

**Report of Director of Resources**

**Report to Executive Board**

**Date: 24<sup>th</sup> April 2013**

**Subject: Extension of Discretionary Business Rate Relief Scheme**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. Section 69 of The Localism Act 2011 introduced the provision for local authorities to allow relief, or a discount, from business rates from 1<sup>st</sup> April 2012 to any organisation it deemed appropriate, provided that it was in the interests of local council tax payers to do so. Prior to this Act the provision extended only to not for profit organisations.
2. The decision to award relief from rates is currently delegated to The Director of Resources. Each decision is made against a set of guidelines agreed previously by the Executive Board. These form Appendix 1.
3. Proposed revised guidelines are set out in this report that would see the discretion to award relief from businesses rates extended to additional categories of ratepayer from 1<sup>st</sup> April 2013. The aim of the extension is to support the creation of employment and economic growth.
4. The proposed guidelines would require support from the business community to ensure that these aims are met.

**Recommendations**

5. Executive Board is asked to approve consultation with representative bodies, including the Chamber of Trade and Leeds & Partners on proposals to extend the guidelines for the award of discretionary relief for Business Rates.

## **6. Purpose of this report**

- 1.1** The report seeks approval to consult on proposals for the extension of the guidelines for the award of discretionary rate relief from 2013/14 to 'for profit' organisations who meet agreed criteria, as now permitted under Section 69 of the Localism Act 2011.

### **2 Background information**

- 2.1** Local authorities have had the discretion to award relief from rates to certain organisations since 1990. This was restricted to:
- a) topping up the 80 per cent mandatory relief given to charities to 100 per cent
  - b) topping up the 80 per cent mandatory relief given to Community Amateur Sports Clubs to 100 per cent
  - c) topping up the mandatory relief available to rural village shops etc
  - d) providing up to 100 per cent relief to other non-profit making bodies
  - e) hardship relief to certain businesses that are finding it difficult to pay
  - f) discretionary relief to other small rural businesses
- 2.2** Section 69 of The Localism Act 2011 introduced the provision for local authorities to award discretionary rate relief to any organisation with the condition that it must be in the interest of local council tax payers for them to do so.
- 2.3** This provision came into effect from 1st April 2012. However the cost of any such relief had to be fully funded by the local authority, unlike the original forms of relief above where the authority had to fund 75% of top up reliefs and 25% of all others.
- 2.4** From 1st April 2013 business rates are subject to the Rates Retention Scheme, which allows local authorities to retain part of any growth in their business rates yield (or requires them to make up part of the shortfall if there is a reduction). As a result of this scheme the funding of any increase in the level of reliefs awarded, whether mandatory or discretionary, will effectively be funded 50/50 by the local authority and central Government.
- 2.5** The council is increasingly contacted by businesses wishing to apply for discretionary rate relief under the provisions of the Localism Act, but there are currently no guidelines against which a decision may be made. This report seeks to add criteria for the Localism bill relief to the existing guidelines

### **3 Main issues**

- 3.1** Relief from rates is considered to be State Aid, and any award above the de minimis value (currently 200,000 euros over a three year period – approximately £175,000 at current rates) is subject to European Commission approval. The process and likelihood of obtaining such approval are such that the state aid de minimis level is effectively the maximum which may be awarded.

**3.2** Although the relief is discretionary there is a statutory obligation to ensure that decisions are made in a consistent manner. Failure to do so could result in a legal challenge ultimately by way of judicial review. The guidelines are intended to provide this consistency.

**3.3** There are significant advantages in using rates relief to enable and encourage civic enterprise from our partners, to support target businesses, and to incentivise the renovation of Listed Buildings.

- It is the form of financial support which is most often requested by external partners
- As the government now shares rates revenue with us on a 50%/50% basis, our contribution is effectively doubled. £10k of rate relief costs us £5k.
- By linking support to having premises in Leeds, we ensure that our support is recycled at least once in the local economy.
- The scheme can be robustly managed using existing corporate strategic decision making structures
- Delivery by the rates team is robust and requires no additional resourcing

**3.4** In short, rates relief provides a financially advantageous and robust mechanism to provide uncontroversial support to partners at our discretion.

