

URN: 22-131

Subject: Updated Business Rates Discretionary Relief Guidelines

Report to: Executive Leadership Team – 22 June 2022

Policy and Resources Committee – 12 July 2022

Report by: Stuart Brabben, Revenue & Benefits Service Manager

SUBJECT MATTER

Update to Discretionary Business Rates Relief Guidelines

RECOMMENDATIONS

That Committee :

(1) approve the updated guidelines for granting Discretionary Rate Relief

1. INTRODUCTION

- 1.1 The Council last reviewed its guidelines on this matter in 2017 and agreed the guidelines for awarding Discretionary Rate Relief to various charity and voluntary organisations. These guidelines are normally reviewed on a five yearly basis and as a period of five years.
- 1.2 The guidance has now been reviewed and updated in consultation with the Director of Finance. It is suggested that the guidance is subject to a further review in two years.
- 1.3 The guidelines are broadly the same as the last review and have been updated to take account of any legislation changes.

2. PROVISIONS

- 2.1 Under the business rates regulations mandatory rate relief for charities is 80%.
- 2.2 Under the same regulations the Council retains the power to grant relief in addition to the mandatory relief to cover all or part of the remaining 20% of the rates payable. Under the current rate retention scheme the cost is split between the government (50%), Great Yarmouth Borough Council (40%) and Norfolk County Council (10%).
- 2.3 In addition there remains the discretion to award up to 100% rate relief to non-profit making organisations in respect of property used for charitable, philanthropic,

educational, religious or recreational purposes. In such cases the cost is the same as in 2.2 above.

- 2.4 Relief may be granted for a specified or unspecified period of years. Where the relief is unspecified, at least one years notice of any change must be given to the ratepayer concerned.

3 **DISCRETIONARY RATE RELIEF GUIDELINES**

- 3.1 The government guidelines suggest certain criteria which should be taken into account when applications for discretionary rate relief are considered. The guidelines are not intended as a rigid set of rules, as it is for the Council to judge how far they are appropriate in individual cases.

- 3.2 The suggested government criteria is as follows:

3.2.1 **Access**

- a) Is membership of the organisation open to all sections of the community?
- b) Does the organisation actively encourage membership from particular groups in the community e.g. young people, older age groups, persons with disability or ethnic minorities?
- c) Are the facilities made available to people other than memberse.g. schools, casual public sessions?

3.2.2 **Provision of Facilities**

- a) Does the organisation provide training or education for its members?
- b) Have the facilities available been provided by self-helpor grant aid?
- c) Does the organisation run a bar (the mere existence of a bar, however, should not in itself be a reason for not granting relief)?
- d) Does the organisation provide facilities which indirectly relieve the Council of the need to do so, or enhance and supplement thise which it does provide?

3.2.3 **Other Considerations**

- a) Is the organisation affiliated to local or national organisations e.g local sports or arts councils?
- b) Is membership drawn from people mainly resident in the Council's area?

4 **FINANCIAL IMPLICATIONS**

- 4.1 The current rate relief being awarded for 2022/23 is as follows:

	Value of Relief £
207 cases qualifying for 80% Mandatory Relief	2,304,355

101 of the above cases received 20% Discretionary Relief top up	79,005
1 of the above cases received 15% Discretionary Relief	2,438
6 cases received 100% Discretionary Rate Relief	33,525
2 cases received 50% Rural Discretionary Rate Relief	698

5 Recommendation

- 5.1 To adopt the guidelines set out in Appendix A for deciding on whether to grant Discretionary Rate Relief.

Area for consideration	Comment
Monitoring Officer Consultation:	No
Section 151 Officer Consultation:	Section 151 Officer was consulted on the guidelines in Appendix A
Existing Council Policies:	
Financial Implications:	The Council is already required under regulations to consider applications for discretionary rate relief. The review of the guidelines and the awards of current ratepayers will ensure that relief is awarded to all organisations that meet the aims and strategies of the Council
Legal Implications (including human rights):	No
Risk Implications:	No
Equality Issues/EQIA assessment:	All applications will be dealt with in the same fair and consistent way in line with equality and diversity matters
Crime & Disorder:	No
Every Child Matters:	No

Great Yarmouth Borough Council Rate Relief Guidelines

1. Discretionary Rate Relief – Charities and Kindred Organisations

Introduction

Section 47 of the Local Government Finance Act 1988 permits councils to grant discretionary rate relief to charities and other organisations of prescribed types. Within the regulations, councils are free to develop their own local guidelines to allow relief to organisations established for purposes that the authority wishes to support.

