

RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER

This form **MUST** be used to record any decision taken by the Elected Mayor or an individual Executive Member (Portfolio Holder).

The form must be completed and passed to the Service Manager (Committee & Administrative Services) no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Head of Members' Services has confirmed the decision has not been called in.

1. Description of decision

To approve the publication of the draft Discretionary Rate Relief Policy shown at Appendix A to the accompanying report for the purpose of public consultation.

2. Date of decision

24 November 2016.

3. Reasons for decision

To enable the views of ratepayers, residents and other interested parties to be taken into account by the Executive in reviewing the Council's policy for the award of discretionary rate relief.

4. Alternatives considered and rejected

The alternative of not reviewing the discretionary rate relief policy was considered and rejected.

5. How decision is to be funded

There are no cost implications arising from this report.

6. Conflicts of interest

| Name of all Executive members who were consulted AND declared a conflict of interest. | Nature of interest | Did Standards Committee give a dispensation for that conflict of interest? (If yes, give details and date of dispensation) | Did the Chief Executive give a dispensation for that conflict of interest? (If yes, give details and the date of the dispensation). |
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| | | | |

The Mayor has been consulted on this decision



Signed M P Healy

Date: 24 November 2016

Name of Decision Taker CLLR MICHAEL HEADLEY

This is a public document. A copy of it must be given to the Service Manager (Committee & Administrative Services) as soon as it is completed.

Date decision published: 29 NOVEMBER 2016

Date decision can be implemented if not called in: 7 DECEMBER 2016

(Decision to be made exempt from call in.....NO)

Bedford Borough Council – Finance Portfolio Holder

November 2016

Report by the Assistant Chief Executive and Chief Finance Officer

Subject: CONSULTATION ON PROPOSED POLICY FOR THE AWARD OF DISCRETIONARY RATE RELIEF

1. Executive Summary

The Council has discretionary powers to award rate relief in a range of circumstances and has previously agreed policies for the award of the various forms of discretionary rate relief. It is a requirement of these policies that they should be subject to periodic review and, therefore, it is proposed that the policies should be reviewed at this time and that the opportunity should be taken to combine the current policies into a single policy document.

In order to ensure that the views of ratepayers and other interested parties can be taken into account this report recommends that a draft policy, as set out at Appendix A, should be published for the purpose of public consultation. A further report will be submitted to the Executive in due course making recommendations for adoption of a revised policy taking into consideration the responses received to the public consultation.

2. Recommendations

The Portfolio Holder is requested to consider the report, seek clarification and, if satisfied, to approve the publication of the draft Discretionary Rate Relief Policy at Appendix A for the purpose of public consultation.

3. Reasons for Recommendations

To enable the views of ratepayers, residents and other interested parties to be taken into account by the Executive in agreeing any amendments to the Council's policy for the award of discretionary rate relief.

4. Key Implications

4.1 Legal Issues

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 temporary period;
- (ii) Section 49 of the Local Government Finance Act 1988 which allows the Council to award rate relief, having given consideration to the interest of local Council Taxpayers, where it considers that the ratepayer would suffer hardship should an award not be made;
- (iii) Section 47 of the Local Government Finance Act 1998 as amended by Section 69 of the Localism Act 2011 which gives the Council discretion to award rate relief to charities, not for profit organisations and certain businesses in small rural settlements.
- (iv) Section 47 of the Local Government Finance Act 1998 also gives the Council a general power, having given consideration to the interest of local Council Taxpayers, to award rate relief to any ratepayer.

In exercising a discretionary power the Council is required to act in a reasonable manner and a decision taken under discretionary powers may be challenged by way of judicial review should an applicant be dissatisfied with a decision. Having an agreed policy for the exercise of this discretion in a manner which is fair, consistent and transparent assists in minimising the risk of a decision being found to be unreasonable should an application be made for judicial review.

Awards of rate relief to businesses may, in most circumstances, constitute state aid and, as such, are subject to legal restrictions. The proposed Policy will ensure that awards of rate relief are limited to amounts which may be awarded within

the 'de minimis' threshold set out by the European Commission and, therefore, will not be required to be reported to the Commission. The current 'de minimis' threshold is **€200,000** in any three year period.

4.2 Policy Issues

The Council has established policies for the award of the various forms of discretionary rate relief for charities. The current policies are combined into one proposed policy document as shown at **Appendix A**. Where significant amendments are proposed to the criteria contained in the existing policies these are shown as highlighted text.

The Government has previously published guidance to local authorities in the exercise of discretionary powers to award rate relief, particularly in respect of the power to award relief on the grounds of hardship. The guidance states that councils should not adopt a blanket approach to applications for rate relief, but should consider each application on its individual merit. However, the adoption of policy guidelines to assist in judging the individual merits of each application is considered to be reasonable.

4.3 Resource Implications

The Council has retained a 49% share of the rates yield from non-domestic properties in the Borough since the localisation of non-domestic rates from 1 April 2013. Where the Council awards rate relief this reduces the rates yield and, consequently, the Council's retained rates yield is reduced by 49% of the value of awards. In recent years the Government has introduced several discretionary rate relief schemes intended to assist businesses, for example retail rate relief. Where councils award discretionary rate relief in accordance with these schemes they are compensated for the reduction in retained rates yield through a grant from central Government.

