

CABINET

12 MARCH 2013

BUSINESS RATE RELIEF

Portfolio Holder: Councillor Alan Jarrett, Deputy Leader and Portfolio Holder for Finance

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Summary

This report reviews the current procedures for granting relief from National Non-Domestic (Business) Rates.

Additionally, Clause 69 of the Localism Act 2011 introduced a new power for local authorities to award local discretionary relief where it is in the Council Tax payers' interest to do so.

1. Budget and Policy Framework

1.1 It is the responsibility of Cabinet to approve the procedures to operate for the award of discretionary relief from National Non-Domestic (Business) Rates.

2. Background

2.1 The Local Government Finance Act 1988 provides local authorities with discretionary powers to grant relief from non domestic rates on property occupied by charities and other non-profit making organisations. Dependant upon the category of relief, the Government shared in the cost of granting such relief to varying degrees.

2.2 Current policy for the determination of awards of relief and the guidelines that underpin such awards were set out in a report to Cabinet on 10 March 2009. The current guidelines for the award of relief are attached at Appendix 1 (discretionary relief), Appendix 2 (village shop relief) and Appendix 3 (hardship relief).

2.3 The Localism Act 2011 introduced a new power for local authorities to award a local discretionary relief where it is in the council tax payers' interests to do so. The cost of any such discount is borne entirely by the local authority until 31

March 2013 after which it will be shared 50% by the Government, 49% by Medway Council and 1% by Kent & Medway Fire & Rescue Authority.

- 2.4 An important background point to note is that the council is not responsible for determining the rating assessment of a property. That duty rests with the valuation office who determines the rateable value of all properties.
- 2.5 For the organisations without charitable status to be eligible for discretionary relief they have to be a non-profit making body (except for local or village shop relief). In addition, their premises must be used for charitable, philanthropic or religious purposes, or concerned with education, social welfare, science, literature or the fine arts, or used wholly or mainly for recreation by a not-for-profit club or society.

3. The Current Position

3.1 Discretionary Relief is currently awarded over the following categories:

- Discretionary rate relief up to 100% of the rates bill
- Village shop rate relief up to 100% of the rates bill
- Hardship relief up to 80% of the rates bill
- Discretionary top up relief, granted to some organisations in receipt of mandatory relief to take relief up to 100% of rates bill (registered charities receive mandatory rate relief at 80% of rates bill, village shops receive mandatory relief at 50% of their rates bill).

3.2 Current discretionary relief levels to organisations already in receipt of mandatory relief are set out at appendix 1 and in practice are almost exclusively 20%. As the table in section 3.3 shows, the council is currently awarding some £239,000 of top up discretionary relief in 2012/13 costing the Council £179,000.

3.3 The overall budget for 2012/13 is £251,400, and as at 31 January 2013 the council had granted the following amounts of relief:

| Description | % funded by Government (NDR pool) | % funded by Medway Council | Amount £000's | Cost to the Council £000's |
|-----------------------------------|-----------------------------------|----------------------------|---------------|----------------------------|
| Mandatory relief | 100 | 0 | 5,027 | Nil |
| Discretionary top up | 25 | 75 | 239 | 179 |
| Discretionary relief only | 75 | 25 | 184 | 46 |
| Discretionary village shop relief | 75 | 25 | 2 | 0.5 |
| Hardship relief | 75 | 25 | 0 | 0 |
| Local relief | 0 | 100 | 0 | 0 |
| Total | | | 5,452 | 225.5 |

3.4 The cost of discretionary rate relief and village shop rate relief is fairly stable, but it is difficult to estimate the likely cost of hardship relief in so much as the Council is not necessarily aware of the circumstances of individual ratepayers. Whilst no such relief has so far been granted in 2012/13 (relief was last

awarded in 2006/07 in the sum of £13,497.06 at a cost to the Council of £10,122.80) given the current economic climate it is possible that an additional pressure could be created.

4. Business Rate Retention Scheme

- 4.1 From 1 April 2013, a Business Rates Retention scheme will replace the current Formula Grant funding system. The Government's intention is for business rates to be shared between central and local government on a 50/50 basis.
- 4.2 As a unitary authority, Medway Council will retain 49% with Kent & Medway Fire & Rescue Authority retaining 1%. The remaining 50% will go to the Secretary of State. It will be used by central government in its entirety to fund the local government sector (Police funding remains outside this scheme).
- 4.3 This means that any changes in discretionary relief after 1 April 2013 will, in effect, be funded 49% by Medway Council, 1% by Kent and 50% by central government.

