

Report to Cabinet
26 March 2014
Report of Executive head of business relationship management
Subject Discretionary business rate relief policy (excluding mandatory and not for profit)

Item

10

KEY DECISION

Purpose

To consider the implementation of the discretionary business rate relief policy (excluding discretionary relief for charitable and not for profit organisations)

Recommendation

- 1) To approve the policy
- 2) To delegate to the executive head of business relationship management in consultation with the deputy leader and resources portfolio holder authority to make minor amendments to the policy to ensure its continued effectiveness.

Corporate priorities

The report helps to meet the corporate priority A prosperous city.

Financial implications

There are no direct financial implications arising from this report.

Ward/s: All wards

Cabinet member: Councillor Waters- deputy leader and resources

Contact officers

Anton Bull - executive head for business relationship management 01603 212326

Tracy Woods - business relationship manager 01603 212140

Background documents

None

Report

1. The council has discretionary powers to award rate relief in a range of circumstances. The exercise of these powers for charities and not for profit organisations is to be dealt with under a separate policy. This report seeks approval for the draft policy for awards of discretionary relief
 - a) Where it is considered the ratepayer would otherwise suffer hardship
 - b) Where part of a property is unoccupied for a temporary period
 - c) Under the council's general power to award discretionary rate relief
2. This policy enables the council to demonstrate that it is consistent and transparent in its approach, giving due consideration to the interests of local council taxpayers, but sufficiently flexible to consider individual circumstances.
3. In exercising a discretionary power the council is required to act in a reasonable manner and a decision under these powers may be challenged under a judicial review. This policy will help in minimising the risk of a decision found to be unreasonable in these circumstances however the policy does build in a review process for dissatisfied ratepayers.
4. The draft Norwich city council policy is at appendix A
5. State Aid
 - a) The European Union regulates state aided funding. Support to businesses and providing discretionary rate relief is likely to amount to state aid.
 - b) The EU law on State Aid has a 'de minimus' value of €200,000 within a current financial year or the previous two financial years
 - c) Rate payers will be required, when making an application for either relief, to complete a 'de minimis' declaration.
6. Administration and publication of these reliefs will be undertaken by LGSS. Ratepayers will be required to complete an application form in each case.
7. Claims will be determined by the executive head of business relationship management, taking into consideration the guidance and policy.
8. Reviews will be undertaken by the section151 officer

Integrated impact assessment



NORWICH
City Council

The IIA should assess **the impact of the recommendation** being made by the report
Detailed guidance to help with completing the assessment can be found [here](#). Delete this row after completion

Report author to complete

Committee:	Cabinet
Committee date:	26 March 2014
Head of service:	Anton Bull
Report subject:	Discretionary business rate relief policy (excluding mandatory and not for profit)
Date assessed:	24 February 2014
Description:	Approval of implementation and policy for discretionary business rate relief policy (excluding mandatory and not for profit)

	Impact			
Economic (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Finance (value for money)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Relief assists business to remain profitable and in business
Other departments and services e.g. office facilities, customer contact	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
ICT services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Economic development	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Relief assists business to remain profitable and in business
Financial inclusion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Social (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Safeguarding children and adults	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<u>S17 crime and disorder act 1998</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Human Rights Act 1998	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Health and well being	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Equality and diversity (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Relations between groups (cohesion)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Impact			
Eliminating discrimination & harassment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advancing equality of opportunity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Environmental (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Natural and built environment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	If businesses are assisted to remain in business reduces possibility of empty business premises
Waste minimisation & resource use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pollution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sustainable procurement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Energy and climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(Please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Risk management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Recommendations from impact assessment
Positive
Negative
Neutral
Issues

Discretionary business rate relief policy (excluding mandatory and not for profit)



NORWICH
City Council

Norwich City Council Business Rates Discretionary Rate Relief Policy

(Excluding mandatory and discretionary relief for
charitable and not for profit organisations)

Version 1.0 7 March 2014

Norwich City Council Discretionary Rate (excluding charitable) Relief Policy

Introduction

The Local Government Finance Act 1988, as amended, gives the council discretionary powers to award rate relief in certain circumstances. This policy relates to the exercise of these discretionary powers in accordance with:

- (i) Section 44(a) of the Local Government Finance Act 1988, which relates to properties that are only partly occupied for a short period;
- (ii) Section 49 of the Local Government Finance Act 1988 which allows the council to award rate relief where it considers that the ratepayer would suffer hardship should an award not be made; having given consideration to the interest of local council tax payers,
- (iii) Section 47 of the Local Government Finance Act 1998, as amended by Section 69 of the Localism Act 2011, which gives the council a general power, having given consideration to the interest of local council tax payers, to award rate relief to any ratepayer.

