

CABINET

6 SEPTEMBER 2016

BUSINESS RATE RELIEF

Portfolio Holder: Councillor Rupert Turpin, Business Management

Report from: Phil Watts, Chief Finance Officer

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Summary

This report proposes a consultation exercise is undertaken on options for a revised set of guidelines for the award of discretionary relief from National Non-Domestic (Business) Rates for charities and other non-profit making organisations.

1. Budget and Policy Framework

- 1.1 It is the responsibility of Cabinet to approve the procedures for the award of discretionary relief from National Non-Domestic (Business) Rates. Cabinet will be asked to implement new guidelines for the award of discretionary relief for charities and other non-profit making organisations to take effect from 1 April 2017, following consultation.

2. Background

- 2.1 National Non-Domestic Rates (NNDR) or “business rates” are payable by owners of non-residential premises in accordance with the Local Government Finance Act 1988.
- 2.2 The 1988 Act, as amended, gives the Council mandatory powers to award rate relief, as well as discretionary powers to award rate relief in certain circumstances. This includes discretionary powers to grant relief from non-domestic rates on property occupied by charities and other non-profit making organisations. Currently the cost of any relief is shared between Medway Council (49%), the Government (50%) and Kent & Medway Fire & Rescue Authority (1%).
- 2.3 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 12 March 2013 and can be found at Appendix 1.

- 2.4 On 8 March 2016 Cabinet agreed to rescind the existing guidelines with effect from 31 March 2017 (Decision 44/2016) and to receive a further paper proposing a revised set of guidelines to be implemented from 1 April 2017 (Decision 45/2016)
- 2.5 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.
- 2.6 For the organisations without charitable status to be eligible for this particular relief they have to be a non-profit making body. 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
 - 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).
- 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 £425,617 of top up discretionary relief in 2016/17 costing the Council £208,552.48.
- 3.3 As at 14 July 2016 the Council had granted the following amounts of relief:

Description	% funded by Medway Council	Amount of Relief £000's	Cost to the Council £000's
Mandatory relief	49	7,475.8	3,663.1
Discretionary top up	49	425.6	208.5
Discretionary relief only	49	186.0	91.2
Total		8,087.4	3,962.8

4. Options

- 4.1 Following the Cabinet meeting on 8 March a working group of Members considered a number of options available which included a review of the types of organisation and qualifying criteria such as the purpose of the charity, membership and whether based locally or nationally.

Three options have been identified to take forward for consultation

Option 1 Re-instate the existing guidelines which can be found at appendix 1. All organisations would be treated the same and receive the maximum relief of

100%. However, this means the Council would need to find funding of approximately £300,000 and any potential savings from the following options would need to be made from other service budgets.

Option 2 Implement the revised guidelines at appendix 2 which gives priority to those organisations that deal directly with needy people whilst withdrawing some support from those organisations that are concerned with lifestyle choices, have alternative means of raising funds or are competing with other businesses (such as charity shops or charity cafes).

Option 3 Implement guidelines whereby all charitable or not-for-profit organisations receive a maximum of 80% relief. This means those organisations in receipt of mandatory relief would not receive any discretionary top up and those who currently receive 100% discretionary relief would have the award limited to 80%.

- 4.2 A summary of schemes offered by certain other Billing Authorities is set out in Appendix 3.

5. Preferred Option

- 5.1 This report recommends that all three options are consulted upon, with option 2 being expressed as the Cabinet's preferred option. Against the existing scheme, and based upon the current awards, this option would result in savings of around £192,455 per annum.

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 The Council's contribution towards funding the relief (49%) is fairly high. With the Government suggesting local authorities will be able to retain all Non Domestic Rating income within a few years, the cost borne by Medway Council would increase considerably.
- 6.3 By applying a fixed term of, say, three years to the new guidelines a degree of certainty can be afforded to the organisations affected and accords with previous practice.
- 6.4 The change in guidelines is likely to lead to an increase in appeals, and it is important that the Council has a robust process in place. Previous policies relating to retail relief, new build relief and re-occupation relief contain the following:

'Appeals against a refusal to grant relief will be dealt with as follows:

- Initial review by the Revenues and Benefits Service Manager;
- Second stage review by the Chief Finance Officer;
- Final appeal to Cabinet.'

- 6.5 It is proposed that a 12 week online consultation takes place providing the three options outlined at 4.1 above.

7. Consultation

- 7.1 It is proposed to undertake a twelve week consultation, commencing on 13 September 2016 and ending on 5 December 2016. The results of this consultation would be analysed and considered by a Special Business Support Overview and Scrutiny committee in early January, before final consideration and approval of the new scheme by Cabinet on 17 January 2017.

8. 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.
That smaller charities and not for profit organisations become no longer financially viable	Likelihood D (Low) Impact 3 (Marginal)	A robust appeals process and the safety net of the Council's hardship relief policy.

