

HAMBLETON DISTRICT COUNCIL

Report To: Audit, Governance and Standards Committee
24 January 2016

From: Director of Finance (s151 Officer)

Subject: **DISCRETIONARY BUSINESS RATE RELIEF FURTHER INFORMATION**

All Wards

1.0 PURPOSE

1.1 The purpose of this report is to provide further information with regards to the Council's Discretionary Business Rate Relief Policy and provides information regarding community libraries.

2.0 BACKGROUND

2.1 **Discretionary Rate Relief Policy Report** - Attached at Appendix A is the report to be presented to Cabinet on 7 February 2017 for approval at Council on 21 February 2017 which includes the revised Discretionary Rate Relief Policy (DRRP) proposed to be effective from 1st April 2017.

2.2 The current Discretionary Rate Relief Policy last approved at Council in 2007 is attached at Appendix B for information

2.3 **Discretionary Rate Relief Policy Matrix** - In order to assist Officers' of the Council in making consistent decisions in relation to individual applications for Discretionary Rate Relief Policy a 'Matrix' is used. This is attached at Appendix C. It shows the current 'Matrix' and also the revised 'Matrix' with the main difference in the revised Discretionary Rate Relief Policy focusing on financial implications. The revised 'Matrix' includes whether or not an organisation holds unrestricted funds that could be used to contribute to business rates and also if a significant profit is made by the organisation.

2.4 **Financial Implications of the Revised Discretionary Rate Relief Policy** - The financial implication to the Council of the revised Discretionary Rate Relief Policy will only be crystallised when all organisations have applied for Discretionary Rate Relief from 1 April 2017. At this time is not estimated that there will be a significant change in the financial implication. Currently, Discretionary Rate Relief of £98,818 is awarded where since the Business Rate Retention Scheme came into legislation from 1 April 2013, it costs Hambleton District Council 40% £39,527, North Yorkshire County Council 9% £8,894, North Yorkshire Fire Authority 1% £988 and the Government 50% £49,409. From 2019/20 with the introduction of 100% Business rate Retention across the Local Authority sector these percentages will change. This is currently under national debate and further information will be released in due course.

2.5 **Financial Implications of Community Libraries** - Libraries which convert to community libraries would be charitable organisations and under statue would be able to claim 80% mandatory relief. This would cost Hambleton District Council a further £36k. If 20% Discretionary Rate Relief was then awarded, this would cost Hambleton District Council a further £10k, a total cost of £46k. Attached at Appendix D is the financial implication of Community Libraries receiving Mandatory and Discretionary Business Rate Relief.

2.6 **Library converted to a Community Library** - In Hambleton District, one library has converted to a community library in 2012 – Great Ayton. Attached at Appendix E is the ‘Scoring matrix’ which shows that the current Discretionary Rate Relief Policy resulted in no award being granted.

2.7 **Discretionary Rate Relief Policies** – there are many, varied Discretionary Rate Relief Policies that can be reviewed on Council websites. No two policies are the same as the legislation allows for each Council to assess and provide Discretionary Rate Relief in its area on an individual basis.

3.0 LINK TO COUNCIL PRIORITIES:

3.1 Discretionary Rate Relief awarded to businesses results in a decrease in the amount of business rates income that is collected. Business rates income is one of the funding streams of the Council which supports the budget and the overall aims and objectives of the Council.

4.0 RISK ASSESSMENT:

4.1 There are no major risks associated with approving the recommendation.

5.0 FINANCIAL IMPLICATIONS:

5.1 The financial implications are included in the body of the report.

6.0 LEGAL IMPLICATIONS:

6.1 The Discretionary Rate Relief Policy reviews each application on an individual basis. It is necessary to consider each case on its own merits so that the Council does not fetter its discretion or act ultra vires to its powers, this will ensure that the Council’s approach is lawful.

