

## Summary Sheet

### Council Report

Cabinet and Commissioners' Decision Making Meeting – 12 December 2016

#### Title

Review of Discretionary Rates Relief Policy

#### Is this a Key Decision and has it been included on the Forward Plan?

Yes

#### Strategic Director Approving Submission of the Report

Judith Badger, Strategic Director, Finance and Customer Services

#### Report Author(s)

Rob Cutts – Service and Development Manager Revenues, Benefits and Payments  
Anne Ellis, Finance Manager

#### Ward(s) Affected

All

#### Summary

To approve the proposed amendments to the Councils current Policy for Non Domestic Rates Discretionary Rates Relief.

#### Recommendations

1. That the revised policy (Appendix 1) for the award of Discretionary Rates Relief be approved.
2. That it be noted that all existing business rates relief awards will be reviewed and reassessed in accordance with this revised policy and a report on the outcomes of this review will be presented to Cabinet in the new calendar year.
3. That it be noted that the review is not looking to reduce the overall level of relief awarded by the Council to qualifying organisations.

#### List of Appendices Included

Appendix 1 - Revised Discretionary Rates Relief Policy

Appendix 2 – Exempt Appendix

Appendix 3 – Exempt Appendix

**Background Papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **Review of Rotherham MBC Non Domestic Discretionary Rates Relief Policy**

### **1. Recommendations**

- 1.1 That the revised policy (Appendix 1) for the award of Discretionary Rates Relief be approved.
- 1.2 That it be noted that all existing business rates relief awards will be reviewed and reassessed in accordance with this revised policy and a report on the outcomes of this review will be presented to Cabinet in the new calendar year.
- 1.3 That it be noted that the review is not looking to reduce the overall level of relief awarded by the Council to qualifying organisations.

### **2. Background**

- 2.1 Local authorities are granted the power to award Discretionary Rates Relief worth up to 100% of the rates liability to non-charity organisations by Section 47 of the Local Government Finance Act 1988 (the LGFA). This relief applies to organisations or institutions that are not established or conducted for profit and whose aims are charitable or otherwise philanthropic, religious, concerned with education, social welfare, science, literature or fine arts. This will include properties occupied by not for profit sports or social clubs, societies or other organisations for the purposes of recreation.
- 2.2 Section 47 of the LGFA was amended by Section 69 of the Localism Act 2011, permitting the Council discretion to award up to 100% rate relief in any one year to any other body, organisation or ratepayer, having due regard of the costs to its Council Tax payers.
- 2.3 In addition, the Council has a duty under section 49(1) of the LGFA to consider remitting rates by awarding hardship relief where the Council is satisfied that the ratepayer would sustain hardship if it did not do so, and it is in the best interests of Council Tax payers. Government guidelines advise that the granting of hardship relief should be the exception rather than the rule, so hardship relief will only be awarded in exceptional circumstances. The Council's policy is to, wherever possible, signpost ratepayers to any of the range of other options that are available to support businesses. Currently no hardship relief is being granted.
- 2.4 These Discretionary Rate Reliefs are additional to the 80% Mandatory Reliefs set out in the 1988 Act, which are given to Registered Charitable Organisations, including Community Amateur Sports Clubs, when the property is used wholly or mainly for charitable purposes by a charity or other non-profit body whose main objects are: charitable or benevolent or concerned with education, social welfare, science, literature or the arts. The Council has discretion whether to award Top-Up relief in respect of the remaining 20% Rates liability.