9. Financial and legal implications

- 9.1 The costs of the three options are as follows

	Option 1 (Existing 100% scheme)	Option 2 (Preferred Option)	Option 3 (All organisations receive 80% relief)
Discretionary Top Up	£208,552.48	£53,479.36	£0.00
Discretionary Only	£91,164.51	£53,782.84	£72,931.61
Total	£299,716.99	£107,262.20	£72,931.61

- 9.2 There is no specific statutory requirement to consult contained within National Non-Domestic legislation but the need for genuine consultation has been very substantially increased by recent legislation, in particular the Equality Act 2010 and the process of decision making will be vulnerable to legal challenge unless consultation is conducted properly.
- 9.3 Given the number of volunteers and nature of the charities who are likely to support groups that have protected characteristics (Equality Act) and to ensure that they have sufficient opportunity to raise issues within the consultation a full 12 week consultation period (the minimum suggested under

The Code of Practice on Consultation issued by the Department for Business, Innovation and Skills) would be prudent.

10. Recommendations

- 10.1 That Cabinet authorises officers to consult on the three options, including the preferred option, outlined in Section 5 of the report.

11. Suggested reasons for decision

- 11.1 To ensure that consultation is undertaken on the options prior to a final decision.

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Appendices

Appendix 1 – Existing Scheme (until 31 March 2017)
Appendix 2 – Draft Scheme (for implementation from 1 April 2017)
Appendix 3 - Other Discretionary Rate Relief Schemes in Kent

Background papers

Cabinet 12 March 2013 *Business Rate Relief (item 7)*
<http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=2535&Ver=4>

Cabinet 8 March 2016 *Business Rate Relief (item 12)*
<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=3168&Ver=4>

GUIDELINES FOR THE AWARD OF DISCRETIONARY RATE RELIEF (TO 31 MARCH 2017)

- (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

**PROPOSED GUIDELINES FOR THE AWARD OF
DISCRETIONARY RATE RELIEF (FROM 1 APRIL 2017)**

1. *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.

2. *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.

3. *Calculating the amount of relief to be awarded*

3.1 General Guidelines

Although each individual application must be considered on its own merit, all will be considered against the following general principles:

- (i) Irrespective of the type of organisation liable for the payment of non-domestic rates, all charity shops (including galleries) and charity cafes will receive 80% mandatory relief only.
- (ii) 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.
- (iii) 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.
- (iv) That membership fees and other charges should be reasonable.
- (v) There should be reasonable evidence of financial need and that reasonable efforts have been made to raise funds.
- (vi) There must be a positive benefit for the community of Medway.
- (vii) That membership of social activity organisations should generally be open to all relevant sections of the community.

3.2 Organisation Purpose

Subject to 3.1 above, all applications will have a guideline amount established from the following table outlining the organisation's purpose.

Item No	Organisation purpose	Principle	Registered Charity			Non-profit	Description
			Mandatory Relief %	Top Up Relief %	Total relief %	Discretionary only relief %	
1	Voluntary Sector / charity support service	Supporting people	80	20	100	100	Organisations who provide support and opportunities to the voluntary sector / and or guidance to charities & not for profit organisations
2	Supporting children	Supporting people	80	20	100	100	The organisation's focus is aimed exclusively at children from all sections of the community
3	Supporting the disabled	Supporting people	80	20	100	100	Predominantly providing support to help people with a disability and or providing fitness improvement/sport / water sport facilities exclusively to people who are disabled
4	Education for children (special educational needs)	Realising potential	80	20	100	100	Education solely for children with special needs or disabled or unable to attend mainstream school / providing nursery care exclusively for children with special educational needs.

5	Elderly care / support	Supporting people	80	20	100	100	Providing care and support services exclusively for elderly people from all sections of the community
6	Training, Adult education, Employment support	Realising potential	80	20	100	100	To train , educate/or otherwise support adults to help them gain employment and become self sufficient
7	Health care	Supporting people	80	20	100	100	Health care for all sections of the community
8	Homeless and vulnerable adult support	Supporting people	80	20	100	100	Helping homeless people based in Medway to:find a home and/or manage in the meantime through foodbank provision and safeguarding of vulnerable adults
9	Rehabilitation for offenders / crime prevention	Supporting people	80	20	100	100	Charity/organisation helping to rehabilitate ex-offenders and reduce re-offending
10	Social Care support for those with a disability	Supporting people	80	20	100	100	Providing a range of social care support exclusively to children or adults with a disability in need or at risk arising from illness, old age or poverty.
11	Youth activities	Realising potential	80	20	100	100	Youth activities (up to and including age 17) available to all sections of the community / youth activities young people (up to and including age 25) for those who are disabled.

