

Non-Domestic Rates (Business Rates) Discretionary Relief Policy

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| Cabinet | 16 November 2023 |
| Report Author | Chris Blundell, (Director of Corporate Services), Sadie Furner (Business Rates Manager, Civica) |
| Portfolio Holder | Cllr Rob Yates, (Cabinet Member for Corporate Services) |
| Status | For Decision |
| Classification: | Unrestricted |
| Key Decision | Budget and Policy Framework |

Executive Summary:

This report presents a revised Business Rates discretionary relief policy and decision-making process for approval.

Businesses are currently able to apply for discretionary relief (including hardship relief) to alleviate the burden of business rates in certain circumstances. There are currently two policies covering the decision-making process on such applications – one policy dates from 2016, and another from 2018 (which covers additional reliefs introduced in 2017). The 2016 policy also includes discretionary relief for council tax, which should not be included in a business rates policy. The legacy of this policy development has resulted in the current decision-making process not being transparent to applicants.

In addition, the government has introduced various new reliefs that local authorities were, in essence, obliged to give businesses meeting the relevant criteria as set out in government guidance. The proposal in this report is to create two ‘volumes’ for the overall Discretionary Relief policy;

Volume 1 - containing the discretionary reliefs that local authorities are effectively obliged to award to businesses, and

Volume 2 - covering what can be considered to be ‘true ‘discretionary’ relief.

This policy update will make the overall policy clearer, more transparent to applicants, and easier to update when the government either removes a relief or announces a new relief scheme.

Awards made under Volume 2 will include the granting of automatic relief to businesses in certain categories. All other applications will go through a scoring regime, whereby relief may be awarded based on the business contribution towards or alignment with the council’s corporate priorities.

Lastly, all reference to discretionary relief for council tax is removed in the draft revised policy, as a standalone policy for awarding discretionary relief for council tax was approved and published in April 2021.

Recommendation(s):

1. Approve a revised business rates discretionary relief policy, in two volumes;
 - Volume 1 containing the discretionary reliefs that local authorities are effectively obliged to award businesses and
 - Volume 2 covering true 'discretionary' relief;
2. Approve a process to facilitate the automatic award of discretionary relief to certain business types under Volume 2; and
3. Approve a revised process for making decisions on relief applications in non-automatic award cases, on a case-by-case basis, via a scoring matrix procedure.

Corporate Implications

Financial and Value for Money

If approved, operation of the revised policy can be contained within the existing service contract provision with Civica. There are no additional budget implications.

It is important to note that all reliefs contained within Volume 1 are fully funded by central government. Those reliefs contained within Volume 2 are funded on a 50/40/9/1 percentage basis (Central government/ District council/ County council/Fire authority). Therefore Thanet will fund 40% of all Volume 2 reliefs awarded.

The current annual cost of reliefs covered by Volume 2 of this policy is approximately £340k, of which Thanet's share of this is £136k. Initial modelling undertaken indicates that the changes proposed by this revised policy are not likely to significantly alter that sum. It is however recognised that any large scale revaluations undertaken by the Valuation Office Agency (VOA) could potentially create a spike in relief applications, and therefore monthly monitoring of expenditure under this policy will be undertaken, and reported to the council's Section 151 officer.

Legal

Section 47 of the Local Government Finance Act 1988 provides that Local Authorities have the discretion to reduce business rate payers' liability in accordance with rules set by them. The Council is therefore empowered to implement the proposed reliefs and make amendments to the Policy as set out in this report. Further, the eligibility criteria set out in the Policy comply with the statutory requirement to set out rules for the exercise of the discretion. In the case of the Discretionary Business Rate Relief scheme and under section 69 of the Localism Act 2011 the Central Government is keen that individual Councils develop their own scheme to meet local needs. The Government has allocated funds to each Council using a particular methodology, but it has been keen to point out that this should have no bearing on

the actual scheme adopted. The recommendations within the report meet the Council's legal obligations under section 47 and section 49 of the Local Government Finance Act 1988.

Risk Management

This report is recommending an amendment to an existing policy. As such, the main risk is of the recommendation not being approved. If this were the case, then the current policy would continue, but for the reasons set out in the report would not be fit for future purpose.

The current policy includes material relevant to council tax, which is now irrelevant as council tax has its own stand-alone policy, and the existing policy is confusing for applicants to understand in terms of how decisions are made. The existing policy is in fact two policies – one from 2016 and one from 2018. Whilst the amended policy recommended for approval is also in 2 parts (2 'volumes') these are now simply two volumes of the same policy – and are clearer in terms of content and structure. The revised policy also incorporates a more transparent decision-making process, and also incorporates upcoming changes due in 2024.

If the new policy is not approved then the council will be operating a policy that is likely to prompt enquiries and complaints from applicants, as well as it not being up to date.

