

## Decision under Delegated Powers

### Officer Making the Decision

Strategic Director of Environmental & Corporate Services

### Recommendation

That the Council's discretionary business rate relief policies, as set at Appendix A, be adopted.

### Reason

To facilitate a periodic update of the Council's discretionary business rate relief policies.

### Authority for Decision

Part 8.1 (items (i) and (iv)) of the Scheme of Delegation states that officers with delegated authority are able to take such action as may in his or her opinion be necessary or appropriate in connection with:

- (i) all operational management matters for those functions and service areas for which he or she has responsibility.
- (iv) the performance of any action for which he or she is specified as responsible in any policy, procedure or other document approved or adopted by the Council or a Committee of the Council, the Cabinet, or a Committee of the Cabinet or by an officer acting under delegated powers and making minor corrections to approved documents where the intention is clear.

### Decision and Date



Simon Jackson  
Strategic Director of Environmental & Corporate Services  
08/06/2022

### Background

1. Various powers are available to billing authorities to grant discretionary relief from non-domestic rates. Typically these powers are exercised under the Council's scheme of delegation.

2. Any application for discretionary rate relief must be considered on its own merits and so the Council should not adopt any policy which rejects certain applications without looking into the merits of that application. Conversely, authorities are not prevented from creating guidance on the kind of business to which they will normally grant relief, so as to ensure a consistent approach. Appendix A sets out the Council's approach to awarding these various types of business rate relief. The reliefs covered by the Appendix are:

- Charitable relief - for properties occupied by a charity and used for charitable purposes
- Relief for organisations not established or conducted for profit (sports clubs and similar)
- Rural rate relief – open to businesses within a classified rural settlement
- Hardship relief
- Relief for properties partially unoccupied for a short time

3. In addition, the Council may (in theory) offer rate relief through powers within the Localism Act 2011 and is periodically offer specific rate relief schemes funded by Government.

4. The Council's policies covering the application of discretionary business rate relief were last updated in 2017 (Cabinet report – October 2017).

5. The principal amendment to previously published discretionary policies is the removal of discretionary business rate relief in respect of the Enterprise Zone (EZ) sites within the Borough. This is as the five-year time limit during which businesses relocating to the EZ sites could qualify for business rate relief expires on 31 March 2022.

6. The updated policies and principles underpinning the Council's award of discretionary business rate relief is set out at Appendix A.

### **Financial Implications**

There are no significant financial implications of this report (as there is no fundamental change to the Council's approach to discretionary reliefs).

## **Risk Management**

The are no especial risks attached to this decision.

Key Decision: Yes

*Date included on Forward Plan* 9<sup>th</sup> February 2022

Background Papers: None

## APPENDIX A

### DISCRETIONARY BUSINESS RATE RELIEFS – Updated January 2022

#### Introduction

Various powers are available to billing authorities to grant discretionary relief from non-domestic rates. The purpose of this Appendix is to summarise the Council's current approach to applications.

Any application for discretionary rate relief must be considered on its own merits and so the Council should not adopt any policy which rejects certain applications without looking into the merits of that application. Conversely, authorities are not prevented from creating guidance on the kind of business to which they will normally grant relief, so as to ensure a consistent approach.

The Council exercises these powers under its scheme of delegation. Principal responsibility for the exercise of these powers rests with the Head of Customer Experience.

#### Discretionary relief to charities

##### Background

Where a property is occupied by a charity and is used for charitable purposes, or occupied as a community amateur sports club, the billing authority must reduce the rate bill by 80%. Voluntary schools and some registered societies can be treated as charities for this purpose. Whilst the 80% relief is not subject to discretion Councils do have the discretion to 'top-up' this relief under Section 47 of the Local Government Finance Act 1988.

##### New Applications

More favourable consideration will be given to organisations operating solely within Charnwood area and to organisations primarily established to offer facilities to young people.

Less favourable consideration will be given to educational facilities, and to charity shops selling items other than donated goods.

#### Discretionary relief to organisations not established or conducted for profit

## Background

Discretionary relief is available to organisations which, although not registered as a charity, are not conducted for profit and:

- whose objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or
- are occupied by a club for the purposes of recreation.

Criteria which will be considered when awarding relief include:

- Access – is membership open to all sections of the community?
- Does the organisation actively encourage membership from particular groups in the community (e.g. young people, or persons with a disability)?
- Are the facilities made available to people other than members (e.g. schools)?
- Does the organisation provide training or education for particular groups (e.g. the disabled, retired people) which the Council considered to be particularly deserving of support?
- Does the organisation provide facilities which indirectly relieve the Council of the need to do so, or enhance and supplement those which it does provide?
- Is the organisation affiliated to local or national organisations?
- Is the membership drawn from people mainly resident in the Borough

## New Applications

Favourable consideration will be given to organisations operating solely within Charnwood area and to organisations primarily established to offer facilities to young people.

## Rural Rate Relief

Discretionary Rural Rate Relief is open to any type of business within a classified rural settlement. The business must occupy a property with a rateable value of less than £16,500 which must be used for purposes which are of benefit to the local community. In addition, the Council must be satisfied that it is reasonable for the Council to grant relief, with regard to the interests of residents and Council Tax payers.