It is anticipated that awards under the proposed policy would be broadly consistent with current awards and, therefore, no significant resource implications are anticipated, subject to agreement of the final policy.

4.4 Risk Implications

There is a risk that a ratepayer dissatisfied with an award of rate relief or the refusal of an award may seek a judicial review of the decision. This risk can be mitigated by putting in place a formal Policy to assist in the consideration of awards and by consulting local non-domestic ratepayers as part of the process of determining the Policy.

There is a risk that the financial resources available to the Council may be diminished through the award of rate relief. The proposed policy requires that the interest of Council Taxpayers are taken into account in considering awards and, therefore, awards will only be made where the benefits of the award are considered to outweigh any disadvantages, including a reduction in financial resources.

4.5 Environmental Implications

There are no direct environmental implications arising from this report.

4.6 Equality Analysis

In preparing this report, due consideration has been given to the Borough Council's statutory Equality Duty as set out in Section 149(1) of the Equality Act 2010, to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

A relevance test and, it required, an equality analysis will be completed as part of the report to the Executive setting out the final proposals regarding the revisions to the policy.

5. Details

- 5.1 The Council has discretionary powers to award rate relief in certain circumstances and it is generally recognised to be good practice to adopt a Policy to assist with the exercise of this discretion to ensure that applications are considered in a fair and consistent manner. The Council already has in place agreed policies for the award of rate relief but it is considered to be good practice to review the policies periodically.
- 5.2 The proposed revised Policy at **Appendix A** combines the policies for the various forms of discretionary rate relief. The principle changes to the Policy are set out under items 5.3 to 5.6 below.
- 5.3 The existing Policy recognises the need to consider each application on its individual merits and that the Council should not unduly fetter its discretion by adopting overly restrictive criteria for awards. In reviewing the Policy the opportunity has been taken throughout the document to ensure that the Policy allows for awards to be made outside the normal criteria for awards where there are exceptional circumstances that support such an award.
- 5.4 The current Policy for the award of discretionary rate relief for charities and not-for-profit organisations normally limits awards to £1,333 for charities and £4,000 for not-for-profit organisations. In reviewing the Policy it is considered that financial support through discretionary rate relief for not-for-profit organisations should normally be consistent with awards to charities. Therefore, the policy proposes to normally limit such awards to £1,333.
- 5.5 Generally charities and not-for-profit organisations located in the Borough provide services predominantly to local residents and, therefore, there is a direct benefit to local residents in awarding rate relief as it increase the resources recipient. However, where the majority of the beneficiaries of the activities conducted from a property are not residents of Bedford Borough it is not considered reasonable for local residents to forego income from non-domestic rates since this reduces the resource available to the Council to provide local services. Therefore, in these circumstances it is proposed discretionary rate relief will not normally be awarded.
- 5.6 The current Policy does not make specific reference to consideration of applications in respect of educational establishments. However, it is the Council's current practice, established through consistent decision making over a number of years, to not normally make awards in respect of educational establishments since it is considered that such establishments generally have the financial means to meet any residual liability for rates following awards of any mandatory entitlement. Therefore, a proposal is set out in the draft Policy to formalise this position within the policy guidelines.

- 5.7 Organisations may be established as not-for-profit organisations with the object of promoting business or profits, either generally or for members of the organisation. Examples of such organisations include trade organisations. It is considered that the cost of non-domestic rates for such organisations is more appropriately funded by the individuals or organisations that may benefit from the organisation's activities. Therefore, the proposed policy determines that normally no discretionary rate relief should be awarded to such organisations.
- 5.8 In recent years there has been a growth in the number of applications for discretionary rate relief received from Community Interest Companies (CIC's) on the grounds that the company is not conducted or established for profit. Community Interest Companies were introduced as a means of establishing businesses that benefit the community, rather than just the owners, managers or employees, and are often referred to as social enterprises. By law CIC's cannot be charities and are described by the regulator as a flexible alternative to charities or industrial and provident societies. Providing a CIC benefits the community and does not exist for political aims there are few restrictions on its activities and a CIC may exist for profit as well as community benefit.
- 5.9 The governance arrangements for CIC's are, therefore, considered to be far less robust than those required of charities. Registering as a charity confers the benefits of 80% mandatory rate relief but also results in stricter regulation and governance requirements. It is considered the relative benefits or disadvantages of each type of organisation should be taken into account by the organisation at the time of establishing the organisation. Therefore, it is considered reasonable that organisations choosing to establish themselves as CIC's rather than charities should not receive the same benefit in relief from local taxation as charities. Therefore, the proposed policy states that discretionary rate relief should not be awarded to CIC's.
- 5.8 Where organisations are funded through public funds it is expected that the funding arrangements will make allowance for the cost of non-domestic rates. Therefore, it is not considered to be appropriate to award discretionary rate relief since this would move the burden associated with the funding onto local taxpayers and service users.
- 5.10 The Government has announced that it will increase the threshold for small business rate relief with effect from 1 April 2017 and that occupiers of a single properties with a rateable value of up to £12,000 will pay no rates at all. Therefore, some current recipients of discretionary rate relief may be better off with the award of small business rate relief in the future.