7.0 EQUALITY/DIVERSITY ISSUES:

7.1 There are no specific equality implications to this report.

8.0 RECOMMENDATIONS:

8.1 It is recommended that Members review the Discretionary Rate Relief Policy.

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Background papers: None

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HAMBLETON DISTRICT COUNCIL

Report To: Cabinet
7 February 2017

Subject: **DISCRETIONARY BUSINESS RATE RELIEF POLICY**

All Ward(s)
Portfolio Holder for Economic Development and Finance: Councillor P R Wilkinson

1.0 PURPOSE

- 1.1 To consider the revised Discretionary Rate Relief Policy (DRRP) effective from 1st April 2017 for approval at Council on 21 February 2017.
- 1.2 In order for the revised Discretionary Rate Relief Policy to be introduced from 1 April 2017, all businesses have been informed prior to 1 April 2016, 1 year in advance, that the current DRRP will be revoked.

2.0 BACKGROUND

- 2.1 The power for granting discretionary rate relief is provided in Section 47 of the Local Government Finance Act 1988 which has been amended by subsequent powers which allows the Council to grant relief under local discretion.
- 2.2 The Council has discretionary powers to grant discretionary rate relief to organisations to a maximum of 100% of the business rate liability. Those organisations in receipt of mandatory relief (Mandatory relief is available to charities and other not for profit organisations, including registered amateur sports clubs, who can apply for up to 80% where the property is occupied by the charity or club and is wholly, or mainly, used for charitable purposes, or as a registered community amateur sports club) can apply for 'top up' discretionary relief on the remaining business rates liability up to a maximum of 20%.
- 2.3 Once awarded the Council is committed financially and a decision can only be revoked following notice by the authority advising when the discretionary rate relief will end. The council is required to give 1 years notice. Ratepayers who currently receive discretionary rate relief received notice before 1 April 2016 that they would be required to renew their applications with effect from 1 April 2017 as the Council was considering reviewing its policy.
- 2.4 A priority of the discretionary rate relief policy is to support local and voluntary organisations and the aims of any organisation should support one or more of the Council's corporate priorities.
- 2.5 The council currently awards discretionary relief of £ £98,818 to 165 charities including shops and amateur sports clubs and other non for profit organisations such as village halls. Details of the awards are shown in the table below:

| Rate relief type | Total amount of discretionary rate relief granted 2016/17 £ | No of awards | Average award £ | Range of awards | of |
|--------------------------------------|---|--------------|-----------------|------------------|----|
| 'Top up' rate relief (0%-20%) | 73,394 | 156 | 470.47 | £9.46 to £10,034 | |
| Discretionary Rate relief (0%- 100%) | 25,424 | 9 | 2824.58 | £736 to £6,057 | |

2.6 Ratepayers who wish to receive discretionary rate relief must complete an application form and provide supporting evidence setting out their organisations aim and purpose along with annual accounts and reports showing achievements and the financial standing of the company. Discretionary rate relief awards are made using a range of criteria where each application will be reviewed on an individual basis under the Discretionary Rate Relief Policy and the outcome considered.

2.7 The Discretionary Rate Relief Policy for 1 April 2017 is attached at Annex A. It is based on the previous Discretionary Rate Relief Policy and also includes the:

- **Increased emphasis on links to the Councils corporate aims and objectives**
- **Consideration of the organisations financial reserves**
- **Renewals of discretionary rate relief to be every 3 years**

3.0 LINK TO COUNCIL PRIORITIES:

3.1 Discretionary Rate Relief awarded to businesses results in a decrease in the amount of business rates income that is collected. Business rates income is one of the funding streams of the Council which supports the budget and the overall aims and objectives of the Council.

4.0 RISK ASSESSMENT:

4.1 There are no major risks associated with approving the recommendation.

5.0 FINANCIAL IMPLICATIONS:

5.1 The cost of awarding Discretionary Rate Relief is included with in the Collection Fund accounts. The cost is split between Central Government (50%), Hambleton District Council (40%), North Yorkshire County Council (9%) and Fire (1%).