5. Options

5.1 Existing relief schemes

- 5.1.1 Members may revoke or vary any previous decision to determine either discretionary top up rate relief or discretionary only rate relief. A decision may only be revoked, and a relevant variation of a determination may only be made, so that the revocation or variation takes effect at the expiry of a financial year, and so that at least one year's notice is given. Thus, any decision to revoke or vary made prior to 31 March 2013 will not come into effect until 1 April 2014.
- 5.1.2 Members may revoke or vary any previous decision to determine village shop or hardship relief. There is no prescribed notice period for any such revocation or variation.
- 5.1.3 Any reduction in the current guideline amounts could help fund the new local discretionary rate relief from 1 April 2014.
- 5.1.4 Members may wish to include extra qualifying criteria, especially in respect of national organisations, whereby relief is only given where they can show there is some specific benefit to the residents of Medway Council over and above the benefit to the residents of other areas in which the charity operates.

5.2 New local discretionary rate relief

- 5.2.1 From 1 April 2012, the Council has complete discretion to offer business rate discounts to any properties of their choosing. Those properties could be identified by location e.g. particular wards; the use of the property e.g. post offices or pubs (where not eligible for rural rate relief), a new business park or a regeneration area; or even all rateable properties in the Council area; or any of the above but limited by other factors such as the rateable value.

- 5.2.2 The cost of providing any such additional discounts would fall entirely on Medway Council. The difference between a ratepayer's normal bill and the actual liability after the discount would have to be funded by Medway Council. The source of funding would be at the Council's discretion but the total contribution of business rates to the national pool would be unchanged by the introduction of a business rates discount.
- 5.2.3 The policy behind a particular discount would need to be developed within the Council.
- 5.2.4 The Government's response to the Portas Review (an independent review into the future of our high streets) states 'We strongly urge local authorities to look at using their new powers to provide business rate discounts to small businesses and independent retailers.'
- 5.2.5 According to statistics produced by the Town Centre Managers, there are currently 115 empty town centre premises which produces the following vacancy rates:

| High Street | Total No Props | Total No Empty Props | Vacancy rate |
|-----------------------|----------------|----------------------|--------------|
| Chatham | 428 | 68 | 16% |
| Gillingham | 197 | 13 | 6.5% |
| Rainham | 168 | 7 | 4% |
| Rochester | 239 | 16 | 7% |
| Strood | 120 | 11 | 8.8% |
| Total/ Average | 1152 | 115 | 9.9% |

- 5.2.6 The National Vacancy Rate stood at 14.6% (Local Data Company, February 2012).
- 5.2.7 Were members choose to offer, say, a one month holiday from rates for each of these properties to attract new businesses it could cost the council between £10,000 to £33,000 dependent on the new occupier's eligibility for other reliefs such as transitional relief and small business rate relief.

6. Advice and analysis

- 6.1 The receipt of relief from business rates can be a lifeline for many voluntary organisations which in turn help to contribute to the educational, philanthropic, religious or cultural needs of Medway residents.
- 6.2 Officers believe that the council's current guidelines meet the balance between the Council's affordability in granting relief and the benefit that the particular organisation provides to the local community with one area of uncertainty. National charity shops are automatically awarded top-up discretionary rate relief without any need to demonstrate they are contributing to the Medway area.

- 6.3 The new local discretionary rate relief does give the Council absolute discretion to help any organisation as it sees fit, but contributing 49% funding means the cost must be borne by the Council will be fairly high.
- 6.4 No applications for this new relief have been received yet, and until such time as any specific event (for example flooding) or need to encourage development in a particular area occurs (high street or business park discounts) it is difficult to formulate guidelines or make the necessary budgetary considerations. As such officers are not recommending any guidelines be established at this time