6. Summary of Consultations and Outcome

6.1 The following Council Units or Officers and/or other organisations have been consulted in preparing this report:

Management Team
Relevant Officers

No adverse comments have been received.

6.2 The proposed policy will be published for the purposes of public consultation subject to agreement by the Portfolio Holder. The outcome of the consultation will be reported to the Executive at the time of making final recommendations for a revised policy.

Report Contact Officers: Lee Phanco, Assistant Chief Finance Officer
e-mail: lee.phanco@bedford.gov.uk

File Reference: L.6(d)

Previous Relevant Minutes: None

Background Papers: None

Appendices: Appendix A – Bedford Borough Council Proposed Discretionary Rate Relief Policy



BEDFORD
BOROUGH COUNCIL

Proposed Discretionary Rate Relief Policy

1. Introduction

Exceptions to this Policy

2. General Principles

The Interests of the Borough's Council Taxpayers

Reviews and Appeals

Requirements for Applications

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Timescale for Decisions

Requirement to Make Payment of Amounts Falling Due

Awards for Retrospective Periods

State Aid

3. Applications from Charities

4. Applications from Not-For-Profit Organisations

5. Applications from Businesses in Small Rural Settlements

6. Applications under Section 44a (Partly Occupied Property)

Termination of Awards

Further Applications

Verification of Unoccupied Areas

7. Ratepayers that would otherwise suffer hardship (awards under section 49 of the Local Government Finance Act 1988)

New Businesses

Relationship to other forms of Relief

Duration of Awards

8. In exercise of the Council's general power to award discretionary rate relief (awards under Section 47 of the Local Government Finance Act 1998 as amended by Section 69 of the Localism Act 2011)

General Requirement

Maximum Amount of Awards

Duration of Awards

Information to Support Applications

Relationship to other forms of Relief

Guidelines for Making Awards

1. Introduction

- 1.1 The Local Government Finance Act gives the Council discretionary powers to award relief from payment of Non-Domestic Rates in three circumstances;
- i) Properties partly occupied for a temporary period**
(Awards under section 44a of the Local Government Finance Act 1988)
 - ii) Ratepayers that would otherwise suffer hardship**
(Awards under section 49 of the Local Government Finance Act 1988)
 - iii) A general power to award discretionary rate relief to any ratepayer including charities, not-for-profit organisations and businesses in small rural settlements.**
(Awards under Section 47 of the Local Government Finance Act 1988 as amended by Section 69 of the Localism Act 2011)
- 1.2 For the purposes of this Policy hereditaments within the Borough to which rate relief may be awarded are categorised as follows:
- i) Hereditaments occupied, or if unoccupied owned, by a charity**
(Awards under Section 47 of the Local Government Finance Act 1988)
 - ii) Hereditaments occupied, or if unoccupied owned, by an organisation that is not established or conducted for profit**
(Awards under Section 47 of the Local Government Finance Act 1988)
 - iii) Small hereditaments occupied by businesses in small rural settlements**
(Awards under Section 47 of the Local Government Finance Act 1988)

- iv) **Hereditaments partly occupied for a temporary period**
(Awards under section 44a of the Local Government Finance Act 1988)
- v) **Hereditaments occupied by a ratepayer that would suffer hardship if an award of rate relief was not made**
(Awards under section 49 of the Local Government Finance Act 1988)
- vi) **Hereditaments where if an award of relief is made in accordance with requirements set out by the Government the Council will be fully reimbursed by the Government for any reduction in its share of the rates yield**
(Awards under Section 47 of the Local Government Finance Act 1988 where the Council is fully reimbursed for any lost rate yield income by the Government, for example retail rate relief)
- i) **All other hereditaments (including businesses in small rural settlements)**
(Awards under Section 47 of the Local Government Finance Act 1988 as amended by Section 69 of the Localism Act 2011)

1.3 This Policy shall take effect for all applications made in respect of rate liabilities incurred from 1 April 2017 onwards.

1.4 Each application for discretionary rate relief will be considered on its individual merit but in making a decision on the award the decision maker will have due regard to the requirements of this Policy.

Exceptions to this Policy

1.5 This policy sets out guidelines for the award of discretionary rate relief. In accordance with this policy each application must be considered on its own merit, however, in the absence of any exceptional circumstance that would merit an award other than in accordance with the guidelines set out in this policy, the amount awarded, if any, should be in accordance with these guidelines.

1.6 In accordance with the Council's Constitution the Portfolio Holder with responsibility for this function may determine discretionary rate relief applications which fall outside the scope of the approved guidelines set out in this Policy. However, awards should only be made outside these guidelines where there are exceptional circumstances that justify such an award and where the Portfolio Holder considers that it is reasonable to make an award having regard to the interest of local Council Taxpayers and Non-Domestic Ratepayers.

2. General Principles

- 2.1 All decisions in respect of applications for discretionary rate relief must be taken in accordance with statutory requirements and give due consideration to any guidance issued by the Secretary of State.
- 2.2 Decisions shall be taken in accordance with the Council's Constitution.
- 2.3 In addition to these requirements the following shall apply in respect of all requests for rate relief under the powers set out above.