- 2.5 Although allowing for discretion, Government regulations prohibit Councils from adopting a strict policy for granting Discretionary Relief and authorities are strongly advised to treat each case on its own merits rather than imposing a blanket policy. The Government has however provided guidance on good practice and the Council can determine a general basis on which it will approach any application made.
- 2.6 The Council's approach on the awarding of Discretionary Rates Relief was approved by the former Cabinet on 24<sup>th</sup> April 2013 and follows the Government guidance, having regard to the use to which business premises are put and the contributions that organisations seeking rate relief make to their local communities. Amongst the factors considered by the Council in determining Discretionary Rates Relief awards are whether: "the organisation needs financial assistance", "the organisation provides facilities that indirectly relieve the Authority of the need to do so" and that "the organisation promotes healthy living and fitness". The proposed revised policy is attached as an Appendix with the amendment regarding generally excluding public sector organisations in section 1.3 of this policy.
- 2.7 The Council's policy also has regard to the financial cost to the Borough's Council Taxpayers and applications are considered in the light of evidence and recommendations provided by Council Departments and services and are approved by Cabinet. The Rate Relief awarded normally applies for one financial year at a time but new applications may be made each financial year.
- 2.8 The Council is not required to review its policy unless it wishes to do so. In addition, as the Council makes clear to applicants that relief is granted for a fixed period (1 year at most so that current awards expire on 31<sup>st</sup> March 2017) it is not required to give a full financial year's notice in respect of any changes in policy.
- 2.9 In considering awards for relief for the financial year 2017/18, the Council has already sent out applications to all relevant organisations. On receipt of these applications a thorough review will be carried out on each application to ensure continued eligibility in accordance with the policy. Recommendations for the award of relief will be presented for approval by Cabinet in the new calendar year.
- 2.10 Alongside this annual review process, the Council has taken the opportunity to review its current policy so as to consider whether there should be any revisions in light of current circumstances and what the implications of these would be. It is recommended that the current policy is amended to generally exclude public sector organisations, principally funded by the public sector, from being eligible for relief, although each case will be considered on its own merits. This revision would mitigate a significant financial risk in respect of applications for discretionary top-up relief from NHS Foundation Trusts who are nationally seeking Mandatory 80% Charitable Relief status. As part of the review consideration was also given as to whether the Council should consider revising the policy in order to reduce the current cost of awarding reliefs given the significance of the funding gap facing the Council over the period up to 2017-2020. The outcome of this consideration was that the possible savings that could be achieved were far outweighed by the adverse impact the removal of the relief would have on the operational sustainability of the organisations

involved. The Council, is therefore not proposing to change its policy in order to make financial savings.

### 3. Key Issues

3.1 **Current Awards** - the Council's collectable rates income for 2015/16 was £72.851m and for 2016/17 the estimated collectable rates are £73.895m. In 2015/16 and currently for 2016/17 (as at 31<sup>st</sup> July) the Council has awarded the following Discretionary Rates relief.

	<b>2015/16 Relief Granted £</b>	<b>2015/16 Cost to RMBC £</b>	<b>2016/17 Relief Granted £</b>	<b>2016/17 Cost to RMBC £</b>
Discretionary Rate Relief	635,731	311,508	635,967	311,624
Top-Up Relief of 20% on Mandatory Relief to charities	127,818	62,631	97,773	47,909
Localism Relief	12,039	5,899	0	0
Hardship Relief	0	0	0	0
<b>TOTAL</b>	<b>775,588</b>	<b>380,038</b>	<b>733,740</b>	<b>359,533</b>

3.2 Excluding Localism Relief the total of Discretionary Relief awarded in 2015/16 and 2016/17 has been broadly stable at equivalent to 1% of the Council's estimated Non-Domestic Rates income. Since the introduction of the current Rates Retention regime in April 2013, Central Government and Councils share each £1 of rates income as follows:

- Central Government 50%
- Rotherham MBC 49%
- South Yorkshire Fire and Rescue Authority 1%

This means that at present 49% of the cost of Discretionary Rates Relief (£380k for 2015/16 and £360k in 2016/17) falls on the Council. Previously, under the National Non-Domestic Rates Pool (the system replaced by Rates Retention) Local authorities were reimbursed with 25% of the cost of Discretionary Rate Relief granted to charities and community amateur sports clubs and 75% of the cost of relief granted to other bodies.

3.3 **Discretionary Relief** – The Discretionary Reliefs currently awarded varies between 100% and 50% of the Rates bill and is broken down across organisations as follows:

Organisation/Type of Organisation	2015/16 Properties	2015/16 Relief £	2015/16 Cost to RMBC £	2016/17 Properties	2016/17 Relief £	2016/17 Cost to RMBC £
Leisure Services	4	See exempt Appendix 2				
Chesterton Trading Ltd	1	62,611	30,679	1	63,119	30,928
Phoenix Sports and Social Club	1	19,474	9,542	1	19,631	9,619
Dexx Skatepark Yorkshire Ltd	1	12,941	6,341	1	13,046	6,393
Arts Groups	1	6,480	3,175	1	6,534	3,202
Community Groups	6	22,570	11,059	4	12,080	5,919
Media Group	1	1,512	741	1	1,557	763
Social Club	1	2,880	1,411	1	2,904	1,423
Sports Facility	2	2,185	1,071	3	7,918	3,880

3.4 Commercially sensitive information is contained within Appendix 2 which is exempt under paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A of the Local Government Finance Act 1972.