**3.5** Four new schemes are proposed:

**3.5.1** Civic Enterprise Rates Relief programme

By offering rates relief through our Localism powers to organisations, agencies and companies that are willing to contribute resources to civic priorities without otherwise receiving financial reward, we can help to build a strong network to progress projects in our common interest.

Level of relief: 50% of rates up to a maximum of £10,000 per premises

Criteria

- Each application must be sponsored by a member of CLT and an Executive Member with appropriate responsibilities
- Applications must be supported by a business case which outlines the proposed reciprocal activity and its benefits to civic and corporate priorities
- Applicants must demonstrate need for the relief
- Relief is for 12 months from the date of approval and cannot be awarded retrospectively
- Civic enterprise relief can be provided in addition to other reliefs (eg. Young businesses, Listed Buildings, social enterprise)

Process

- Application made to Chief Economic Development Officer (either by recipient or internal sponsor)

- Supported by business case, demonstrating civic benefits
- Recommendation from Chief Corporate Support Officer where appropriate

#### Examples of potential reciprocal activity

- Contribution of staff and other resources to civic and corporate initiatives such as Child Friendly City, Playful Leeds, etc
- Contribution of staff/other resources to area-based priorities such as local business forums, support for local charities/social enterprises
- Support for Budget plus initiatives which is not otherwise compensated

### **3.5.2 Young businesses in our Economic Growth Sectors**

Our growth sectors are defined in the Economic Growth Strategy, which was adopted by Executive Board in November 2011. The growth sectors are:

- Healthcare
- Creative & Digital
- Professional & Business Services
- Retail
- Low Carbon Manufacturing
- Construction
- Social Enterprise/Third Sector

Young businesses (first five years of trading) in our target sectors can receive 3 years of rate relief – 80% in first year of relief, 50% in second year, 20% relief year 3.

#### Criteria:

- Young – must have been founded less than 2 years from date of application
- Must be independent – not a subsidiary or local branch of an existing business
- Must not be eligible for small business rates relief
- Leeds-based – must be paying rates on a property in Leeds City Council area
- Target sectors – must be working in one of the 7 growth sectors
- Must be able to demonstrate need for rates relief
- Must be able to demonstrate the business will be viable after 3 years relief
- Must demonstrate the potential to create new jobs

#### Process:

- Application form
- Supported with management accounts, cashflow forecast and business plan (pro-forma available if required)
- Chief Economic Development Officer makes decision

### **3.5.3** Commercial Listed Buildings not currently in use

Empty Listed Buildings receive mandatory 100% rate relief. As an incentive to bring such premises into active use, relief is proposed on a sliding scale – 80%/50%/20% relief over three years – to the landlords or occupiers of the building.

#### Criteria:

- Building must be Listed and vacant
- Some renovation must be required to bring the premises into use
- Application must gain Listed Building consent for the proposed work (and planning permission, if required)

#### Process:

- Application form to rates
- Supported with Listed Building Consent and planning permission (if required)
- Conservation Officer makes recommendation

### **3.5.4** Significant business relocations to Leeds

This category is intended to allow the possibility of relief being awarded to organisations seeking to relocate or invest in new operations in Leeds, as opposed to another area outside of the City region, which would have a significant impact on employment. Relief would be offered at 1% relief for every new job up to a maximum of 50% in the first year of relocation/inward investment only.

#### Criteria:

- Inward investment must create at least 20 new jobs (not just relocation of existing employees to Leeds)
- Available to companies or organisations in our target growth sectors as set out in 3.5.2 above, with the exception of retail
- Jobs created must not have a significant risk of displacing similar employment from existing Leeds businesses

#### Process

- Application made to Chief Economic Development Officer (either by recipient or by Leeds & Partners)
- Decision supported by an economic impact assessment

## **4 Corporate Considerations**

## **4.1 Consultation and Engagement**

- 4.1.1** The proposals have been developed following internal discussions with the Economic Development Team, Regeneration Service, Corporate Support team, Conservation Officer, Localities teams, Jobs and Skills and Asset Management services.
- 4.1.2** The proposals have also been discussed informally with Leeds Chamber of Commerce who were supportive the proposals, particularly for the young business element of the scheme. Further business consultation will be undertaken through discussions with representative bodies of potential recipients of the civic enterprise relief to ensure that the processes and levels of proposed relief would be workable from a business perspective. On the basis that consultation is around whether the proposals would be effective from a business perspective, there is no need to consult with the general public.

