

# **Policy for the granting of Discretionary Non-Domestic Rate Relief**

## **Executive Summary**

## **The Purpose of the Policy**

1. The purpose of the Discretionary Rate Relief policy is to determine the level of discretionary relief and related areas to be granted to certain defined ratepayers within the Council's area.
2. The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for certain premises and, in addition, allows discretionary relief to be granted in those cases and in other defined circumstances. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
3. Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2017. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
4. The policy document outlines the following areas:
  - Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
  - The Council's policy for the granting of all types of Discretionary Reliefs;
  - Guidance on granting and administering the reliefs and awards;
  - European Union requirements including provisions for State Aid; and
  - The Council's Scheme of Delegation.
5. Where organisations apply for relief they will be granted (or not granted) relief or reductions in line with the Council's policy.

## **Discretionary Relief – Legislative Background**

6. The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to 'top' up cases where ratepayers already receive mandatory relief. Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations. The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
7. The Council is obliged to consider carefully every application on its merits, taking into account the contribution that the organisation

makes to the amenities within the authority's area. There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review.

8. Granting of the relief falls broadly into the following categories:
  - a. Discretionary Relief – Charities who already receive mandatory relief.
  - b. Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts **or** premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
  - c. Discretionary Relief – Rural Rate relief - premises that already receive mandatory relief;
  - d. Discretionary Relief – Rural Rate relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;
  - e. Discretionary Relief – Granted under the Localism Act 2011 provisions;
  - f. Local Newspaper Relief (from 1<sup>st</sup> April 2017 for a period of two years);
  - g. Local Public House Relief (from April 2017 for a one year period);
  - h. Supporting Small Businesses Relief (from 1<sup>st</sup> April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge; and
  - i. Discretionary Business Rates Relief Scheme (from 1<sup>st</sup> April 2017 for a period of up to four years)

## **The Council's general approach to granting discretionary Relief**

9. In deciding which organisations should receive discretionary rate relief, the Council has considered a number of factors including:
  - a. The awarding of relief will be in line with the Council's vision and values;
  - b. Local organisations will be given priority over national organisations; and
  - c. The awarding of relief will assist the Council in delivering services which could not be provided otherwise.

## **The Council's approach to granting Government led Discretionary Relief schemes**

10. Over the past few years, a number of schemes have been led by Central Government but without specific legislative changes. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable.

## **Effect on the Council's Finances**

11. The granting of discretionary relief will, in the main, involve a cost to the Council. Since the change to the funding for Non-Domestic Rating in April 2013, the effect of the relief is complex. Any amounts granted prior to 1<sup>st</sup> April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. For any amounts granted for similar cases after 1<sup>st</sup> April 2013, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share namely 50% borne by Central Government, 40% by the Council and 10% by Warwickshire County Council.
12. Where Central Government leads an initiative, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas
13. European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid in certain cases. The Council must bear this in mind when granting discretionary rate relief.

## **Applications and Evidence**

- 14 All reliefs must be applied for. Application forms are produced by the Council both in hard copy and electronic format. The relevant application forms are available and the Council will specify how applications are to be received and this may vary from time to time.
15. The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties.
16. In all cases, the Council will notify the ratepayer of decisions made. Discretionary relief is to be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. The Council's scheme of delegation allows for the Revenues

Manager to award, revise or revoke any discretionary relief applications.

17. Where the ratepayer wishes to appeal the decision of the Revenues Manager, the case will be considered by the relevant Executive member whose decision on behalf of the Council will be final

## **Reporting changes in circumstances**

18. Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible. Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information to gain relief, prosecutions will be considered under the Fraud Act 2006.

## **Discretionary Relief – Mandatory Relief recipients**

19. The Council will consider applications for a discretionary rate relief top up from charities based on their own merits, on a case-by-case basis. In determining the application, the following matters will be taken in to consideration:
  - a. How the charity supports and links into the Council's corporate vision and priorities;
  - b. The purpose of the charity and the specific activity carried out within the premises for which the relief is requested; and
  - c. Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and financial position of the charity.
20. In the case of registered Community Amateur Sports Clubs and Charity Shops, there are further key criteria, in the policy, that will need to be met.