The Interests of the Borough's Council Taxpayers

- 2.4 In determining an award of rate relief the Council shall have regard to the interests of the Borough's Council Taxpayers and, normally, awards shall only be made where it is reasonable to do so having regard to those interests. Therefore, awards should normally, only be made where the benefits to the Borough's Council Taxpayers arising as a result of the decision to make the award are considered to outweigh any detriment to those interests including, but not limited to, the financial impact of the award.
- 2.5 Awards to charities and not-for-profit organisations made within the scope of these policy guidelines are considered to be in the interests of the Borough's Council Taxpayers unless there is specific evidence to the contrary.
- 2.6 Where it is considered that the main purpose in applying for rate relief is to enable or assist a person or organisation to avoid liability for payment of the full non-domestic rate it will not be considered reasonable to make an award having regard to the interests of the Borough's Council Taxpayers and, accordingly, no award should be made.

Reviews and Appeals

- 2.7 The decision maker for each application will be determined in accordance with the Council's Constitution. For certain types of rate relief the decision must be taken by the relevant Portfolio Holder or, where the Portfolio Holder has a conflicting interest, the Mayor and the decision will be final. There will be no automatic right of appeal. An applicant may make a request for the decision maker to review a decision but only where either:
1. Additional information that is relevant to the application and that was not available at the time the decision was made becomes available; or
 2. There are good grounds to believe the application or supporting information was not interpreted correctly at the time the decision was taken.
- 2.8 A request for a review must be made within four weeks of notification of the decision and must set out the reasons for the request and any supporting information. The Council may, at its discretion, consider late applications where it is satisfied that there is continuous good cause for the delay in submitting the application.

Requirements for Applications

- 2.9 Applications will normally only be considered where a written application is received from the ratepayer, or where the ratepayer is an organisation a person properly authorised to make an application on behalf of the organisation. Where the Council provides an application form the application must be made on that form. The Council may, at its sole discretion, make an award of rate relief without an application where the law allows and where the decision maker is satisfied that an award may be made in accordance with this policy.
- 2.10 The Council shall request such supporting evidence as it considers necessary to enable the Council to properly assess the merits of the application.
- 2.11 Ratepayers submitting an application shall, if required, set out, as part of the application; the benefits that the ratepayer considers will accrue to the Borough's Council Taxpayers as a result of the award.

Agents and other Third Parties

- 2.12 All applications must be signed by the ratepayer or where the ratepayer is an organisation an appropriately authorised officer or member of the organisation. Where an agent or other third party submits an application on behalf of the ratepayer the application must be countersigned by the ratepayer. Letters of authority to act on behalf of a ratepayer will not be accepted.
- 2.13 The Council may choose to correspond directly with the ratepayer in respect of any application.

Publication of Decisions and Applications

- 2.14 All decisions taken in respect of applications for discretionary rate relief may be published together with the application forms and supporting information that were considered in reaching the decision.

Timescale for Decisions

- 2.15 The Council will aim to make a decision regarding the application within eight weeks of receiving the application and all supporting evidence considered necessary to enable the application to be considered.

Requirement to Make Payment of Amounts Falling Due

- 2.16 Ratepayers should continue to pay any amount of rates that falls due whilst an application is pending unless the Council has agreed in writing that payment may be suspended. In the event that payments are not received as due the Council may continue with its normal procedures to secure payment. Where rate relief is subsequently awarded any overpaid rates shall be refunded.

Awards for Retrospective Periods

- 2.17 Awards to charities and other not-for-profit organisations should normally take effect from the date of occupation (subject to any regulatory restrictions) or acquisition of the property.

- 2.18 Other discretionary rate reliefs will not normally be awarded in respect of any day prior to the day that an application is received with the exception of applications on the grounds of hardship. However, in exceptional circumstances consideration may be given to awarding rate relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting the application earlier.
- 2.19 Where the application is on the grounds of hardship an award may be made for a retrospective period where it is considered that the business suffered hardship during that period.
- 2.20 No consideration shall be given to an award for a retrospective period where the Council is not able to verify to its satisfaction that the circumstances giving rise to the application pertained for that period.

State Aid

- 2.21 Rate relief shall not be awarded in any circumstances where it appears that an award will result in the ratepayer receiving state aid that is above the current de minimis level. If required by the Council, each application from a business, or organisation engaged in business activities, must be accompanied by a statement signed by the appropriate person representing the ratepayer setting out the amount of state aid, including but not limited to discretionary rate relief, which the ratepayer has received within the previous three years. Applications shall not be considered until this statement is received.

Misrepresentation or Fraud

- 2.22 The Council requires all applicants to provide complete and truthful information and to disclose all information that may be relevant to an award including any subsequent changes of circumstance. In the event of deliberate misrepresentation or fraud the Council will take action in accordance with its Anti-Fraud Strategy which may include prosecution for criminal offences.

3. Charities

- 3.1 Section 47 of the Local Government Finance Act 1988 enables the Council to exercise discretion to award rate relief in respect of properties occupied by charities. Rate relief may also be awarded where it appears that when last in use, or when next in use the property, was or will be used for charitable purposes
- 3.2 This sections sets out the Council's agreed policy for the award of discretionary rate relief in accordance with section 47 of the Local Government Finance Act 1988 to charities.