7. Risk Management

| Risk | Description | Action to avoid or mitigate risk |
|--------------------------------|---|--|
| Increased caseload | Likelihood D (Low) Impact 3 (Marginal) Sudden influx of new charity occupiers into the Medway area resulting in extra awards and associated cost | Monthly monitoring of relief awarded & return to cabinet for new guidelines if appropriate |
| Government funding reduced | Likelihood D (Low) Impact 3/2 (Marginal/Critical) Whilst the Government is currently continuing to part fund some discretionary awards there is no guarantee this will continue | Officers to monitor Government actions and notify cabinet of any adverse changes to funding arrangements |
| Business Rate Retention Scheme | Likelihood C (Significant) Impact 3 (Marginal) Government has legislated to allow councils to retain a proportion of the growth in the business rates tax base in their area from a baseline position that should reflect the council's spending needs. | Officers to monitor Government actions and notify cabinet of any adverse changes to funding arrangements |

8. Financial and legal implications

- 8.1 The financial and legal implications are set out in the body of this report.

9. Recommendations

- 9.1 That Cabinet continue to adopt the guidelines shown at appendices 1, 2 and 3, noting that the over-riding criteria at Appendix 1 (v) requires there to be evidence of a positive impact for the community of Medway.

9.2 That Cabinet decides not to create a local discretionary rate relief system at this time.

10. Suggested reasons for decision

10.1 Relief from business rates where appropriate is a crucial factor in the survival of many voluntary organisations that support the educational, cultural and economic well being of the Medway area. An equitable and affordable procedure for the award of such relief is a necessary part of the Council's administrative process.

10.2 Until an appropriate set of circumstances arises it is not possible to formulate guidelines or budgetary implications to support the introduction of a new local relief.

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Background papers

'Business Rate Relief for Charities and Non-Profit Making Organisations' Report and Record of Decisions Cabinet 10 March 2009
<http://democracy.medway.gov.uk/ieListDocuments.aspx?CIId=115&MIId=1388&Ver=4>

High Streets at the Heart of our Communities: the Government's Response to the Mary Portas Review
<https://www.gov.uk/government/publications/high-streets-at-the-heart-of-our-communities-government-response-to-the-mary-portas-review>

GUIDELINES FOR THE AWARD OF DISCRETIONARY RATE RELIEF

- (i) Where bars are in operations, bar profits should be taken into account. A minimum bar profit of 30% on turnover should be used to ensure that any discretionary relief granted does not subsidise the bar.
- (ii) For sports clubs, sailing and Yacht clubs, relief should only be considered if more than 50% of the “sports” membership lives in the Council’s area. Social members should not be included.
- (iii) That membership fees and other charges should be reasonable.
- (iv) There should be reasonable evidence of financial need and that reasonable efforts have been made to raise funds.
- (v) There must be a positive benefit for the community of Medway.
- (vi) That membership of the organisation should generally be open to all sections of the community.

Discretionary Rate Relief for Charities

Charitable organisations entitled to 80% mandatory relief may also receive a further 20% “top-up” award to the Council’s discretion. The following guideline amounts should be taken into account when considering such applications.

| Type of Organisation | Discretionary Relief as a Proportion of the Gross Amount Payable |
|--|--|
| Scout Groups | 20% |
| Youth Organisations | 20% |
| Village Halls/Community Associations | 20% |
| Welfare & Other Voluntary Organisations | 20% |
| Charity Shops | 20% |
| Housing Associations | Nil |
| Voluntary Aided Schools, Colleges & Universities | Nil |
| Non state funded educational establishments | 20% |

Other Organisations

On merit

Discretionary Rate Relief for Non-Profit Making Organisations

Non-profit making organisations whose main objectives are charitable, otherwise philanthropic, religious, concerned with education, social welfare, science, literature, the fine arts, or whose premises are used wholly or mainly for recreation may receive up to 100% rate relief at the Council's discretion. The following guideline amounts should be taken into account when considering such applications.

| Type of Organisation | Guideline Amount |
|---|------------------|
| Youth Organisations | 100% |
| Village Halls/Community Associations | 100% |
| Education & Training Organisations | 100% |
| Welfare & Other Voluntary Organisations | 100% |
| Sports Clubs | 100% |
| Local Theatres | 100% |
| Sailing/Yacht Clubs | 100% |
| Other Organisations | On Merit |

**GUIDELINES FOR THE AWARD OF
VILLAGE SHOP RATE RELIEF**

- (i) Business rates must be put into context within the overall costs of running that business
- (ii) The consequences of closure of the business on the ratepayer would be detrimental
- (iii) The effect upon the area of the closure of the business would be detrimental
- (iv) The effect upon other businesses in the area must be assessed
- (v) The effect upon the Authority's expenditure both in respect of an individual case and the cumulative total of previous approved cases must be assessed.
- (vi) Any other factor relevant to the individual application

RURAL SETTLEMENT LIST

The Secretary of State has designated the Parish Councils shown in column 1 in the table on the next page as areas in which rate relief can apply.

