relief in 2017 will actually mean that the final cost to the District, County, and Fire will be less for that particular element.

## **4. TIMETABLE FOR IMPLEMENTATION**

- 4.1 The annual bills for Non-Domestic Rates will be processed and issued immediately after the Council Tax around 20 March 2016, and the intention is that wherever possible the bills will reflect the discretionary rate relief applicable. However, the delay in Government legislation, and the subsequent requirement for ratepayers to make applications which then need to assessed mean that this is going to be difficult to achieve in all cases. There are other changes such the increased threshold for mandatory Small Business Rate Relief which will also require new applications from eligible ratepayers.
- 4.2 The Government have actually stated that whilst they intend to amend the relevant primary legislation to increase mandatory rural rate relief to 100%, they "expect local authorities to use their local discount powers to grant 100% rural rate relief to eligible ratepayers from 1 April 2017". It is for this continuing purpose that the recommendation is that the Council maintains its current policy of awarding 100% relief in all cases where the Council is fully reimbursed by way of Section 31 (Burden) Grant.

4.3 Once the policy is approved suitable application forms will be re-designed, and new applications invited from potential qualifying ratepayers to ensure awards are made as soon as reasonably practicable.

## 5. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND/OR CORPORATE OBJECTIVES

5.1 Through the use of discretionary rate relief the Council will contribute to its started aims of developing stronger and more resilient communities, and in its work programme of supporting economic growth in rural communities.

## 6. CONSULTATION

6.1 There is no legal requirement for consultation and the aforementioned time constraints would not make this possible in practice.

## 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 assess and grant discretionary rate relief as appropriate to assist qualifying local ratepayers.

7.2 Under current European Union (EU) State Aid rules the Council- in its capacity as the authorised body- must ensure that, amongst other things , it complies with the De Minimis Regulation i.e. not to award more than 200,000 Euros in State Aid (deemed to include Discretionary Rate Relief) over any period of three fiscal years. These rules relate more particularly to relief given to in the Enterprise Zone (and the De Minimis limit is reduced to 100,000 Euros for businesses in the Road Transport Sector).

7.3 If, however, Article 50 is activated and the United Kingdom leave the EU during the life of this policy, then the EU State Aid De Minimis would not, in the absence of new and similar UK legislation, be applicable and so the level of the awards might be “uncapped”.

## 8. RESOURCE IMPLICATIONS

8.1 The current discretionary rate relief awards and associated costs in 2016/17 (at 31 December 2016) are:

Type of Award (and No.)	Total Value £	Cost (Loss) To HDC (40%) £	Cost to County (9%) £	Cost to Fire (1%) £	Cost to Central Gov. (50%) £
Rural Rate Relief – Post Offices	15,966	6,386	1,437	160	7,983
Rural Rate Relief-Shops	5,278	2,111	475	53	2,639
Rural Rate Relief-Pubs	0	0	0	0	0
Rural Rate Relief-Fuel Stations	0	0	0	0	0
“Non-Profit Organisations”- Making Recreational, Sports Clubs etc	45,263	18,105	4,074	453	22,631

Charitable "Top Ups"	0	0	0	0	0
Community Amateur Sports Clubs "Top Ups"	0	0	0	0	0
Section 44a- Part Occupation Relief	0	0	0	0	0
Section 49- "Hardship Relief"	13,570	5,428	1,221	136	6,785
HDC "Localism Relief"	0	0	N/A	N/A	N/A
<b>TOTAL</b>	<b>80,077</b>	<b>32,030</b>	<b>7,207</b>	<b>802</b>	<b>40,038</b>

## 9. OTHER IMPLICATIONS

- 9.1 The resource implications above are costed according to the current business rate retention regime (which came in to being from 1 April 2013- after the current "2010" scheme was adopted), but as with all other reliefs and administration costs etc it could be significantly changed with the introduction of 100% local retention (currently proposed from 2020) depending upon the final determination of those funding arrangements.
- 9.2 Similarly since 1 April 2013 under the banner of "Localism" the Council (as the billing authority) can under Section 47 (as amended) grant any other relief as it may decide in its policy, but with such power comes the responsibility to fund 100% of the cost of "Localism Relief". This is why this recommendation has been specifically worded to limit this financial impact whenever possible.

## 10. REASONS FOR THE RECOMMENDED DECISIONS

- 10.1 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 1 April 2017 whilst soothing the financial effects of any changes for both the ratepayer and Council.
- 10.2 The explanation, in 9.2 above, of the 100% cost to the Council in funding "Localism Reliefs" is the reason why it is specifically recommended that these awards are granted only in highly exceptional circumstances based on the individual merits of an applicant where no other relief is possible, the ratepayer contributes to the amenities of the community and/or the Council's corporate objectives, and it is in the interests of local council taxpayers to do so.

## 11. LIST OF APPENDICES INCLUDED

- Appendix 1 – Discretionary Rate Relief Policy: Charities, Community Amateur Sports Clubs, and Non-Profit Making Organisations.
- Appendix 2 – Discretionary Rate Relief Policy: Section 44a (Part Occupation) and Section 49 (Hardship) Relief.

## BACKGROUND PAPERS

- Working Papers and Spreadsheets held in the Local Taxation Section
- Local Government Finance Act 1988 (as amended).
- Business Rate Information Letters (No.3 of 2016 and No.1 of 2017) issued by DCLG on 20 December 2016 and 24 January 2017 respectively.