Maximum Amount of Awards

- 3.3 The maximum amount awarded in respect of any one hereditament for any one financial year shall **normally** be limited to **£1,333.**

Duration of Awards

- 3.4 Each amount of rate relief awarded under this policy shall apply for no more than one financial year at a time but new applications may be made each financial year. **The Council may, at its discretion, make an award in a subsequent financial year without requiring the submission of a new application. Where the Council determines that it may make a further award without requiring a new application in may request such information as it considers necessary in order to review entitlement.**

Guidelines for the amount to be awarded to charities

3.5 Awards to charities should normally be made in accordance with the following guidelines. In determining awards the criteria set out below should be applied sequentially beginning with criterion A. The amount awarded or not awarded should be the amount as set out against the first criterion that is met by the application.

| | Description | Normal Award |
|---|--|--------------|
| A | Hereditaments occupied by a charity where the rateable value exceeds £100,000 . | Nil |
| B | Hereditaments occupied by a charity mainly concerned with promoting industry, commerce, trade, business, professional standards or similar, including; training of persons engaged in those activities; production of journals, web content etc. or activities concerned with the application of science or technology to such activities. | Nil |
| C | Hereditaments occupied by a charity wholly or mainly as a shop including shops selling wholly or mainly donated goods (a shop shall include a property used for the retail provision of food or drink). | Nil |
| D | Hereditaments occupied by a charity wholly or mainly as an educational establishment (for example a school, college or university). | Nil |
| E | Hereditaments occupied by a charity that is mainly funded from public funds other than charitable grants from publicly funded bodies. | Nil |
| F | Hereditaments occupied by a charity mainly concerned with activities connected with seeking to influence public opinion or public policy. | Nil |
| G | Hereditaments occupied by a charity where the majority of beneficiaries of the charitable activities conducted from the hereditament are not residents of Bedford Borough | Nil |
| H | Hereditaments occupied by a charity where the charity has sufficient available unrestricted funds to meet the whole of its net rate liability after the award of mandatory charitable relief. | Nil |

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| | <p>A charity is considered to have sufficient available unrestricted funds where;</p> <ol style="list-style-type: none"> i. The available unrestricted funds exceed £12,000, and; ii. The available unrestricted funds represent at least six months normal unrestricted expenditure. <p>In calculating the available unrestricted funds the following funds should be disregarded;</p> <ol style="list-style-type: none"> i. Funds held for the purpose of giving grants to individuals in need, hardship or distress; ii. Funds held for the purpose of giving grants to other charitable organisations concerned with relieving persons in need, hardship or distress iii. Any funds comprised of tangible assets (e.g. property) iv. Funds that are earmarked for a specific purpose due to a statutory requirement or for the purpose of better enabling the charity to fulfil its charitable objects v. Funds held in trust that cannot be used to meet the expenses of the charity | |
| I | Other hereditaments occupied by a charity in furtherance of the objects of the charity. | 20% (up to a maximum of £1,333 in any one financial year). |
| J | Unoccupied hereditaments owned by a charity. | Nil |

4. Organisations not established or conducted for profit

- 4.1 Section 47 of the Local Government Finance Act 1988 enables the Council to exercise discretion to award rate relief in respect of properties occupied by organisations that are not conducted or established for profit and where the main objects are charitable, philanthropic, or religious or concerned with education, social welfare, science, literature, or the fine arts, or the property is wholly or mainly used for recreation.

Maximum Amount of Awards

- 4.2 The maximum amount awarded in respect of any one hereditament for any one financial year shall normally be limited to **£1,333.**

Duration of Awards

- 4.3 Each amount of rate relief awarded under this policy shall apply for no more than one financial year at a time but new applications may be made each financial year. The Council may, at its discretion, make an award in a subsequent financial year without requiring the submission of a new application. Where the Council determines that it may make a further award without requiring a new application in may request such information as it considers necessary in order to review entitlement.

Guidelines for Awards to Not-For-Profit Organisations

- 4.4 Awards to not-for-profit organisations should normally be made in accordance with the following guidelines. In determining awards the criteria set out below should be applied sequentially beginning with criterion A. The amount awarded or not awarded should be the amount as set out against the first criterion that is met by the application.

| | Description | Normal Award |
|---|--|--------------|
| A | Unoccupied hereditaments. | Nil |
| B | Occupied hereditaments where the rateable value exceeds £25,000 . | Nil |
| C | Hereditaments occupied by an organisation mainly concerned with promoting industry, commerce, trade, business, professional standards or similar, including; training of persons engaged in those activities; production of journals, web content etc. or activities concerned with the application of science or technology to such activities. | Nil |
| D | Hereditaments occupied by a community interest company. | Nil |
| E | Hereditaments occupied wholly or mainly as a shop including shops selling wholly or mainly donated goods. | Nil |
| F | Hereditaments occupied wholly or mainly as an educational establishment (for example a school, college or university). | Nil |
| G | Hereditaments occupied by an organisation that is mainly funded from public funds other than charitable grants from publicly funded bodies. | Nil |
| H | Hereditaments occupied by an organisation mainly concerned with activities connected with seeking to influence public opinion or public policy. | Nil |
| I | Hereditaments occupied by an organisation where the majority of the beneficiaries of the activities conducted from the hereditament are not residents of Bedford Borough | Nil |
| J | Hereditaments occupied by organisations where membership of the organisation or use of the facilities or services provided is restricted to certain groups of persons due to; <ul style="list-style-type: none"> Requirement to achieve a certain standard | Nil |