## **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1** The proposals have no equality and diversity relevance because businesses rates are universally levied on all businesses and the proposed relief schemes are available to all businesses in Leeds. The equality and diversity characteristics of the business applying for relief will not be a factor in determining whether relief is granted, nor will the relief be geographically targeted in any way

## **4.3 Council policies and City Priorities**

- 4.3.1** The proposed schemes of rates relief support priorities set out in the Vision for Leeds, Council Business Plan, Sustainable Economy and Culture City Priority Plan, and the Regeneration City Priority Plan.

## **4.4 Resources and value for money**

- 4.4.1** Administration of the four schemes can be carried out using existing staff resources from rates, economic development, conservation and corporate support.
- 4.4.2** The cost of providing the relief set out will depend on the level of uptake of the four schemes.
- For Civic Enterprise relief, it is proposed to cap the total annual relief at £250k. This investment will bring in additional resources to help deliver initiatives which support civic and corporate priorities, thus reducing costs elsewhere.
  - For Young Business relief, we anticipate no more than 50 businesses receiving the relief in any year. This is based on the experience of the Economic Development team in supporting young businesses, the vast majority of whom either already get small business rate relief or are working from domestic properties. This would equate to a maximum of £250k relief in any one year.
  - For Listed Building relief, the financial impact will be positive as vacant Listed Buildings pay no rates.

The maximum annual cost to LCC would thus be 50% of £500k, i.e. £250k.

- The cost of individual awards to organisations relocating to Leeds would be a maximum of 200,000 euros over a three year for each case. However the business case for each application would be expected to demonstrate economic benefit in terms of employment and future rates revenue which would exceed this in the long-term

**4.4.3** In the longer term, by supporting growth businesses, incentivising job creation, and helping to bring zero-rated buildings into economic use, it is hoped that this investment will produce a significant return.

## **4.5 Legal Implications, Access to Information and Call In**

**4.5.1** Approval for amendments to the guidelines for discretionary rate relief require approval by the Executive Board. Although such guidelines are not a legal requirement they are essential in ensuring consistency of approach in assessing applications for discretionary rate relief.

**4.5.2** Councils are required exercise their discretion to award relief from rates in a legal and consistent manner.

## **4.6 Risk Management**

**4.6.3** The proposals would allow the Council to exercise their discretion to award discretionary rate relief under the Localism Act within limited, clearly defined, circumstances, thereby limiting the potential cost.

**4.6.4** The main risk in these proposals is that demand exceeds the costs budgeted above. This can be mitigated by capping the relief under each category at the amounts specified above.

## **5 Conclusions**

**5.1** The proposed revised guidelines seek to allow the Council to use the discretion to award relief from rates under the Localism Act to support businesses who are participating in key priorities, i.e. Civic enterprise, young businesses in target growth sector and reuse of heritage buildings.

**5.2** Revised guidelines are required to ensure consistency. The alternative is to state that the Council will not exercise their discretion to award relief under The Localism Act

## **6 Recommendations**

**7** Executive Board is asked to approve consultation with representative bodies, including the Chamber of Trade and Leeds & Partners on proposals to extend the guidelines for the award of discretionary relief for Business Rates.

**8 Background documents<sup>1</sup>**

**8.1** None

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

## **Appendix 1 – Current Guidelines For Awarding Discretionary Rate Relief**

### **SOCIAL CLUBS**

The Council will offer relief to organisations where membership is open to the community. The Council will normally require affiliation to a body such as the CIU (Club and Institute Union) to demonstrate open access.

For such organisations the Council will provide 10% relief.

### **SPORTING ORGANISATIONS**

The Council will investigate the possibility of obtaining mandatory relief for sporting organisations by advising them on the steps required to obtain Community Amateur Sports Club (CASC) status through HM Revenues & Customs.

The amount of relief offered to sporting organisations will reflect the extent to which organisations extended their facilities to the public and priority groups in particular. In the case of CASC registered organisations the amount of discretionary rate relief refers to the balance net of mandatory relief.

Organisations, which restrict membership, will not receive support

Organisations which provide sporting facilities for the general public but have limited involvement with priority groups will receive **10% (Category 1)**.

Where organisations have more extensive involvement with priority groups, such as through youth teams, they will receive **25% (Category 2)**.

