

THE EXECUTIVE

20 JULY 2004

REPORT FROM THE DIRECTOR OF FINANCE

Appendix B of this report is contained in the private and confidential part of this agenda. It is not for publication because it contains information regarding Discretionary Relief Awards to specific ratepayers which is not for public consumption - Relevant legislation: paragraph 5 of Schedule 12A of the Local Government Act 1972.

ADOPTION OF A POLICY FOR DETERMINING RATE RELIEF AND RECOMMENDATION FOR AMENDMENT TO THE CONSTITUTION	FOR DECISION	
<p><i>This report requires the Executive to make a decision regarding formal adoption of a policy for the award of discretionary non-domestic rate relief and to make a recommendation to the Assembly for an amendment to the Council's Constitution.</i></p> <p><u>Summary</u></p> <p>This report provides a policy framework for the evaluation of requests for discretionary rate relief. The report also asks the Executive to make a recommendation to the Assembly for a change in the Council's Constitution in order for the policy to be effected.</p> <p><u>Recommendations</u></p> <p>The Executive is asked to:</p> <ol style="list-style-type: none">1. Agree that the policy for the award of discretionary non-domestic rates relief (attached as Appendix A to this report) is formally adopted by the Council;2. Recommend the Assembly to amend the Council's Constitution to delegate to the Director of Finance all initial decisions on the award of discretionary relief, and also decisions on appeals up to an annual cost to the Council of £2,000;3. Recommend the Assembly that the Council's Constitution be amended to delegate to the Executive all decisions on appeals where the annual cost to the Council will exceed £2,000. <p><u>Reason</u></p> <p>The policy will ensure that the Council meets its legal obligations, adopts recognised good practice, and that awards of relief are focussed on providing assistance to organisations which help the Council to achieve its Community Priorities.</p>		
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1. Background

- 1.1 The Local Government Finance Act 1988 gives the Council discretionary power to award relief from non-domestic rate relief in the following circumstances:
- To charities
 - To other not-for-profit organisations similar to charities
 - Where a property is only partly occupied for a temporary period
 - To relieve hardship
- 1.2 The Council's Constitution specifies that all applications for discretionary rate relief in excess of £2,000 must be approved by the Executive; decisions for smaller amounts are delegated to the Director of Finance.

2. Current Position

- 2.1 The Council has no formal policies regarding awards of rate relief and consequently decisions are made based on custom and practice. There is no statutory appeal process and the absence of a policy establishing a local appeals process means ratepayers are denied any opportunity to challenge a decision.

Charities and similar not-for-profit organisations

- 2.2 There are currently 92 properties occupied by charities and 5 occupied by not-for-profit organisations receiving rate relief (as detailed in Appendix B). In the past relief has been awarded for an indefinite period and consequently many applications have not been reviewed since non-domestic rates were introduced in 1990.
- 2.3 The Finance Department commenced a review of these awards in March 2004. All recipients have been advised that their current entitlement will end on 31st March 2005, and that they will be invited to make a new application during the current financial year.
- 2.4 The review will enable applications to be checked to ensure they still comply with legal requirements and also enable the new awards to be made within the framework of this policy.

Properties only partly occupied for a temporary period

- 2.5 There is limited discretion in these cases. The Council can make a decision on whether to grant relief, but once allowed the calculation is based on a statutory formula. It is the current custom and practice to allow all valid applications since there is no cost to the Council in awarding this relief.

To relieve hardship

- 2.6 This power has been used exceedingly sparingly with only one award since 1990.

3. Reasons for the introduction of a formal policy

- 3.1 It is widely recognised good practice for an Authority to have a policy on the use of this discretionary power.
- 3.2 In December 2002 the Government issued revised guidance on discretionary reliefs and recommended that Authorities adopt formal policies which incorporated an appeals process. The guidance makes it clear that each case must be considered on merit, preventing a blanket policy on the award or level of relief, but recommends that Authorities have a policy framework within which decisions are made to ensure fairness, transparency and consistency in decisions.
- 3.3 Recent audit reports have highlighted the current process of awarding relief as an area of concern and the adoption of the policy, and associated procedures, will address these concerns.
- 3.4 The policy establishes criteria which should be considered when evaluating applications. These criteria will ensure that awards of relief are focussed on providing assistance to organisations which help the Council to achieve its Community Priorities and in particular that recipient organisations provide services which directly benefit the local community.

4. Financial Implications

- 4.1 There is a cost to the Council in awarding reliefs as set out in the following table:

Type of rate relief	Cost to the Council (as % of relief awarded)
Charities *	75%
Not-for-profit organisations similar to charities	25%
Property only partly occupied for a temporary period	0%
Relief of hardship	25%

* Charities normally qualify for mandatory rate relief of 80% of the rates bill which is fully funded by the Government. The discretion applies to the remaining 20% of the bill.

- 4.2 The current annual budget for discretionary rate relief is £85K. It is anticipated the adoption of the new policy will be cost neutral.
- 4.3 The Policy will ensure that the overall cost to the Council is a factor that is considered in making a decision.

5. **Other implications**

- 5.1 Some organisations which have traditionally benefited from rate relief may fail to qualify under the new policy. It is recognised that the abrupt withdrawal of relief may adversely affect the financial viability of such organisations and a phased approach will be adopted for the withdrawal of relief in these cases. For 2005/06 the level of relief will be reduced by one third and then for 2006/07 by a further third, and all entitlement will cease from 2007/08.
- 5.2 Where it is established as part of the current review that an organisation no longer meets the legal requirements for entitlement, the award of relief must end on 31st March 2005. In these cases the Council may wish to consider whether it can provide financial assistance under other powers. These cases will be examined.

6. **Summary of the Policy**

- 6.1 The Policy establishes a hierarchy for decisions and appeals as follows:

Annual Cost to the Council	Initial Decision	Appeal Decision
Up to £2,000	Head of Revenue Services	Director of Finance
£2,000 and above	Director of Finance	The Executive

- 6.2 The Policy establishes the following principles:

6.2.1 Charities and not-for-profit organisations

- a) All awards will be for one year.
- b) All awards will be judged against set criteria including:
 - The extent to which the organisation directly benefits the local community.
 - The extent to which the organisation contributes towards achieving the Council's Community Priorities.
 - The cost in proportion to the benefits.
- c) A right of appeal and an appeals process.
- d) A standard format for application.

6.2.2 Partly occupied properties

Relief will be given in all cases where applications meet the legal requirements.

6.2.3 Relief of hardship

Relief will be given only in exceptional circumstances and where the ratepayer can demonstrate that payment of the rates bill will cause them serious hardship (financial or otherwise) and that it is solely this bill that is creating the hardship.

Awards of relief will not be used to assist a failing business, except where it can be demonstrated that it is in the interests of the local community for the business to survive, and that the rates charge is a significant factor in the solvency of the company.

In considering an award, due regard will be given to the legal requirement to take into consideration the effect on the local community of awarding relief.

Appendices

- A. Policy for the award of discretionary rate reliefs
- B. List of current recipients of discretionary rate reliefs

Background Papers

- ODPM guidance
- Audit report