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| | <ul style="list-style-type: none"> • Requirement to pay fees or charges which would not be affordable to many members of the community, particularly those on a low income • Requirement to be nominated or approved by an existing member of the organisation • Secrecy in the process for obtaining membership or using facilities | |
| K | Hereditaments occupied by organisations which are not established for profit and whose main objects are charitable, philanthropic, or religious or concerned with education, social welfare, science, literature, or the fine arts where the social nature of the organisation is the dominant factor present | Nil |
| L | Hereditaments occupied by a Community Amateur Sports Club other than those meeting criterion “M” below | Nil |
| M | Where an organisation is a registered Community Amateur Sports Club and, as a result of being entitled to 80% Mandatory Rate Relief, ceases to be entitled to Small Business Rate Relief. | 10% (up to a maximum of £1,066 in any one financial year). |
| N | Hereditaments occupied by organisations which are not established for profit and whose main objects are charitable, philanthropic, or religious or concerned with education, social welfare, science, literature, or the fine arts where the social nature of the organisation is roughly equal to its principal purposes | 25% (up to a maximum of £1,333). |
| O | Hereditaments occupied by organisations which are not established for profit and whose main objects are charitable, philanthropic, or religious or concerned with education, social welfare, science, literature, or the fine arts where the social nature of the organisation is incidental to its principal purposes | 100% or £1,333 whichever is the lesser. |

5. Businesses Located in Rural Settlements

- 5.1 Section 47 of the Local Government Finance Act 1988 enables the Council to exercise discretion to award rate relief in respect of properties occupied or owned by businesses in small rural settlements, either in addition to mandatory rural rate relief or entirely as discretionary rate relief.

Maximum Amount of Awards

- 5.2 The maximum amount awarded in respect of any one hereditament for any one financial year shall normally be limited as set out in the guidelines below.

Duration of Awards

- 5.4 Each amount of rate relief awarded under this policy shall apply for no more than one financial year at a time but new applications may be made each financial year. The Council may, at its discretion, make an award in a subsequent financial year without requiring the submission of a new application. Where the Council determines that it may make a further award without requiring a new application it may request such information as it considers necessary in order to review entitlement.

Guidelines for Awards to Businesses in Small Rural Settlements

5.5 Awards to businesses located in small rural settlements, as determined by the Council's published Rural Settlements List for the purpose of rate relief, should normally be made in accordance with the following guidelines. In determining awards the criteria set out below should be applied sequentially beginning with criterion A. The amount awarded or not awarded should be the amount as set out against the first criterion that is met by the application.

| Category No. | Category | Normal award |
|--------------|--|--|
| A | To General Stores and Post Offices which qualify for Mandatory Relief of 50%: | 50% |
| B | To food shops which qualify for Mandatory Relief of 50%: | 25% |
| C | To Public Houses and Filling Stations which qualify for Mandatory Relief of 50%: | Nil |
| D | Where Mandatory Relief would have been awarded to a general store or post office other than for the Rateable Value limit: | An amount equal to the maximum of the sum of mandatory and discretionary rate relief that may be awarded under A above. |
| E | To General Stores and Post Offices which do not qualify for Mandatory Relief and which do not come within category A or D above, and are important to the maintenance of village life: | 75% up to an amount equal to 75% of the maximum of the sum of mandatory and discretionary rate relief that may be awarded under A above. |
| F | To shops which are wholly or mainly used for the retail of general household goods or domestic electrical goods, and are important to the maintenance of village life: | 75% up to an amount equal to 75% of the maximum of the sum of mandatory and discretionary rate relief that may be awarded under B above. |

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| G | To shops which are wholly or mainly used for retail purposes by a butcher, baker, newsagent or chemist, and are important to the maintenance of village life: | 75% up to an amount equal to 75% of the maximum of the sum of mandatory and discretionary rate relief that may be awarded under A above. |
| H | To public houses which do not qualify for 50% Mandatory Relief due to a premises licence authorising the sale of alcohol by retail for consumption on the premises also being held in respect of another property in the rural settlement which is not a traditional village pub: | 50% up to an amount equal to the maximum of the sum of mandatory rural rate relief that may be awarded under C above. |
| I | To doctors surgeries and hairdressing salons and which are important to the maintenance of village life: | 25% up to an amount equal to 25% of the maximum of the sum of mandatory and discretionary rural rate relief that may be awarded under A above. |
| J | To Public Houses and Clubhouses (which are not included in category C or H above) which are important to the maintenance of village life: | 25% up to an amount equal to 50% of the maximum of the sum of mandatory rural rate relief that may be awarded under C above. |
| K | To premises that provide wholly or mainly motor repairs and/or MoT services and which are important to the maintenance of village life: | 25% up to an amount equal to 25% of the maximum of the sum of mandatory rural rate relief that may be awarded under C above. |
| L | To premises receiving mandatory rural rate relief where, were it not for the entitlement to mandatory rural rate relief, an award of small business rate relief would result in a lower amount to pay: | An amount equal to the difference between the mandatory rate relief and the amount of small business rate relief that would otherwise be awarded. |
| M | To village shops which are not included in the above categories but which are important to the maintenance of village life: | 25% up to an amount equal to 25% of the maximum of the sum of mandatory and discretionary rural rate relief that may be awarded under A above. |