12	Social care support to the general population	Supporting people	80	20	100	100	Providing social care support or help to the general population to children or adults in need or at risk arising from illness, old age or poverty.
13	Arts and entertainment	Realising potential	80	0	80	50	Providing and/or providing support for the arts
14	Financial advice or financial aid	Supporting people	80	20	100	100	
15	Animal Welfare, Wildlife	Supporting people	80	0	80	70	Protecting, saving, rescuing, or healing animals which would otherwise suffer
16	Fitness improvement/sport / water sport / social facilities	Supporting people	80	0	80	50	Organisations who make sports and fitness available to all sections of the community and provide social facilities to members and non-members. For those that do not provide any form of social facility hardship relief considered on merit.
17	Nursery mainstream		80	0	80	50	Nursery serving all sections of the community
18	Religious		80	0	80	50	Religious purposes
19	Education for children	Realising potential	80	0	80	50	Mainstream education for children in fee paying school
20	Heritage - protecting	Medway a place to be proud of	80	0	80	0	Protecting heritage
21	Regeneration	Medway a place to be proud of	80	0	80	0	

3.3 Calculating the amount payable:

3.3.1 Charity shops and facilities providing refreshments

All charity shops (including galleries) and charity cafes will receive 80% mandatory relief only.

3.3.2 Top up Discretionary Relief

Subject to 4.4.1 above, all charitable organisations using their properties in line with their aims and objectives will be entitled to 80% mandatory relief. As such any organisation with a score of 80 or less in the table at 3.2 above will receive 80% mandatory relief only.

3.3.3 Discretionary relief only

Any not for profit organisations using their properties in line with their aims and objectives will receive an amount of discretionary relief in line with its score in the above table. For example, a fitness improvement / sport / water sport / social facilities organisation scores 50% and will receive 50% discretionary relief.

3.4 Duty to notify the Council of changes

3.4.1 Any award will be based on the information provided at the time of application. Should any of this information be superseded, details of the changes must be supplied to the council at the earliest opportunity, and in any event within one month.

Other Discretionary Rate Relief Schemes in Kent

Thanet, Canterbury & Dover

The full 20% 'top up', discretionary relief may be applied to charity shops and other premises but will normally only be awarded if the charity is a local one, not a national one (a local charity is defined to be one who only operates in the particular Council area or who are part of a national Charity but whose accounts and finances are specific to a local area). If the premises are operated by a national charity that does not exist to wholly or mainly benefit the residents of the local area, then discretionary relief will not normally be awarded to 'top up' the 80% mandatory award.

East Kent Services will consider the contribution and benefit that the charity has to the local community.

Charity shops that sell wholly or mainly donated goods may be granted a higher amount of relief than those that sell mainly bought in (new) goods.

Discretionary Relief for clubs will not normally be granted if the organisation operates a bar. Membership must be active rather than social membership and wholly or mainly benefit the residents of the local area. Consideration to award relief will only be given if the club is able to fully demonstrate that the bar is not the primary or significant attraction for the majority of the members.

Schools with Academy status will not normally be awarded Discretionary Relief to top up the mandatory award.

Ashford

The amount of relief awarded will depend on the extent to which the organisation meets the funding criteria and the Council's corporate objectives and can be awarded in 5% increments i.e. 5%, 10% 15%, 20% etc. This is set out in the table below

	% Top-up relief for Registered Charities and CIOs	% discretionary relief for other not-for-profit bodies
Clear evidence of need, of wide community reach, and a material contribution to Ashford Borough Council's strategic objectives	10 - 20	50 - 100
More limited evidence of need,	5 - 10	5 - 50

of community reach, and some material contribution to Ashford Borough Council's strategic objectives		
No evidence of need, very restricted community reach, and no material contribution to Ashford Borough Council's strategic objectives	0	0

Colchester (approved wef 1 April 2015 following consultation)

<u>Category</u>	<u>Discretionary Relief Recommendation</u>	<u>Mandatory Relief</u>
Local charitable organisations with cultural or recreational purpose, receiving mandatory relief	10%	80%
Local charitable organisations with health or welfare purpose (including personal domestic type services) receiving mandatory relief	20%	80%
Local scout and guide troops receiving mandatory relief and village halls providing any specific grant aid received is only for repair or renovation of the premises	10%	80%
Community amateur sports clubs receiving mandatory relief	20%	80%
Relief for organisations who are grant funded by Colchester Borough Council specifically under one of its strategic priorities to promote growth, culture or communities in the area.	20%	n/a

North Somerset Council (approved wef 1 April 2016 following consultation)

North Somerset Council believe that all businesses should contribute an element of their rates bill in the same way that council tax payers are required to contribute at least 25%. To this effect the guidelines suggest those in receipt of mandatory relief of 80% do not receive discretionary top-up and those organisations that receive discretionary only relief are limited to 80%.