Approval of the revised policy will also enable a review to be undertaken of all existing discretionary relief awards, using the criteria in the revised policy – thereby removing any extant anomalies in current awards and ensuring all awards (existing and new, from 1 April 2024) are decided upon using the same criteria. Thus full consistency of decision-making will be achieved.

Corporate

The policy allows the council to provide a level of financial support to organisations who make a contribution towards or are aligned with the Council's corporate priorities.

Equality Act 2010 & Public Sector Equality Duty

This report is recommending an amendment to an existing policy which offers financial support to businesses, not individuals, or groups of individuals. As such, a business cannot have a 'protected characteristic', and also therefore no unlawful discrimination, harassment, victimisation, or other conduct prohibited by the Act can take place.

Corporate Priorities

This report relates to the following corporate priorities: -

Communities

1. Introduction and Background

- 1.1 The Local Government Finance Act 1988 provides, under Sections 44A, 47, and 49, for relief from business rates to be granted to businesses in certain circumstances and the number of reliefs has increased since 2017. Section 69 of the Localism Act 2011 allows local councils to create their own discretionary relief schemes outside of the confines of the Local Government Finance Act 1988.
- 1.2 The local policy from 2016 (attached as Annex 1) covered the following reliefs:
- discretionary relief,
 - Hardship relief,
 - Section 44A (partly occupied) relief,
 - Enterprise Zone relief,
 - Retail relief,
 - Re-occupation relief.

This policy also includes reference to Council Tax discretionary relief, as originally a single policy covered both council tax and business rates discretionary reliefs.

- 1.3 In 2017, as a result of the business rates revaluation exercise, more reliefs were introduced by government as follows;
- supporting small business relief (Government guidance on issue),
 - pub relief (Government guidance on issue) and
 - local discretionary relief scheme (local scheme).

- 1.4 As a result of those additional reliefs a supplementary policy for the consideration and granting of those reliefs was created and approved – this is the 2018 policy attached at Annex 2.

- 1.5 As more reliefs were included for businesses, having two separate policies in place became unwieldy and not immediately transparent for business customers. It was also confusing for council tax payers to see discretionary relief for council tax ‘mixed in’ with a policy covering businesses.

- 1.6 So, to start the rationalisation process, in April 2021 a standalone council tax discretionary relief policy was approved. However, the process for commensurately revising the business rates side of this was not dealt with at the same time. A draft set of revised policy guidelines, including a proposal to implement a transparent ‘scoring matrix’ for applications was put forward and approved in October 2019, but its implementation was postponed due to the COVID-19 pandemic, and the associated heavy increase in workload supporting local businesses via various business grant schemes and new reliefs. Now that the business rates function has reverted to normal workloads this is being addressed.

2. Summary of the proposed changes

2.1. Proposed changes to current policies

1. Remove all references to council tax, as there is now a separate policy covering council tax discretionary awards.

2. Consolidate the two current business rate relief policies into one discretionary relief policy, but separate the policy into two volumes covering reliefs that the government obliges local authorities to award (Volume 1), and awards where the local authority has true discretion over the decision (Volume 2)
3. Introduce an automatic award for certain types of organisation (see para 4.6.2 of policy Volume 2), and also introduce a more objective decision-making approach in relation to reliefs where full guidance is not provided by Government on the awards (see a, b, and c below). This will enable workload to be spread more evenly and create resilience in the decision-making process:
 - a. Discretionary rate relief Top-Up of up to 20% (recipients of mandatory relief inc. Charities and Community Amateur Sports Clubs [CASCs])
 - b. Up to 100% discretionary rate relief (not for profit organisations, Community Interest Companies [CICs])
 - c. Discretionary rural rate relief

2.2 Other changes to the policy:

- Section added for Subsidy Control (formerly State Aid)
- Section added for discretionary relief awarded under the Localism Act 2011
- Inclusion of provision for any new reliefs introduced by Central Government under Section 47 to be awarded, where full guidance on qualification and funding is provided by DLUHC, BEIS or other relevant departments.
- Outline of the approval route for decision making
- Outline backdating rules to apply from 1 April 2024 once the NDR Rating Bill removes the current complicated compulsory backdating rules.

2.3 Changes proposed to relief qualification, within Volume 2:

- Creation of classification for clusters / groups such as Cubs, Girl Guides, Trustees of Parish Councils, Community Projects etc where they would be automatically considered for relief (para 4.6.2 of policy Volume 2 refers)
- Additional qualification guidance / criteria used for decision making. A scoring matrix introduced, which informs the decision on the amount of relief to be awarded based on how the organisation aligns to the council's priorities and Corporate Objectives.