Businesses which are entitled to Small Business Rate Relief must have pursued that avenue of assistance before applying for Discretionary Rate Relief.

The cost to the council is 40% of the amount of discretionary rate relief awarded. It is therefore important that applications for relief are considered carefully as ultimately part of the cost falls on council tax payers in Great Yarmouth. Applications must be made annually for this relief.

The regulations allow authorities to consider applications for discretionary rate relief from the following:

- i. Charities or trustees for a charity (these ratepayers will usually already receive 80% mandatory charitable relief; or
- ii. Organisations which are not established or conducted for profit that occupy a property (*which is not an excepted property) and whose main objects are charitable, philanthropic, or religious or concerned with education, social welfare, science, literature, or the fine arts; or
- iii. A ratepayer who occupies a property (*which is not an excepted property) wholly or mainly for the purposes of recreation, and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

***Note**

An excepted property in respect of which relief cannot be allowed is one which is occupied by a billing authority (Great Yarmouth Borough Council) or a precepting authority (County Council or Parish Council).

Great Yarmouth's Guidelines

The council's guidelines for supporting relevant organisations through discretionary rate relief are as follows:

Any specific organisations/groups for decision;

- (i) **Youth organisations** (scouting groups, girl guides and other organisations such as youth activity centres) will be considered for the additional **20% top up**.
- (ii) **Charity shops will not qualify for the 20% top up** unless used to meet an identified need within the borough. These will not include national organisations.
- (iii) **Charity - Village and Community Halls without bar facilities** may qualify for the additional **20% top up**.

- (iv) **Other registered Charities** – In some circumstances we may consider individual cases for a **top up of up to 20%.**

Not for profit clubs, societies, and other organisations

In most circumstances a Discretionary rate relief of up to 50% may be granted on occupied properties to organisations which are not registered charities, which are not established or conducted for profit and whose main objects are:

- *Charitable*
- *Philanthropic or religious*
- *Concerned with education or social welfare*
- *Concerned with science, literature or the fine arts*
- *Not for profit clubs or societies established wholly or mainly for recreation*

Ratepayers who will normally benefit from such relief include:

- *Village halls run for the benefit of the community*
- *Church halls operated for the benefit of the community*
- *Social clubs in communities operated for the benefit of locals*
- *Museums*
- *Premises occupied by Norfolk based wildlife groups*
- *Premises occupied for preservation projects*

Charitable Relief Top Ups, Non-profit making sporting clubs and related organisations

Discretionary rate relief will be allowed on occupied properties for organisations not established or conducted for profit which are mainly used for the purposes of sport where they are unable to qualify as charitable Community Amateur Sports Clubs. A points-based system will operate as shown in Annex A in order to determine the level of relief as follows:

<i>Less than 12 points</i>	<i>-</i>	<i>no relief</i>
<i>12 – 14 points</i>	<i>-</i>	<i>25% relief</i>
<i>Over 14 points</i>	<i>-</i>	<i>50% relief</i>

Sporting clubs should, apply for registration as Community Amateur Sports Clubs (CASC's) which may enable them to claim Mandatory Charitable relief on the basis that they are charitable organisations. However, some non-profit making clubs are unable to qualify for charitable status but nonetheless contribute to the local community and may therefore wish to claim discretionary rate relief.

In addition to the above criteria relief will also be allowed to organisations which administer and promote sport within the community on a not for profit basis but are not sports clubs. Such organisations need to demonstrate that they adhere to the principles of open access, provide training and education through their work and are non-profit making. The facilities promoted by the organisation should operate within the Great Yarmouth area and the organisation should not run a bar. This type of organisation will be point scored.