3.5 The remaining Discretionary Relief in both 2015/16 and 2016/17 include 4 individual awards over £10,000 for the current year these are:

- Leisure Services – see exempt Appendix 2
- Chesterwood Trading Ltd – Sports Facility £63,119
- Phoenix Sports and Social Club – Sports Facility £19,631
- Dexx Skatepark Yorkshire Ltd – Sports Facility £13,046

The other 10 properties have been granted £31k of relief – an average of £3,100 ranging between £645 and £6,534. In light of this the Council's maximum saving in relation to Discretionary Relief would be £62k (49% of £127k).

3.6 **Top-up Relief** – additional 20% rates relief has been granted to properties which already qualify for 80% Mandatory Relief as charities or Community Amateur Sports Clubs. The total cost of this 20% relief was £128k in 2015/16 (at a cost to the Council of £63k) and in the current year to date is just under £98k (with £48k being met by RMBC). Although the average cost of Top Up relief is £1,600, three of these awards are in excess of £10,000 representing some 54% of the total:

Organisation	2015/16		2016/17 to date	
	Relief £	Cost to RMBC £	Relief £	Cost to RMBC £
Magna Science Adventure Centre and associated facilities	23,644	11,585	23,856	11,689
Bluebell Wood Children's Hospice	16,466	8,068	16,599	8,134
Rotherham Hospice Trust	11,832	5,798	11,928	5,845
<b>TOTAL</b>	<b>51,942</b>	<b>25,451</b>	<b>52,383</b>	<b>25,668</b>

3.7 The Council is a member of the Magna Trust, which operates the Science Adventure Centre and is working proactively with the Trust to develop a robust and sustainable business model.

3.8 The remaining Top-Up Relief awards in the last 2 years can be broken down as follows to show the types of organisation receiving support. The average value of the relief awarded in 2016/17 is £783 but the actual sums granted range from £5,417.30 to £99.40. To date in 2016/17 no relief has been awarded to faith schools and the number of these applications has been reducing with academy conversions.

3.9 Although in many cases the actual value of the relief awarded is relatively small, the receipt of continuing annual applications from recipient organisations suggests that it is valued by recipient organisations.

Type of Organisation	2015/16			2016/17 to date		
	Properties	Relief £	Cost to RMBC £	Properties	Relief £	Cost to RMBC £
Community Amateur Sports Clubs	9	3,609	1,768	8	3,360	1,646
Community Groups	31	20,939	10,260	31	20,986	10,283
Heritage Site	1	99	49	1	99	49
Musical Group	2	1,839	901	2	1,854	908
Sports Facility	2	239	117	2	241	118
Support / Advice Groups	14	10,884	5,333	12	11,221	5,498
Faith Schools	8	30,617	15,002	0	0	0
Theatre Group	2	2,258	1,106	1	2,212	1,084
Museum	1	5,374	2,633	1	5,417	2,654
<b>TOTAL</b>	<b>70</b>	<b>75,858</b>	<b>37,169</b>	<b>58</b>	<b>45,390</b>	<b>22,241</b>

3.10 In addition, in 2015/16 the Council made 1 award of Localism Relief in relation to the relocation of the KP Snacks factory. This relief was granted for a period spanning 2 financial years – with £149k being awarded in 2014/15 and £12k in 2015/16.

3.11 **Comparisons with other authorities** – based upon the latest available national figures for 2014/15 (and excluding Section 47 Localism Relief and Enterprise Zone Relief) initial comparisons of the proportion of new collectable rates debt granted as relief would suggest that Rotherham is more generous than other Metropolitan Boroughs and authorities in the Region as the Borough awards Discretionary Rates Relief equivalent to 1% of its rates income – the fourth highest level for a Metropolitan Authority (Wigan awarding 1.54% is the highest) and the highest in Yorkshire (followed by Wakefield at 0.95%).

3.12 More detailed analysis of the 2014/15 figures, however shows that the proportion of Charitable Top-up relief granted by Rotherham (0.17%) is below the average for Metropolitan Authorities (0.22%) and close to the average for Yorkshire (0.15%). It is in respect of Discretionary Relief that the Council exceeds the average at 0.82% of Rates income – although it should be noted that in the Council’s case this includes the relief £0.5m granted to Places for People - the remaining relief awarded by the Council is 0.16% of income, which is broadly comparable to the Yorkshire and Metropolitan averages of 0.16% and 0.18% respectively (although the information for other authorities is not sufficiently detailed to allow similar awards by other authorities to be excluded).

3.13 A review of the Discretionary Rates Relief available in West Yorkshire indicates that some authorities offer differing levels of relief for different types of organisation – ranging between 10% and 100% (Calderdale and Leeds). For example Leeds limit:

- Social clubs to 10% relief,
- Sporting organisations, social enterprises and organisations with charitable objectives to 10%, 25% or a maximum of 50%,  
And
- Hospices 100%.