Practical impacts

- 2.4 Currently all decisions on 100% discretionary relief, 20% discretionary 'top-up' relief, Section 44A relief and hardship relief are made via a recommendation, by the Business Rates Manager or the Senior Business Rates Officer, to the Head of Shared Service, as the officer with delegated authority for discharging the business Rates function. The Head of Shared Service for East Kent Services is Chris

Blundell, Thanet District Council's Director of Corporate Services. The implementation of a scoring matrix will allow for the workload to be shared amongst Business Rates Officers, whilst still allowing for review by senior officers, and final decision-making by the Head of Shared Service and Section 151 officer using the existing approval process.

- 2.5 How decisions are reached will be more transparent for ratepayers. When a decision is reached the outcome can be clearly communicated to the ratepayer, and the decision-making process can be seen to be more objective when set against the revised policy and the scoring matrix.
- 2.6 If approved, the new policy and scoring matrix will allow for a complete review of all current discretionary reliefs to be undertaken. This review will allow for total consistency across all businesses and will remove any extant anomalies that may be present since 2016.

Ratepayer impacts

- 2.7 Overall, the majority of ratepayers in receipt of discretionary relief will continue to receive it, post review. The proposed scoring methodology aims to provide a more transparent view of how a decision on a relief application is arrived at. As there are now 'automatically included' groups, all others will be assessed in line with the new methodology.
- 2.8 **No changes will be felt by ratepayers immediately. They have received notice of at least 1 year that their existing relief is to be removed.** As part of the review, they will be invited to re-apply to receive relief from 1 April 2024, and their application will be assessed using the new scoring criteria.

2.9 Proposed review process

- Letters were issued, on 28 and 29 March 2023 to all ratepayers in receipt of top-up relief or discretionary relief, advising them that the discretionary relief scheme was under review and that they would potentially need to re-apply for relief once a new policy was approved. The letter advised them that their existing relief will end on 31 March 2024.
- If the revised policy is approved, a further letter will be issued inviting the ratepayer to re-apply for relief if they want to receive it from 1 April 2024 onwards. The letter will give the ratepayer the appropriate period of time within which to apply, and advise them that if no application is made then an adverse inference will be taken.
- For any ratepayers who re-apply; Business Rates Officers will review applications using the new qualification guidelines and put forward proposals for decisions to the council.
- An officer of the council then reviews the proposed decision and informs the Business Rates team of the outcome.
- A Business Rates Officer then advises the ratepayer of the council's decision, and administers the award of relief in line with that decision.

- Any new applications for relief received, following approval of new policy and operating guidelines, would be considered under the new procedure and therefore not require inclusion in the first review.
- Periodic reviews of the relief caseload would be conducted. Any ratepayers considered 'automatic qualifiers' (as set out in Volume 2) would be excluded from review.

Proposed scoring matrix

- 2.10 Essentially a number of points are allocated according to how the business performs against 5 measures: alignment to the council's corporate priorities, access to services and affordability, service provision and availability of alternatives, resident participation, and finally financial status and funding.
- 2.11 Each measure is scored up to a total of 8 points, and then the total score allows for a percentage award of relief. The details for this can be seen at Annex 4.
- 2.12 There will be a small number of categories where those businesses are automatically awarded discretionary relief – these are described at para 4.6.2 of Volume 2.

Identification of options

- 2.13 Option 1 - Do nothing - leave current policies as they are.
- 2.14 Option 2 - Revise policies as per the proposals
- 2.15 Option 3 – Revise the policy but use a different methodology for assessing and awarding discretionary relief.

3.0 Options

- 3.1 **Option 1** – does nothing to correct the current position of having two policies when there should be just one, and does nothing to remove the rogue council tax elements contained in the 2016 policy. Also does nothing to make the overall policy clearer, and does not make any future policy updates simpler. Not recommended.
- 3.2 **Option 2** – provides for the implementation of a single policy and the removal of any council tax elements. Allows for a fully transparent decision-making process and also allows for the workload to be shared amongst officers on a wider scale than currently. Having the overall policy in two volumes allows for simpler amendments in light of future government announcements. This is the recommended option.
- 3.3 **Option 3** – would need to be developed from scratch. Timescale for implementing the review of existing cases (i.e before 1 April 2024) would not be met. Not recommended.

Contact Officer: Mark Gillmore, Revenues & Benefits Manager, Civica.

Sadie Furner, Business Rates Manager, Civica,

Reporting to: Chris Blundell, Head of Shared Services

Annex List

Annex 1 – 2016 policy

Annex 2 – 2018 supplementary policy

Annex 3 – policy review letter issued to ratepayers on 28 and 29 March 2023.

Annex 4 – proposed scoring methodology and tables

Annex 5 – proposed policy document (in Volumes 1 & 2) for 2024-25

Background Papers

None

Corporate Consultation

Finance: Chris Blundell (Director of Corporate Services - Section 151)

Legal: Sameera Khan (Interim Head of Legal & Monitoring Officer)