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## **Appendix 1: Discretionary Rates Relief Policy – Charities, Community Amateur Sports Clubs and Non Profit Making Organisations**

1. This policy is to be used to calculate Discretionary Rates 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 2017 Local Rating List for Huntingdonshire
2. Approval of up to 20% discretionary Rates Relief to top up mandatory charitable relief shall be considered for local charities, taking into consideration:
  - the extent to which their activities meet the Council's corporate objectives e.g. encouraging active participation in sports and healthy life- styles.
  - the extent to which Huntingdonshire residents benefit from their activities
  - the financial position of the applicant
  - the financial position of the District council
  - the extent to which the organisation facilitates and encourages participation and membership from all sectors of the local community e.g. with Equalities firmly in mind.
3. Non-Profit Making Organisations which may qualify for mandatory relief under the Small Business Rates Relief scheme but have not applied for it shall be deemed to have up to 100% mandatory relief in accordance with their entitlement under that scheme, and shall have their Discretionary Rates Relief calculated accordingly.
  - Qualifying organisations in occupation of premises with a Rateable Value of under £18,000 shall receive 80% discretionary relief.
  - Qualifying organisations in occupation of premises with a Rateable Value of £18,000 or more but below £25,000 shall receive 50% discretionary relief.
  - Qualifying organisations in occupation of premises with a Rateable Value of £25,000 or more shall not receive discretionary relief.
  - Unoccupied premises shall not qualify for Discretionary Rate Relief (except where provided for under the S44a provisions of the Act)
  - All applications will be considered on the merits of the individual case, and relief may be granted in exceptional cases where the rateable values exceed the above amounts.
4. Non-Profit Making Organisations established for "Recreational" purposes shall only meet the Council's qualifying criteria if they encourage active participation in sports from all areas of the community (in keeping with the Council's Corporate Objectives), and are not limited to exclusive interests or limited accessibility.
5. The award of discretionary rate relief is delegated to the Head of Customer Service or Local Taxation Manager; Appeals by ratepayers must be made, in writing, within 28 days to the Corporate Director.

## **Appendix 2: Discretionary Rates Relief Policy – Other Sections**

### **Section 44a (part-occupation) Relief**

1. The Council has discretion under Section 44a of the Local Government Finance Act 1988 to request that the Valuation Office Agency (VOA) provide a certificate with a split valuation where part of a property is unoccupied “for a short time only”. The amount of the reduction is determined by statute, and is calculated by reference to the rateable value of ascribed to the unoccupied area in the VOA certificate.
2. Applications will only be considered in respect of unoccupied parts of a property that can be clearly defined and are reasonably segregated from the occupied part; no award shall be made where it appears to the Council that the reason for the part-occupation is for the sole purpose of applying for Section 44a relief, or where the part-occupation is considered to arise as part of the ordinary day to day operations of the business e.g. operation of a warehouse.
3. A ratepayer making an application shall provide a plan clearly showing the dimensions of the occupied and unoccupied area of suitable quality for the VOA to apportion the rateable value(s), and for the Council to monitor any change in the unoccupied area. Applications will not be considered until such time as the plan is provided, and will not be awarded retrospectively where no opportunity has existed for a Council Officer to verify the part-occupation.
4. In the absence of a statutory definition of “short time only” relief will only be awarded in line with normal empty property limits i.e. up to 6 months for commercially assessed properties and 3 months for all others.
5. Section 44a 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, thus avoiding repeated or multiple applications.
6. Awards of Section 44a relief shall at the earliest occurrence of one of the following:
  - The end of the statutory period for which empty property relief may be allowed (See 4 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 unoccupied (exemption can then apply instead of discretionary rate relief).
  - The ratepayer ceasing to be the liable party for the property.
  - The Council is unable to verify, following reasonable notice, that the area remains unoccupied.
7. The ratepayer must allow a Council Officer access to the property by appointment during normal working hours within 2 weeks of the application being made in order to verify the occupation of the property, and to allow subsequent ad hoc inspections as is thought necessary. In the event that access is not allowed promptly without good reason the award of Section 44a relief may be withdrawn.

## **Section 49 (Hardship) Relief**

1. The Council has discretion under Section 49 of the Local Government Finance Act 1998 to grant relief in full, 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 regard to the interests of persons liable to pay council tax set by it.
2. The ratepayer must submit a comprehensive application, together with all possible financial accounts, to enable the Council to make an objective decision taking into account all relevant details and based on the merits of the individual case having strict regard to the statutory qualifying conditions above.
3. Where an application is considered to meet all the relevant criteria and the Council considers that the ratepayer has suffered hardship then a retrospective award may be given.
4. The duration of any award will not normally exceed one year (and in any case not beyond the expiry of one financial year), but in exceptional circumstances, and in cases of clear merit to local taxpayers, a new comprehensive application may be considered.
5. Whilst technically there is no statutory right of appeal against a decision not to award discretionary rate relief, there have been occasions of the Valuation Tribunal for England deciding to hear such cases, and it is considered transparent and prudent that award is decided by the Local Taxation Manager in consultation with the Head of Customer Service. Any subsequent appeal must be made, in writing, within 28 days of the original decision to the Corporate Director.