Other authorities set a cap at 80% (Bradford). Relief once granted, in some cases runs for 3 years (Wakefield and Bradford) while other councils, like Rotherham, require annual applications for relief.

3.14 Confidential legal advice is contained within Appendix 3 which is exempt under Paragraph 5 (Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings) of Part I of Schedule 12A of the Local Government Act 1972.

3.15 **Future Developments** the Chancellor of the Exchequer’s 2016 Budget Statement included several announcements on the future of Business Rates, most significantly the Government’s intention to move to local authorities retaining of 100% Business Rates by the end of this Parliament. In this context full localisation of Business Rates, would mean that the full cost of any Discretionary Rates Relief granted would fall on the Council, instead of being shared with central government as in the present arrangement, which divides costs 49% RMBC, 50% Government and 1% Fire and Rescue Authority. This change would increase the cost to Rotherham of current reliefs by £374k a year.

3.16 Changes in Small Business Rates Relief that are planned to take effect from April 2017 were also announced. As well as the permanent doubling of Small Business Rates Relief from 50% to 100%, the upper threshold for 100% relief will be increased from a rateable value of £6,000 to £12,000 – this would remove 8 of the 17 organisations currently receiving Discretionary relief from paying rates and reduce the total cost by £19k (Charities are not eligible for Small Business Rates Relief so the provisions in respect of Mandatory and Top-up Charitable relief will be unchanged).

- 3.17 The Budget announcement also included the introduction of tapered relief for properties with rateable values between £12,000 and £15,000 and the threshold for the standard Business Rates multiplier will be raised to a rateable value of £51,000 meaning properties below this value would pay the reduced multiplier (currently 48.4p as compared to 49.7p). The full impact of the proposals in Rotherham (and on those receiving Discretionary Relief) will be assessed when the revised regulations are published. Treasury assurances have been given that local government will be fully compensated for the loss of income as a result of the measures.
- 3.18 A further consideration is that the 2017 Rates Revaluation may result in changes to the rateable value of properties, as at present details of the impact of the revaluation (the first since 2010) are not available the impact on rateable values in the Borough cannot be determined. The impact of the 2017 Rates Revaluation and the changes to Small Business Rates on the value and number of requests for relief will need to be assessed when details are released early in the new calendar year.
- 3.19 The Council is currently working with its Sheffield City Region partners to become a pilot region for 100% Rates Retention (possibly for 2017/18 alongside Greater Manchester and Cambridgeshire) towards a submission deadline of the end of July to set out the headline principles of any pilot. As part of this process, the potential for harmonisation of individual authorities' approaches to Discretionary Rates Relief will need to be considered.

#### **4. Options considered and recommended proposal**

- 4.1 Over the past 2 financial years the Council has made Discretionary Rate Relief awards totalling £776k in 2015/16 and £734k to date in 2016/17. These represent a key element of the Council's relationship with the partner organisations involved. Aside from £161k one off Localism Relief granted in 2014/15 and 2015/16, the proportion of the Council's estimated rates income forgone in Discretionary Relief has remained at around 1% for both years.
- 4.2 Excluding the awards related to contractual commitments, the total cost of awards for 2016/17 is £225k. At present the Council meets 49% (£110k) of this cost which would represent the maximum potential saving in relation to Discretionary Reliefs - all of which are being reviewed for 2017/18.
- 4.3 Despite the above, it must be recognised that the Council needs to save in excess of £40m over the next 3 financial years. Bearing this in mind, the review considered whether other amendments could be made which would provide savings to the Council in the future. However, having reflected on the impact that this would have on the organisations concerned this is not a proposal.
- 4.4 Given the limited value of the Discretionary Rates Relief currently awarded by the Council the scope for savings is limited to a maximum of £110k. In many cases the sums awarded are relatively small, (albeit significant to the community organisations and charities receiving the relief). Also, it should be noted that the full implications of outcomes of the 2017 Rates Revaluation and the change to Small Business Rates Relief announced in the chancellor's Budget have still to be assessed.

## **5. Consultation**

- 5.1 There is no requirement to formally consult on recommendation to amend the Council's Discretionary Relief Policy.

## **6. Timetable and Accountability for Implementing this Decision**

- 6.1 Discretionary Rates Reliefs are granted for only the current financial year, which means that all the present reliefs will expire on 31<sup>st</sup> March 2017. This provision means that the Council would not be required to give a full financial year's notice of any changes to its policy.
- 6.2 However, with the exception of Hardship Relief and Discretionary Relief awarded under Section 69 of the Localism Act 2011, organisations receiving rate relief have been sent a annual renewal application form. A completed application form must be returned to the Council before a request for relief can be considered. Applications will be reviewed along with a financial assessment of each return with a view to officers making recommendations to Cabinet, in the new calendar year, as to whether relief should be awarded.