## **Discretionary Relief – Non-Profit Making Organisations including Recreation**

21. The legislation allows the Council to grant discretionary relief where the property is not an *excepted* one (occupied by the Council, or any town, parish council or major Precepting Authority) and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.

## **Discretionary Relief - Non-Profit Organisations including Recreation – the Council’s Policy**

22. The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case-by-case basis. In determining the application, the following matters will be taken in to consideration (The list is not exhaustive):
- How the organisation supports and links into the Council’s corporate vision and priorities;
  - Whether the facilities provided include education and/or training for members as a whole or for special groups;
  - The extent to which the facilities provided reduce the demand for Council services or produce savings;
  - Any membership and fee structure and whether the facilities are accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
  - If covered by a membership scheme, membership numbers and the number and percentage of these members that are local residents;
  - If the organisation has due regard to equality issues and if its facilities are used by all members of the community, for example black and minority ethnic residents, people over 50 and people with disabilities.

## **Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients**

23. For a Post Office or General Store to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2010);
  - The property must be used as a Post Office or a General Store (see below for definition), or both;
  - The property must be the only Post Office or the only General Store within the Rural Settlement.
24. For a Public House or Petrol Filling Station to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £12,500 from 1 April 2010);
  - The property must be used as a Public House (see below for definition) or a Petrol Filling Station (see below for definition); and
  - The property must be the only Public House or the only Petrol Filling Station within the Rural Settlement.
25. For a village food shop to be entitled to 50% Mandatory Relief, all the

following criteria must be met:

- The Rateable Value of the property must not exceed £8,500 from 1 April 2010); and
- The property must be used as a shop selling mainly food (see below for definition).

### **Rural Rate Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.**

26. As Central Government has requested and fully funds any additional relief granted to ratepayers who receive mandatory rural rate relief, the Council will automatically grant the additional 50% until such time as, primarily legislation is changed.

### **Discretionary Relief – Premises within Rural Settlements**

27. In addition to having the ability to grant discretionary relief to those in receipt of mandatory relief, the Local Government and Rating Act 1997 allows discretionary relief of up to 100% to be granted where the rateable value is £16500 or less and:
- a. Property is used for purposes which are of benefit to the local community; and
  - b. It would be reasonable for the billing authority to award relief, having regards to the Council’s Council Taxpayers.
28. The main criteria for granting discretionary relief in respect of rural rate relief is that premises are used to benefit the local community.

### **Rural Rate Relief – the Council’s Policy for granting discretionary relief.**

29. The Council will also consider applications for a discretionary rural rate relief from all ratepayers, not entitled to mandatory relief up to a maximum of 100%.

### **Discretionary Relief – Localism Act 2011**

30. Section 69 of the Localism Act 2011 allows all Councils to grant discretionary relief in **any** circumstances where it feels fit having regards to the effect on the Council Tax payers of its area.

### **Discretionary Relief – Localism – the Council’s Policy**

- 31 Applications will be considered from any ratepayer who wishes to apply. Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities, non-profit making organisations etc.) must meet **all** of the criteria defined within the policy.

## Local Newspaper Relief

32. This is a temporary relief for 2017-18 and 2018-19 and the Government is not changing the legislation around the reliefs available to these properties. The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.
33. The scheme provides £1,500 relief for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament, for two years from 1 April 2017.
34. The Council has decided to grant relief strictly in accordance with Central Government guidelines.

## Supporting Small Businesses Relief

35. Central Government has increased the thresholds for Small Business Rate Relief from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. They have also allowed rural rate relief to be granted up to 100% using S47 of the Local Government Finance Act 1988 as a top up to the mandatory level of 50%, albeit that the rateable value limits have not been changes in respect of rural hereditaments (see section D of the policy). Unfortunately, despite these changes, some small businesses and businesses in rural areas may lose their entitlement to the relief due to increases in Rateable Value through the revaluation on 1<sup>st</sup> April 2017.
36. In view of this, Central Government announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business or rural rate relief due to the revaluation. All authorities are encouraged to grant the relief in accordance with the guidelines laid down by Central Government and, if granted strictly in accordance with guidance, the Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003. The relief is to be known as the 'Supporting Small Businesses Scheme'
37. To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited **to the greater of:**



- a. a percentage increase per annum. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 plus inflation. (Unlike the transitional relief scheme under the Chargeable Amount regulations), for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief or rural rate relief; **or**
  - b. a cash value of £600 per year (£50 per month).
- 38 The Government has decided that those on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme. A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme **but** eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.