5.2 Using the above split the costs of the current awards to each preceptor and would be Central Government £49,409, Hambleton Council £39,527, North Yorkshire Council £8,894 and Fire £988

6.0 LEGAL IMPLICATIONS:

6.1 The Discretionary Rate Relief Policy reviews each application on an individual basis. It is necessary to consider each case on its own merits so that the Council does not fetter its discretion or **act ultra vires to its powers, this will ensure that the Council's approach is lawful.**

7.0 EQUALITY/DIVERSITY ISSUES:

7.1 There are no specific equality implications to this report.

8.0 RECOMMENDATIONS:

8.1 That Cabinet approves and recommends to Council that the Discretionary Rate Relief Policy be adopted.

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Background papers: None

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Policy for the Determination of Discretionary Business Rate Relief Applications from Charities, Community Amateur Sports Clubs and Not for Profit Organisations

The Council has discretionary powers to grant relief to organisations to a maximum of 100% of the business rate liability. Those organisations in receipt of mandatory relief can apply for 'top up' relief on the remaining business rates liability up to a maximum of 20%.

The Council's priority is to support local voluntary and community sector organisations and clubs that contribute to one or more of the Council's corporate priorities for local people. By voluntary and community sector organisations we mean non-governmental, community-based organisations which are value driven (their values arise from the community) and which reinvest their surpluses for further social, environmental or cultural objectives.

The Council believes that organisations should be encouraged to be financially independent.

Eligibility

Applications for discretionary relief are welcomed from organisations which are not established or conducted for profit. Their aims should be charitable or otherwise philanthropic or religious, or be concerned with education, social welfare, science literature or the fine arts. Relief may also be awarded when a property is used for recreation and is occupied by a club, society or other organisation not established or conducted for profit.

All applications will be considered on its individual merits.

Applications

Applications must be made by the ratepayer or a person with the authority to act on behalf of the organisation. The Council's application form must be completed.

Relief will be granted for a maximum of 3 years subject to there being no material change to the aims and objectives of the organisation. After which a fresh application is required for renewals of awards together with updated accounts.

Application forms for Discretionary Relief, must be supported with the following evidence:

- (i) Copy of the Governing Document setting out the organisation's purposes and how the organisation is administered. (This can be in one of several different forms including a Trust Deed, Constitution, Memorandum and Articles of Association, Will, Conveyance, Royal Charter, Scheme of the Charity Commissioners, or the Rules of the Organisation.)
- (ii) Copies of the organisation's Annual Reports (containing a brief summary of the main activities and achievements of the organisation) for the last 2 years.
- (iii) Copies of the organisation's Annual Accounts including Balance Sheet for the last 2 years.

It is the responsibility of the organisation or person applying for rate relief to provide sufficient information and documentary evidence to support their applications.

Where information is not provided this will result in an application being deferred for 30 working days, after which the application will be deemed to be withdrawn if the information has not been received.

Factors Taken into Account

The following factors for determining relief are not intended to be a rigid set of rules, neither are all the guidelines applicable to every organisation. Each case will be judged on its merits taking into account the contribution which each organisation / business makes to the District's amenities and its residents' lifestyles and well being.

Access / Membership

The Council will consider the importance of the organisation to the local community. For example

- Does the organisation provide a benefit to the community
- Would the organisations absence have a detrimental effect on the community

Whilst the Council accepts that organisations provide a valuable facility or service it must be remembered that any relief granted is partially funded by the local council tax payer and as such consideration will be given to the percentage of members/ users of the facility who reside in the district

- (a) Is the membership open to all sections of the community? If not, are there legitimate reasons for restriction, for example, capacity of the facility is limited?
- (b) How many members are there and are the majority residents of the district?
- (c) Are membership rates set at such a level that allows access to the wider community.
- (d) Does the organisation actively encourage membership from particular groups in the community which, in the authority's opinion, particularly deserve support?
- (d) Are the facilities made available to people other than club members, for example, schools, youth groups etc.?
- (e) Is the organisation affiliated to local or national organisations?