Criteria	Explanation	Points analysis
Access	Membership should be open to all sections of the community without discrimination. However, there may be reasonable restrictions placed on membership which relate, for example, to ability in sport or to the achievement in the field covered by the organisation or where the capacity of the facility is limited but in general membership should not be exclusive or restrictive.	<p>Is membership open to the whole community?</p> <p>Yes 2 points</p> <p>No 0 points</p> <p>Is it necessary for a new member to be proposed by an existing member?</p> <p>Yes 0 points</p> <p>No 1 point</p>
Membership rates	Membership rates must not be set at such a level as to exclude the general community and should therefore ideally be within our guidelines. However, membership may be payable at different rates to distinguish the different classes of members such as juniors, adults, students, pensioners, players, non-players etc. Membership should however be consistent with the principles of open access.	<p>Annual membership rate for an adult?</p> <p>£150 or less 2 points</p> <p>Over £150 0 points</p> <p>Annual membership rate for under 18's?</p> <p>£75 or less 2 points</p> <p>Over £75 0 points</p> <p>Note:</p> <p>Where there is combined membership for children and adults points may be awarded on a pro rata basis.</p>
Match and playing fees	An organisation which restricts match and playing fees to a modest level will be considered more favourably than those where fees are set at a high level.	<p>Are match fees less than £10.00 for an adult?</p> <p>Yes 1 point</p> <p>No 0 points</p> <p>Are match fees less than £5.00 for under 18's?</p> <p>Yes 1 point</p> <p>No 0 points</p>

Disadvantaged and under-represented groups	An organisation which actively encourages membership from particular disadvantaged or under-represented groups such as young people, older age groups and people with disabilities will be considered more favourably.	<p>Are the facilities aimed at a particular group as detailed in the explanation column?</p> <p>Yes 2 points No 0 points</p>
Wider access	Wider use of facilities is encouraged by the council. Therefore, clubs that make their facilities available to non-members e.g. schools and casual public sessions will be considered more favourably than those that do not.	<p>Are the facilities made available to schools and/or public sessions?</p> <p>Yes 3 points No 0 points</p>
Provision of training or education	Clubs that provide training or education for members will be considered more favourably than those that do not. This will be enhanced if such support is provided to underrepresented groups such as young people, the disabled or retired people.	<p>Does the club provide training or education for members? (should be covered by existing membership or subscription fees).</p> <p>Yes 3 points No 0 points</p> <p>Is such training provided for underrepresented groups such as children, pensioners, or people with disabilities? (should be covered by existing membership or subscription fees).</p> <p>Yes 2 points No 0 points</p>
Active promotion of sport	A club which actively promotes sport within the community by provision of free introductory training will be considered more favourably	<p>Does the club provide free taster sessions to promote its sport which are open to all?</p> <p>Yes 2 points No 0 points</p>

Provision of a licensed bar	The existence of a licensed bar will not disqualify a club from eligibility for relief. However, the council considers that the main purpose of the organisation should be the provision of sport.	<p>Does the club run a licensed bar?</p> <p>No - 3 points</p> <p>Yes - if bar takings are less than 20% of total income and less than £20,000 – 2 points</p> <p>Yes - if bar takings are greater than 20% of total income or greater than £20,000 whichever is the higher – 0 points</p>
Proportion of playing and non-playing members	Clubs that have a greater proportion of playing members compared to non-playing members may be considered more favourably.	<p>Is the proportion of playing members 60% or more?</p> <p>Yes - 2 Points</p> <p>No - 0 points</p>
Is the club affiliated to a local or national organisation?	Examples could be local sports councils, county or national representative bodies, clubmark accreditation etc.	<p>Affiliation</p> <p>Yes - 1 point</p> <p>No - 0 points</p>
Is membership drawn mainly from residents in the council's area?	The council considers that ideally membership should be drawn mainly from residents who live in the district as 25% of the cost of relief is borne by Great Yarmouth council taxpayers.	<p>Do 75% or more of members live in the Borough council area?</p> <p>Yes - 3 points</p> <p>No - 0 points</p>
External funding	Organisations which provide a valuable service, and which do not receive support from elsewhere may be considered more favourably.	<p>Do you receive any financial support or funding from any other organisation or body?</p> <p>No - 2 points</p> <p>Yes - 0 points</p>

In considering applications for relief the following criteria will be taken into account and a point's based system will operate in order to determine the level of entitlement to relief:

2. Discretionary Rate Relief - Rural Settlements

Introduction

The Local Government Finance Act 1997 introduced a scheme of mandatory and discretionary rate relief for certain types of properties situated in 'rural settlements' contained within a billing authority's 'rural settlement list'. Billing authorities are required to compile and maintain a 'Rural Settlement List' for settlements that fall wholly or partly in Great Yarmouth area where it appears that the population is less

than 3,000. The parishes in Great Yarmouth that are designated as rural settlements are:

Burgh Castle, Filby, Fleggburgh, Fritton and St Olaves, Mautby, Ormesby St Michael, Repps with Bastwick, Rollesby, Somerton, Stokesby, Thurne, West Caister and Winterton on Sea

Businesses which are entitled to Small Business Rate Relief must have pursued that avenue of assistance before applying for Discretionary Rate Relief.