6. Applications under Section 44a (Partly Occupied Property)

- 6.1 The Council has discretion under section 44a of the Local Government Finance Act to award rate relief where part of a property is unoccupied for a temporary period. The amount of rate relief that is awarded is determined by statute and is calculated by reference to the rateable value ascribed to the unoccupied area by the Valuation Office Agency.
- 6.2 Applications will only be considered in respect of unoccupied parts of a property that can be clearly defined and are reasonably segregated from the occupied part of the property.
- 6.3 For the purposes of this policy a period of up to 12 calendar months shall be considered to be temporary and longer periods shall not be considered to be temporary.
- 6.4 No award shall be made where it appears to the Council that the reason that part of the property is unoccupied is wholly or mainly for the purposes of applying for rate relief.
- 6.5 A ratepayer making an application under section 44a shall provide a plan of the property showing the dimensions of the occupied and unoccupied area of suitable quality to enable the Valuation Office Agency to apportion the rateable value of the property between the occupied and unoccupied areas. Applications will not be considered until such time as the plan is provided.
- 6.6 Rate relief under this section will not be awarded in respect of partly occupied property where the partial occupation of the property may be considered to arise due to the ordinary day to day nature of the business (for example the operation of a warehouse).

Termination of Awards

- 6.7 Awards of rate relief shall end at the earliest occurrence of one of the following:
 - a) The end of the statutory period for which relief may be allowed;
 - b) The end of the financial year;
 - c) All or part of the unoccupied area becoming occupied;

- d) The whole of the property becoming unoccupied;
- e) The ratepayer ceasing to be the person or organisation liable to pay non-domestic rates in respect of the property;
- f) Where all or part of the unoccupied area has remained unoccupied for one year;
- g) The commencement of a further award in respect of the property;
- h) The Council is unable to verify, following reasonable notice, that the area remains unoccupied.

Further Applications

- 6.8 A further application may be submitted in the following circumstances, however, where any part of an unoccupied area has remained unoccupied for more than 12 months the partial occupation shall no longer be considered to be temporary:
- a) There is a change to the area of the property which is unoccupied; or
 - b) The commencement of a new financial year.

Verification of Unoccupied Areas

- 6.9 The ratepayer must allow a Council Officer access to the property by appointment during normal working hours within two weeks of the Council receiving the application in order to verify the occupation of the property.
- 6.10 Further access may be required on at least one occasion each month, during normal office hours, during the period for which relief is being awarded. In order to enable verification, access to the unoccupied area may be requested immediately without advanced notice. In the event that access is not allowed promptly without good cause the award of rate relief may be withdrawn.

7. Ratepayers that would otherwise suffer hardship (awards under section 49 of the Local Government Finance Act 1988)

- 7.1 The principle purpose of awards of rate relief under this section of the Policy shall be to provide short-term assistance to businesses that are suffering unexpected hardship, arising from circumstances beyond the business's control and outside of the normal risks associated with running a business of that type, to the extent that the viability of the business would be threatened if an award were not made.
- 7.2 Rate relief on the grounds of hardship shall only be awarded where it is considered that:
- (i) The ratepayer would sustain hardship if the Council failed to grant Hardship Relief; and
 - (ii) It is reasonable to grant Hardship Relief having regard to the interest of person's subject to the Council Tax.
- 7.3 The test of "hardship" need not be confined strictly to financial hardship and applicants should disclose all relevant factors affecting the ability of the business to meet its rate liability.
- 7.4 The "interest" of local Council Taxpayers may go wider than direct financial interests; for example, where employment prospects in an area would be worsened by a ratepayer going out of business, or the amenities of an area might be reduced by, for instance, the loss of a neighbourhood shop.
- 7.5 A business will not normally be considered to be suffering financial hardship in any annual accounting period during which it is profitable or has experienced a loss which is minor in comparison to the overall turnover of the business. In determining whether a business is profitable account shall be taken of reasonable drawings by the proprietor or reasonable remuneration of directors. For the purpose of this policy the reasonable remuneration shall be no more than 150% of the minimum wage.
- 7.6 Where the circumstances giving rise to the hardship pertain for a only part of the business's normal annual accounting period the income and expenditure of the business for the period during which the circumstance pertain may be used to determine whether the business is profitable.

- 7.7 It is expected that businesses will take prompt action to mitigate any factors giving rise to hardship. Examples of mitigating actions may include seeking business advice, discounts and promotions, reviewing pricing, extending the range of stock or services, negotiating with creditors etc. Applications may be declined in circumstances where the business is unable to demonstrate that it is taking reasonable steps to alleviate the hardship.
- 7.8 Applicants must supply the last two years' accounts, a current cash flow forecast and a comprehensive business plan in order for an application to be considered. Where the business has traded for less than two years accounts must be provided where available, and draft accounts or budget forecasts must be provided for the period since the business commenced trading.
- 7.9 No award shall be made where it appears to the Council that the proprietor of the business has failed to exercise due diligence to anticipate circumstances that may give rise to hardship, financial or otherwise, and/or to put in place measures to prevent or mitigate the circumstances.
- 7.10 Applications will be viewed favourably where the criteria of the Policy are met and the business provides the only goods or services of that type in the local area or where the business is a niche business supplying specialist goods or services that are not widely available and vice versa.