### **Supporting Small Businesses Relief – the Council’s policy for granting discretionary relief.**

39. The Council has decided to grant relief strictly in accordance with Central Government guidelines

### **Public House Relief**

40. This is a temporary relief for 2017-18 and the Government is not changing the legislation around the reliefs available to premises. Central Government will reimburse local authorities that use their discretionary relief powers. (
41. The Council’s policy, in line with Central Government requirements, will provide a relief of £1,000 relief for one year only (1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018) for all eligible public houses who have a rateable value of less than £100,000 on 1<sup>st</sup> April 2017.

### **Discretionary Business Rate Relief Scheme**

42. In March 2017, Central Government announced that it would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills because of the revaluation. Government determined that Councils would be best placed to determine how this fund should be targeted and administered to support those businesses and locations within their area that are in the greatest need.

43. The funding is not provided equally over the four-year period. The financial effects to the Council of the Discretionary Business Rates Relief Scheme are shown in the following table

<b>Amount of discretionary fund awarded (£000s) – Stratford on Avon District Council</b>			
2017-18	2018-19	2019-20	2020-21
382	185	76	11

44. The Council has consulted with the major preceptors in relation to this scheme and has taken their comments into account when determining the eligibility criteria.
45. The Council is keen to identify ratepayers who may qualify for the relief and has decided that relief under the scheme will be awarded using the following criteria:
- a. The scheme is designed to assist ratepayers who have suffered significant increases in rate liability due to the revaluation and the subsequent increase to their Rateable Value;
  - b. In assessing any potential entitlement to an award under this scheme, the Council will compare the following:
    - i. The rate liability of the ratepayer at 31<sup>st</sup> March 2017 after any reliefs and reductions; and
    - ii. The rate liability of the ratepayer at 1<sup>st</sup> April 2017 taking into account any transitional relief or any other discretionary relief within this policy;
  - c. Relief will be awarded where the calculation in b. above would result in an increase of more than £100 per annum;
  - d. Relief will not be awarded where the rateable value of the hereditament at 1<sup>st</sup> April 2017 is greater than or equal to £100,000;
  - e. Relief will only be given to premises which are liable for occupied rates. No relief within this scheme will be granted for unoccupied premises;
  - f. Relief will only be granted to ratepayers who were in occupation at 31<sup>st</sup> March 2017 and in occupation on 1<sup>st</sup> April 2017 and for each day subsequently.
  - g. Ratepayers taking up occupation after the 1<sup>st</sup> April 2017 will **not** be eligible for relief on the basis that new ratepayers would not have suffered from increases due to a revaluation;
  - h. Relief may be awarded for more than one premises as long as **all** other criteria are met;
  - i. Relief will **not** be awarded where the ratepayer has applied for a reduction under S44a of the Local Government Finance Act 1988;
  - j. Where the hereditament has an increase in Rateable Value after the 1<sup>st</sup> April 2017 which increases the rate charge above the 1<sup>st</sup> April 2017 value, relief will only be awarded based on 1<sup>st</sup> April 2017 Rateable Value.

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## Amount of Relief

46. The amount of relief is tapered and will be calculated as follows:

**2017/18**

Award = Increase in rate liability calculated x 40%;

**2018/19**

Award = Increase in rate liability calculated x 20%;

**2019/20**

Award = Increase in rate liability calculated x 8%;

**2020/21**

Award = Increase in rate liability calculated x 1%;

## Section 49 – Hardship Relief

47. The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1988 to provide either partial or full relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.
48. The Council will consider applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. The Revenues Manager will consider applications. In making decisions on whether to award the relief the Council will take into account the criteria laid down in the main policy document.