This policy enables the council to demonstrate that it is consistent in its approach but sufficiently flexible to consider individual circumstances

This policy excludes mandatory and discretionary relief for charitable and not for profit organisations as it is covered in a separate policy document.

The government may from time to time issue guidance on temporary reliefs to be considered under Section 47 of the Local Government Finance Act 1998. These will be dealt with under specific policy documents as required.

The policy

1. General principles

1.1. Applications

The council shall publicise these reliefs on literature it sends to ratepayers and on the council's website.

Ratepayers shall be required to make a claim for the relief, in respect of each property, by completing a claim form and a 'de minimis' declaration.

The council shall request the supporting evidence it considers necessary to assess the merits of the application. Ratepayers should, as part of the application, state how they believe the council tax payers of Norwich would benefit if discretionary relief were to be granted.

State Aid

European Union competition rules prohibit government subsidies to businesses. This means that where an organisation (regardless of type) is engaged in commercial activities which put them in direct competition with other organisations, they cannot be given the advantage of favourable treatment by being selected for financial aid by a local authority. Discretionary rate relief is included in this definition, as are grants and loans.

There are a limited number of exceptions, the most relevant in respect of this relief will be the 'de minimis' rules, which is up to €200,000 over a period of three years.

1.2. Decisions and reviews

Each application will be decided on its individual merits however in determining relief Norwich will take into consideration

- This policy,
- Relevant legislation and guidance documents
- The interests of the council tax payers
- The impact of granting a relief if it was to go against the authority's wider objectives for the local area
- Other reliefs / grants awarded to the ratepayer
- How the activities of the business contribute to the corporate plan priorities
 - Safe and clean city
 - Prosperous city
 - Decent housing for all
 - City of character and culture
 - Value for money services

Claims will be determined by the executive head of business relationship management.

The council will aim to make a decision within 4 weeks of receiving the application with all supporting evidence.

Asking for a review

Any ratepayer may make a request for a review only where there

- is additional information not available at the time of the original decision or
- are good grounds to believe the application or supporting information was not interpreted correctly at the time the decision was taken

A request for a review should be made in writing to the council within 4 weeks of notification of the original decision supplying the additional supporting information.

Reviews will be considered by the Council's s151 officer

1.3. Requirements to make payment of amounts falling due

Ratepayers must continue to pay any amount of rates that fall due whilst an application is pending. In the event that payments are not received as due the Council may continue with its normal enforcement procedures

1.4. Awards for retrospective periods

Rate relief will not normally be awarded in respect of any day prior to the receipt of the application. Consideration will be given in exceptional circumstances and where

- The ratepayer can demonstrate good reason for not submitting their application earlier and
- The council can verify that the circumstances giving rise to the application were in existence during the period claimed

2. Partly occupied property (applications under s44a LGFA 1988)

2.1. Section 44a permits Norwich City Council to require the valuation officer to apportion the rateable value between occupied and unoccupied parts, where it appears that part is unoccupied and is for a short time only.

2.2. This is a discretionary power and if Norwich chooses not to exercise this power full rates remain payable

2.3. The guidance does not define 'a short time' therefore each case will be considered on its own individual circumstances

2.4. Rate relief will not be awarded in respect of partly occupied property where the partial occupation may be considered to be due to the ordinary day to day nature of the business, for example the operation of a warehouse

2.5. A ratepayer shall make an application in writing

- Stating the reasons for the partial occupation
- Stating the proposed duration of the partial occupation
- Providing a plan of the property clearly showing the dimensions of the occupied and unoccupied portions
- Providing a completed state aid 'de minimis' declaration

2.6. The ratepayer shall provide access for Norwich City Council to inspect the premises, at an agreed appointment, before the award is considered. Further access may be required during the period for which the relief is awarded.

2.7. Length of award

- The award shall commence on the day of the partial occupation
- It shall cease on the earlier of
 - A change in the partial occupation
 - The end of the rate period
 - The whole property becoming unoccupied
 - The commencement of a further award
 - The ratepayer ceases to be person/organisation liable for the rates for the property

2.8. A ratepayer may make a further application if the award has ceased due to a change in partial occupation or the end of the rate period. This application will be considered on its own merits and there should be no assumption that the new application will be considered favourably because of a previous award.