## **7. Financial and Procurement Implications**

- 7.1 These are outlined in section 3 of the report; Discretionary Rates Reliefs worth £764k were awarded in 2015/16 at a cost to the Council of £374k. To date in 2016/17 £734k of relief has been awarded with the estimated cost of the 49% falling on Rotherham MBC of £360k. The level of Discretionary Rates Relief in both financial years is broadly equivalent to 1% of estimated rates income.
- 7.2 Assuming the current level or awards is maintained, the maximum saving that could be achieved in light of the Council's contractual commitments is some £110k. The impact of the changes in Small Business Rates announced in the 2016 budget and of the 2017 Rates Revaluation on the value of Rates Reliefs will need to be assessed when there is greater clarity on the new regulations and Government plans.

## **8. Legal Implications**

- 8.1 Rating legislation provides no right of appeal against the decision of the Council not to grant relief but as indicated Government regulations prohibit Councils from adopting a strict policy for granting Discretionary Relief strongly advising authorities to treat each case on its own merits.
- 8.2 Discretionary Rates Relief may be subject to the State Aid regulations – the means by which the European Union regulates state funded support to businesses to prevent the distortion of competition, which are likely to continue to apply in the immediate future.

## **9. Human Resources Implications**

- 9.1 None directly.

## **10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 None directly, however, as indicated in Section 12 below, the views of the Children and Young People's Services Directorate, like those of other directorates, are taken into account in assessing applications for Discretionary Rates Relief.

## **11 Equalities and Human Rights Implications**

- 11.1 The Council must be mindful of the potential impact on service users. Section 149 of the Equality Act 2010 in particular imposes an obligation on Members to have due regard to protecting and promoting the welfare and interests of persons who share a relevant protected characteristic (such as: age; disability; gender re-assignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation).

## **12. Implications for Partners and Other Directorates**

- 12.1 Although each case is treated on its own merits, the Council's policy, approved in April 2013 by the Former Cabinet, has regard to the use to which business premises are put and, in particular, the contributions that businesses seeking rate relief make to their local communities. Applications are assessed in accordance with the Council's priorities and take account of evidence and recommendations provided by Council Departments and services.
- 12.2 In light of this, the awarding of Discretionary Rates Relief has been a way in which the Council has been able to assist partner organisations and to support affordability and sustainability of contractual arrangements. Any change in the current policy would have implications for those arrangements.
- 12.3 Given that in future a significant and increasing amount of the Council's resources will be provided by Business Rates it will continue to be important for any awards to be aligned with Council priorities and that Directorates and Services are aware of the costs of Discretionary Rates Relief awards.

## **13. Risks and Mitigation**

- 13.1 A national Rates Revaluation is currently underway – the first since 2010 which may result in changes to property valuations in the Borough. However the changes to Small Business Rates Relief (including raised thresholds and a longer taper) announced in the March 2016 Budget may also mean that fewer organisations apply to the Council for Discretionary Rates Relief as it is no longer required. Against this an economic downturn could increase the number of applications for Hardship Relief. The Council has a robust policy in place which assesses each case on its merits.
- 13.2 Although authorities have been assured that the cost of the 2016 Budget changes to Small Business Rates Relief will be met in full by the Treasury (probably in the form of a Section 31 grant to make up for the lost revenue), it is unclear how long this will continue and what the implications of 100% Rates Localisation would be for the continuation of this funding stream.

- 13.3 At present the cost of any Discretionary Rates Relief granted is shared with the Government, the move to 100% Rates Retention, whether within a Sheffield City Region Pilot or as part of the planned national localisation, expected from the end of this decade, will transfer the cost fully to the Council.
- 13.4 Should the City Region become a Pilot for 100% Rates Retention either in 2017/18 or later, the extent to which individual authorities determine their approach to Discretionary Rates Relief may need to be considered.
- 13.5 The Council has, on legal advice, declined the request from the Rotherham, Doncaster and South Humber Mental Health NHS Foundation Trust for backdated Mandatory Charitable Relief, this still remains a risk to the Council's Rates income – amending the Council's Discretionary Rates Relief Policy would protect the remaining 20% of rates income from such premises.

**14. Accountable Officer(s)**

Approvals Obtained from:-

Strategic Director of Finance and Customer Services: - Judith Badger

Assistant Director of Financial Services – Stuart Booth

Service Manager, Legal Services - Stuart Fletcher

Head of Procurement (if appropriate):- Not applicable