(This relief is retained for completeness although largely superseded by the provisions of the Localism Act)

### New Applications

The above factors will be considered and, in particular, the benefit provided by the applicant organisation to the local community.

## **Hardship Relief**

### Background

Section 49 of the Local Government Finance Act 1988 gives a billing authority discretion to reduce or remit the payment of rates where it is satisfied that:

- the ratepayer would sustain hardship if it did not do so, and
- it is reasonable for the authority to do so having regard to the interests of its council tax payers.

General Government guidance suggests:

- i. although authorities may adopt rules for the consideration of hardship cases they should not adopt a blanket policy either to give or not to give relief - each case should be considered on its own merits;
- ii. reduction or remission of rates on the grounds of hardship should be the exception rather than the rule;
- iii. the test of 'hardship' need not be confined strictly to financial hardship; all relevant factors affecting the ability of a business to meet its liability for rates should be taken into account;
- iv. the 'interests' of Council taxpayers in an area may go wider than direct financial interests, for example, where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the loss of the only shop in a village; and
- v. where the granting of relief would have an adverse effect on the financial interests of taxpayers, the case for a reduction or remission of rates payable may still on balance outweigh the cost to taxpayers.

The above guidance suggests hardship should be the exception rather than the rule and the Council will normally need to be satisfied that the hardship is not due to normal market forces or general economic conditions affecting a number of local businesses.

Any judgement on whether hardship exists would normally be made after considering the trading accounts of the business. Defining the 'interests' of taxpayers is more difficult – it has been suggested that the business should be of significant value to the local community so that sub-post offices or village shops selling general goods and groceries would qualify but specialist shops (e.g. antique shops) would not.

### New Applications

Favourable consideration will be given where the applicant organisation is facing temporary financial difficulties and where the community would be significantly disadvantaged if the business were to close due to these temporary financial constraints.

Favourable consideration might not be made where the hardship is due to general economic conditions and it is considered that relief would artificially sustain a failing business.

## **Relief to properties partially unoccupied for a short time**

### Background

Where a property is not fully occupied, but will remain so for a short period only, section 44A of the Local Government Finance Act 1988 enables billing authorities to award empty rate relief on the unused part of the property.

Applications for relief should be in writing, include a plan showing the unused area, and set out the future intentions for that unused part. The unused part must be clearly defined and reasonably segregated from the occupied part of the property.

### New Applications

Favourable consideration will be given:

- a) where there is partial occupation of a property to facilitate relocation of the company,
- b) where because of a temporary downturn in trade, there is a part occupation of the premises, or
- c) where fire, flood or other natural disaster prevents full use of the premises.

Favourable consideration might not be made:

- a) where the company does not allow an inspection of the property to verify

the occupation

- b) where the part occupation is likely to continue year on year
- c) where the application is retrospective and the company might have been expected to make the application in good time
- d) where the part occupation is due to normal day-to-day operation of the business (i.e a warehouse which has recently despatched a large order).

### **Localism Act**

Through the Localism Act 2011 the Council is able to grant business rate reductions entirely as it sees fit within the limits of the primary legislation and extant rules on state aid. It was anticipated by the Government that these powers will generally be used as appropriate to support local shops or community services.

The Council can decide to award relief only where it is satisfied that it would be reasonable for it to do so, having regard to the interests of Council Taxpayers.

### **New Applications**

To be determined, probably in line with a specific event or prevailing situation where a business rate reduction is deemed appropriate

Any decision to offer rates relief under this general power would be the subject of a Cabinet report since no existing precedents for this relief exist within the Council.

### **Cost to the Authority**

The cost of awarding discretionary rate relief is shared between the Council, Central Government, the County Council, the Leicestershire Fire Authority and (where operating) the Leicestershire Business Rates Pool. The calculation is complex but typically the Council's contribution will be 20% of the relief given (based on regulations extant January 2022).

### **Funded Relief**

From time to time the Government introduce new rate relief schemes which are provided using the Council's discretionary rate relief powers. These are usually awarded for a short time only and are fully funded by the Government and so Charnwood is not required to make a contribution.

Where a new rate relief scheme is discretionary in nature then the operation of that specific scheme will be governed by either a Delegated Decision or Cabinet



report in line with the Council's governance procedures.

Examples of specific rate relief schemes have included:

- COVID-19 reliefs – various were made available through the course of the pandemic
- Supporting Small business – helping businesses who lost small business rate relief as a result of the revaluation;
- Public House Relief – a £1,000 rebate for public houses with a rateable value less than £100,000; and
- A local Discretionary Rate Relief Scheme supporting those business facing significant increases as a result of the 2017 revaluation.

### **State Aid**

State Aid law is the means by which the government regulate state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid.

### **Review of discretionary business rate reliefs awarded**

The Council will on a periodic basis (usually annually) conduct a review of all ongoing business rate discretions awarded to ensure that the award remains in line with Council policy.

### **Appeals**

A ratepayer can write to the Council to request a review of any decision made in relation to an application for discretionary rate relief. This will be assessed by the Strategic Director of Environmental & Corporate Services.

Further right of appeal would only be by way of judicial review to the High Court.