Medway Council has determined that the rate relief will apply within the settlement shown in column 3 in accordance with the above legislation. Relief can only be granted where there is only one qualifying petrol station, public house, general store or post office in each settlement area. Thus if there is one qualifying public house and one post office within a settlement they will, subject to rateable value limits, be entitled to relief. If there are two post offices within a settlement area, neither will be entitled.

| Parish Councils designated by SI 1997/625 Column 1 | The areas listed below are Post Codes within Electoral Polling Districts which each constitute a settlement | | Settlement area no |
|--|--|---|--------------------|
| | <i>Column 2</i> | <i>Column 3</i> | Column 4 |
| | Polling Districts | Post codes | |
| ALLHALLOWS | RA (Allhallows) | ME3 9PZ | 1 |
| | | 9QJ | 2 |
| | | 9PG | 3 |
| | | All other post codes in this polling district | 4 |
| CLIFFE | SA (Cliffe Village) | ME3 7PT | 5 |
| | | 7QE | 6 |
| | | 7UL | 7 |
| | | All other post codes in this polling district | 8 |
| | SB (Cliffe Woods) | ME3 8HX | 9 |
| | | All other post codes in this polling district | 10 |
| COOLING | SC (Cooling) | All other post codes in this polling district | 11 |
| CUXTON | TA (Cuxton) | ME3 1EY | 12 |
| | | All other post codes in this polling district | 13 |
| FINDSBURY EXTRA | UA (East Ward – Wainscott) | ME2 4BQ | 14 |
| | | 4LA | 15 |
| | | 4JY | 16 |
| | | All other post codes in this polling district | 17 |
| | UB (East Ward – Upnor) | All other post codes in this polling district | 18 |
| | UC (Central), UD (West) | All other post codes in this polling district | 19 |
| HALLING | TB (Halling North) | All other post codes in this polling district | 20 |
| | TC (Halling Lower) | ME2 1BX | 21 |
| | | 1BS | 22 |
| | All other post codes in this polling district | 23 | |
| | TD (Halling Upper) | All other post codes in this polling district | 24 |
| HIGH HALSTOW | SE (High Halstow) | ME3 8SN | 25 |
| | | All other post codes in this polling district | 26 |

| | | | |
|------------------------------|------------------|---|----------------------|
| HOO ST WERBURGH | VA (Hoo East) | ME3 9AH 9AA 9TQ All other post codes in this polling district | 27 28 29 30 |
| | VB (Hoo Central) | ME3 9DT 9BX All other post codes in this polling district | 31 32 33 |
| | VC (Hoo West) | ME3 8LY All other post codes in this polling district | 34 35 |
| | VD (Hoo) | All other post codes in this polling district | 36 |
| ST JAMES ISLE OF GRAIN | RB (Grain) | ME3 0BZ 0BJ All other post codes in this polling district | 37 38 39 |
| ST MARY HOO | SD (St Mary Hoo) | All other post codes in this polling district | 40 |
| STOKE | RC (Stoke) | ME3 9RA All other post codes in this polling district | 41 42 |

**GUIDELINES FOR THE AWARD OF
HARDSHIP RELIEF**

- (i) Applicants must provide three years audited accounts wherever possible together with such further financial information that is needed
- (ii) Non domestic rates must be put into context with the overall expenses of the business and the losses being incurred
- (iii) Consequences of closure of the business on the ratepayer must be ascertained which must be detrimental
- (iv) The effect upon the neighbourhood community and the Council area as a whole of the closure of the business would be detrimental.
- (v) The effect upon the Council's own expenditure both in respect of an individual case and an accumulative total of previous approved cases which have been relied upon to a material extent in preparing the report.