2.9. Financial impact to Norwich City Council

The reduction in rates liability is borne in relation to the business rates retention ratio. That is 50% from central government, 40% from Norwich City Council and 10% from Norfolk County Council.

3. Hardship (Section 49 of the Local Government Finance Act 1988)

3.1. Section 49 permits Norwich City Council to reduce or remit both occupied or unoccupied rates if the council is satisfied that

- The ratepayer would sustain hardship if the council failed to grant relief and
- It is reasonable to grant hardship relief having regard to the interest of Norwich's council tax payers

3.2. There is no statutory definition of hardship therefore each case will be considered on its own individual circumstances. However Norwich will accept the guidance provided that

- the granting of relief should be the exception rather than the rule
- all relevant factors affecting the ratepayer will be taken into consideration
- the interests of the council tax payers go wider than direct financial implications and Norwich shall consider such things as
 - employment prospects
 - the amenities of the area
 - if the ratepayer is the only provider of the service in an area
 - niche supplier of goods or services

3.3. The council shall consider applications from ratepayers where they have suffered from unexpected hardship, arising from circumstances beyond their control and outside the normal risks associated with running a business of that type and the viability of the business would be affected if an award were not made

3.4. A business shall not be considered to be suffering from hardship if they have made a profit in the annual accounting period or have experienced a loss which is minor in comparison to the overall turnover of the business

3.5. The council shall expect a ratepayer to take prompt action to mitigate any factors causing the hardship such as seeking business advice, discounts and promotions, reviewing pricing, extending the range of stocks and services, negotiating with creditors etc. An application may be declined if the ratepayer is unable to demonstrate it is taking reasonable steps

3.6. Award of hardship relief will not be awarded to new businesses to enable them to become established

3.7. Award of hardship relief on an unoccupied property will need to show exceptional circumstances and where there are clear and tangible benefits to the local council tax payers

3.8. A ratepayer shall make an application in writing

- Stating the reasons why they consider they are suffering hardship
- Stating the estimate of the duration of the hardship
- Stating what mitigating action is being taken
- Stating how the council tax payers of Norwich would suffer if hardship relief was not to be granted
- Providing sufficient evidence to substantiate the claim for hardship, including two years accounts and cash flow forecast
- Providing a completed state aid 'de minimis' declaration

3.9. Length of award

All awards shall cease at the end of the rate year if not already ended at an earlier date

3.10. Where the hardship continues a further application can be made in the new rate year, however the council will take into consideration the number and value of previous awards.

3.11. Financial impact to Norwich City Council

The cost of any relief granted under s49 is borne in relation to the business rates retention ratio. That is 50% from central government, 40% from Norwich City Council and 10% from Norfolk County Council.

4. General power (Section 47 of the Local Government Finance Act 1988 as amended by Section 69 of the Localism Act 2011)

4.1. The Localism Act gives Norwich more freedom to offer business rates discounts – to help attract firms, investments and jobs.

4.2. The council will need to meet the full cost of any relief awarded from local resources unless the government identifies specific reliefs which they wish local authorities to deal with under this legislation and provide funding

4.3. Applications for rate relief under this section will normally only be considered favourably where the council is satisfied that an award will result in tangible benefits to local residents and in particular when the award will directly result in attracting businesses, investments or jobs in the local area.

4.4. A ratepayer shall make an application in writing

- Stating the reason for the claim
- Stating the estimate of the duration of the claim
- Stating how the award would benefit local residents of Norwich
- Providing a completed state aid 'de minimis' declaration

4.5. The ratepayer shall provide additional information and/or evidence, if requested by the council, to support the claim

4.6. Applications under this section will only be considered after consideration of other forms of relief available

4.7. Length of award

All awards shall be for one rate year at a time however new applications may be made each financial year.

4.8. Guidelines for making awards

Each application will be considered on its individual merits but the decision made shall consider the following factors

- That the awards would only be made in exceptional circumstances

- The value of previous awards and the benefits to local council tax payers from previous awards
- The cost to the council
- The benefits to the council tax payers and in particular whether the award will directly result in attracting businesses, investments or jobs in the area
- The impact on other ratepayers in the city
- The councils statutory equality duties
- The awards would normally only be made where the ratepayers activities contribute to the corporate plan priorities
- The overall profitability of the business

4.9 Financial impact to Norwich City Council

The cost of any reliefs awarded under schemes introduced by Norwich City Council would be borne entirely by Norwich City Council.