The scheme

Mandatory Rural Rate Relief for village post offices, general stores, specialist food shops, public houses and petrol filling stations.

The rural business must be in a rural settlement area (detailed in a settlement list) that has a population of 3,000 or less.

- a) Sole post offices and general stores with a rateable value of £8,500 or less are entitled to 50% relief.
- b) Any village shop that wholly or mainly sells food for human consumption but excludes restaurants, tearooms, fast or hot food shops and confectionary shops with a rateable value of £8,500 or less are entitled to 50% relief.
- c) Where there is only one public house in a rural settlement, which has a rateable value not exceeding £12,500, there is an entitlement to 50% relief.
- d) Sole petrol filling stations with a rateable value of £12,500 or less are entitled to 50% relief

Discretionary Rural Rate Relief for village post offices, general stores, qualifying food shops, public houses and petrol filling stations.

The 2016 Autumn Statement confirmed the doubling of rural rate relief from 50% to 100% from 1st April 2017. The Government set out their intention to amend the relevant primary legislation to require local authorities to grant 100% mandatory rural rate relief. Local authorities were expected to use their discretionary rate relief powers to grant 100% rural rate relief to eligible ratepayers from 1st April 2017. However, following the decision not to reintroduce the Local Government Finance Bill, for 2018/19 the Government announced it expects local authorities to continue to use their powers to grant 100% rural rate relief to eligible ratepayers, as they have done so since 2017/18. The 50% top up discretionary rate relief will be fully funded by government through a Section 31 Grant.

Therefore, 50% relief will be applied to the businesses which meet the mandatory criteria

Uprating

Following revaluations it is common practice for the Rateable Values applied to mandatory and charitable reliefs under S47 to be uprated. The policy will therefore be updated accordingly following any uprating which takes place on revaluation.

Delegation to award relief and make minor alterations to the guidelines

To delegate the Revenues and Benefits Service Manager to award under the new criteria and subsequent applications in accordance with the guidelines, except for any relief awarded above £15,000, where it will be considered by the Section 151 Officer and Head of Customer Services or Revenues and Benefits Service Manager. The right of appeal against any determination will be reconsidered by the Section 151 Officer or, Elected Members if the Section 151 Officer has determined the award of the relief. In this case it is

recommended to have a politically balanced sub-committee consisting of 3 members of the Policy and Resources Committee.

Delegated powers are given to the S151 Officer and the Head of Customer Services to make changes to these guidelines to reflect any changes with regard to Local Government Finance or Business Rates Reform.

Non-Domestic Rates Discount

The Localism Act 2011 (Clause 69) introduced a general power for local authorities to reduce the business rates of any local ratepayer (not just those who could previously be granted discretionary relief). This is a wide power under which each case will need to be treated on its own merits.

Any application under this power must be made by the applicant in writing and will be by the Section 151 Officer, Head of Customer Services and the Revenues and Benefits Service Manager.

State Aid

European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. Empty property relief is regarded as part the determination of liability, applied equally to all rate payers and so is not considered state aid.

Rate relief for charities and non-profit making bodies is not normally considered to be state aid, because the recipients are usually not in market competition with other businesses. However, if the charities or other non-profit making bodies are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid and the rules set out below may apply.

Hardship relief can also constitute state aid, as can village shop relief. In practice, however, aid to village shops, most local 'commercial' charities and other small-scale, local service organisations (B&B's, small retailers, childcare facilities etc) will not be caught by the state aid rules, as long as they are independent, family-owned businesses because they are deemed incapable of affecting intra-community trade.

State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However, Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)¹.

The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2))² and the requirement to convert the aid into Euros³.

To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation).

Backdating provisions

A decision with respect to discretionary relief will be invalid if it is made more than 6 months after the end of the financial year to which it relates.

Signed:

Date:

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Miranda Lee – Head of Customer Services