Financial criteria

The Council must consider the importance of the organisation to the local community. Two years accounts are required to support each application. The figures used to determine eligibility will normally be an average of the last two years to establish the overall financial stability of the organisation.

Information will be drawn from the audited balance sheet. Where this is not available, copies of bank statements with a profit and loss position must be provided.

The level of reserves should be examined. If the reserves held are restricted and evidence of this with an explanation of how the reserves will be used is provided, this factor will be taken into consideration.

Where an organisation is struggling financially, questions should be asked about the level of membership fees and other charges, i.e. are they realistic compared to those charged by similar organisations.

The council is keen to see that clubs and organisations are trying to be self sufficient where possible. Whilst income can be received from external grants, charging subscriptions and fund raising events can raise income.

Where an application is a renewal only the most recent years accounts will be needed as the previous accounts will be on file.

Provision of facilities

The council wishes to see facilities provided that compliment its own or facilities that the council itself does not provide as this will contribute to providing opportunity and access to as wide a group as possible.

Organisations/ clubs are encouraged to have facilities/ workshops/ training etc. which supports disadvantaged and under represented groups regardless of gender, race, sexual orientation and religion

Some sporting clubs have licensed bars which are open to participating and non participating club members. Consideration will be given to whether the facility is ancillary to the main aims of the organisation and how the organisations income /profits are used to fund facilities and activities of the organisation

Sports Clubs

Is the club eligible to register as a Community Amateur Sports Club and has an application been made ?

If it appears from these answers that a club is prima facie eligible, but won't apply for CASC status, this will be taken into consideration in deciding on the level of discretionary relief: it is recognised that, for very small clubs, the administration involved in applying may outweigh the benefits, though there are other tax advantages.

Community Interest Companies

Is the organisation eligible to register as a Community Interest Company and has it done so?

If it appears from these answers that an organisation is prima facie eligible, but won't apply for incorporation as a CIC, this will be taken into consideration in deciding on the level of discretionary relief: it is recognised that, for very small organisations, the administration involved in applying may outweigh the benefits.

Charity Shops

Where the application is in respect of a charity shop, the following are also taken into consideration:

- (a) the level of turnover;
- (b) the amount of non-donated goods for sale;
- (c) any other use of the premises, for example, does the shop also provide advice, or a meeting place for those that it seeks to help?

Strategic intent

The Council's vision is for Hambleton to be a place to grow, be healthy and be prosperous. The Council Plan sets out the key priorities for delivering this vision. The discretionary rates relief policy will work within these priorities as identified in the Council Plan by supporting the work of charities and not for profit organisations that work with Hambleton residents and encourage prosperity.

Each application will be considered to ensure the following is supported:

1. Driving economic prosperity
Hambleton will be a place where all business, new and old a can grow and be prosperous, alongside thriving market towns. Establish links with education
2. Enhancing health and Wellbeing
Hambleton will be a place where community health facilities, activities, events and interventions are provided and supported to improve the health and well being of residents
3. Caring for the environment
Hambleton will improve the efficiency of its waste collections and recycling to reduce the Councils carbon footprint year on year
4. Providing a special place to live
Hambleton will be a place where a diverse mix of housing types ensures that homes are affordable to all that need them and communities have a sense of identity and residents are able to live in the district independently

Appeals

There is no statutory right of appeal against a decision made by the Council in respect of Discretionary Rate Relief. However, an independent officer will review the case where it is believed that the policy has not been applied correctly. The applicant will be allowed to submit in writing additional or new information/evidence to support the application. The right of appeal process does not affect a ratepayer's legal right to challenge the decision by way of a judicial review

If an unsuccessful applicant requests an appeal, they will still need to continue to pay their rates bill. Once the appeal has been heard, the ratepayer will be informed, in writing, of the decision.