New Businesses

- 7.11 Award of hardship rate relief will not be made for the purposes of enabling a new business to become established except where the viability of the business is threatened by events that could not reasonable have been foreseen when establishing the business.

Unoccupied Properties

- 7.12 Rate relief on the grounds of hardship in respect of rates payable for an unoccupied property will only be awarded in the most exceptional circumstances where there are clear and tangible benefits to local Council Taxpayers in making the award.

Relationship to other forms of Rate Relief

- 7.13 Applications for hardship rate relief shall be regarded as a last resort and will only be considered after consideration of any other forms of rate relief to which the applicant may be eligible.

Duration of Awards

- 7.14 All awards shall terminate at the end of the financial year if the award has not ended at an earlier date. Where the hardship continues a further application may be made in the new financial year, however in considering repeated applications consideration should be given to the number and value of previous awards. Where an application is repeated for a subsequent period the Council may require the applicant to provide evidence (preferably from an accountant or other professional adviser) regarding the long-term financial viability of the business.

8. In exercise of the Council's general power to award discretionary rate relief

(awards under Section 47 of the Local Government Finance Act 1988 as amended by Section 69 of the Localism Act 2011)

- 8.1 Section 69 of the Localism Act 2011 amends the 1988 Act to allow local authorities the discretion to award rate relief to all types of businesses. The Plain English Guide to the Act addresses this as follows:

“The Localism Act gives councils more freedom to offer business rate discounts - to help attract firms, investment and jobs. Whilst councils would need to meet the cost of any discount from local resources, they may decide that the immediate cost of the discount is outweighed by the long-term benefit of attracting growth and jobs to their area.”

- 8.2 This section sets out the Council's agreed policy for dealing with applications from such cases.

General Requirement

- 8.3 Applications for rate relief under this section of the Policy 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 where the award will directly result in attracting businesses, investment or jobs to the local area.

Maximum Amount of Awards

- 8.4 The Localism Act allows scope for the Council to award up to 100% rate relief in any one year for qualifying businesses. The maximum amount awarded shall normally be limited to no more than 45% of the rate liability except where there are exceptional circumstances which justify a greater amount.

Duration of Awards

- 8.5 Each amount of rate relief awarded under this policy shall normally apply for no more than one financial year at a time but new applications may be made each financial year.
- 8.6 In exceptional circumstances and where each of the following conditions are met an award may be made for up to three financial years:

- a. The award relates to Non-Domestic Rates payable in respect of a new hereditament or an increase in rateable value of an existing hereditament;
- b. New employment opportunities will be created as a result of the new hereditament or enhancements to an existing hereditament;
- c. The award is considered to be essential to securing the development of the hereditament;
- d. The award will not result in a lower amount of retained rates yield in respect of the hereditament than that retained prior to the development.

Information to Support Applications

- 8.7 All applicants are required to complete the Council's rate relief application form. Such information and evidence as the Council requires must be provided to support an application and in the event that the requested information and evidence is not provided the application may be refused.
- 8.8 In submitting an application the ratepayer must demonstrate with verifiable supporting evidence the benefits to the Borough's Council Taxpayers that will accrue from making an award.
- 8.9 On receipt Council officers will prepare a report setting out the merits of the application. This report will detail, amongst other elements the economic, social and environmental benefits that may derive from granting the application.

Relationship to other forms of Rate Relief

- 8.10 Applications under this section will only be considered after consideration of any other forms of rate relief to which the applicant may be eligible (excluding hardship rate relief).

Guidelines for Making Awards

- 8.11 Each application will be considered on its individual merit but in making a decision on the award the following factors must be considered by the decision maker:
1. That awards should only be made in exceptional circumstances;
 2. The value of any previous awards and the benefits to local Council Taxpayers realised from previous awards;
 3. The cost to the Council, including the loss of income or of retained rates yield, in making an award;
 4. The impact of the cost or loss of income in relation to the Council's overall financial situation;
 5. The benefits to the Borough's Council Taxpayers in making an award, and in particular whether the award will directly result in attracting businesses, investment or jobs to the local area;
 6. The impact on other Non-Domestic Ratepayers in the Borough;
 7. The Council's statutory equality duties;
 8. That awards should normally only be made where the ratepayer's activities in the Borough will contribute towards the aims and objectives of the Corporate Plan or Sustainable Communities Strategy;
 9. The extent to which an award will support the Council's aspiration to promote and encourage economic growth, and in particular growth in the Non-Domestic Rating tax base and in employment opportunities for residents of the Borough;
 10. The overall profitability of the business.

Circumstances where the Council is Fully Compensated for Loss of Rates Yield

- 8.12 Where the Government puts in place a scheme whereby the Council will be fully compensated for the loss of rates yield arising from an award of discretionary rate relief, awards of rate relief shall be made in accordance with the requirements of the scheme unless there is a decision of the Executive to the contrary.