Organisations which have taken special steps to assist the Community, for instance by making facilities available to schools or in partnership with the Directorate of Learning and Leisure will receive **50% (Category 3)**.

### **OTHER ORGANISATIONS WHOSE MAIN OBJECTS ARE CHARITABLE OR OTHERWISE PHILANTHROPIC OR RELIGIOUS OR CONCERNED WITH EDUCATION, SOCIAL WELFARE, SCIENCE LITERATURE OR THE FINE ARTS**

The Council will investigate the possibility of obtaining relief for organisations with charitable aims by advising them on the steps required to obtain charitable status.

For those organisations which are not currently registered as charities, or which are ineligible, the amount of discretionary relief awarded will reflect the extent to which organisations extend their facilities to the public and priority groups in particular.

Organisations, which restrict membership, will not receive support

Organisations which provide facilities for the general public but have limited involvement with priority groups will receive **10% (Category 1)**.

Where organisations have more extensive involvement with priority groups, such as young persons, the elderly and disabled, they will receive **25% (Category 2)**.

Organisations which have taken special steps to assist the Community, for instance by making facilities available to schools or in partnership with Leeds City Council will receive **50% (Category3)**.

For those organisations which are registered as charities, discretionary relief may be awarded in addition to mandatory relief for the following organisations

Scout and Guiding Associations – 50%

Leeds based charities occupying a single property with a rateable value under £5,000, excluding shops – 50%

## **Hospices**

Applications will be considered from hospices that meet the following criteria ;

Leeds based charities who provide buildings based palliative and end of care services, applications to be in respect of premises where hospice type services are provided. – 100% relief of the net balance

## **Social Enterprises**

The Council will offer relief to organisations which are recognised as social enterprises.

The amount of relief offered to Social Enterprises will reflect the extent to which organisations extended their facilities to the public and priority groups in particular.

A social enterprise is defined as a company which reinvests its profits for a social purpose as opposed to redistributing them. This enables them to meet the not for profit requirement of section 47 of the Local Government Finance Act 1988.

Any application for relief must include copies of the organisation's constitution or Articles of Association, which must include statements to the effect that:

- 1 Any surplus raised by the organisation will be reinvested into a social purpose and not distributed to the owners, members or shareholders
- 2 Upon dissolution any remaining assets should be transferred to an organisation with similar aims and not distributed amongst the owners, members or shareholders.

Organisations, which restrict membership, will not receive support

Organisations which provide a service which is of benefit to the general public but have limited involvement with priority groups will receive **10% (Category 1)**.

Organisations provide a service which is of benefit to the general public and have more involvement with priority groups will receive **25% (Category 2)**.

Organisations which provide a service which is of benefit to the general public and which have extensive involvement with priority groups will receive **50% (Category 3)**.

Organisations which meet the criteria for category 3 relief and are in the first year of trading will receive relief of **80%** for the first twelve months.

Relief will be awarded up to the end of the financial year in which the application is received and a new application will be required for subsequent financial years.

Determination of the category of relief will be on the recommendation of the Business and Enterprise Team.

## **Section 49 Local Government Finance Act 1988 – Hardship Relief**

### **Guideline Criteria**

*To qualify for relief it is suggested that normally the following criteria have to be met by applicants.*

### **Hardship**

Evidence of hardship would have to be supplied by the applicant. It would also be necessary for the applicant to prove they had not acted improvidently in incurring hardship. Accounts for two years are required to document this.

### **Interests of the Community**

The applicant must provide evidence that it is in the interests of the community to remain in business either because:

- a) they provide a unique amenity regularly required by communities **or**
- b) the loss of employment to a local community would be severely damaging

The applicant should demonstrate that remission of rates provides a means of maintaining a viable business in the interests of the community and that a business is viable. It would not be in the interests of the community if the Council were simply to remit rates to businesses about to cease trading.

### **Amount of Relief**

If the above criteria are met the amount of relief granted shall be sufficient to relieve hardship but not usually greater than 80% of the rates due. This shall generally apply only to the financial year in which an application is made. Hardship relief will not normally be allowed in addition to relief available to charities and other non-profit making organisations, but maybe awarded where delays in issuing accounts, outside ratepayer's control, result in discretionary relief only being allowed, due to statutory limitations, for part of the period in charge.

### **Enterprise Zones**

The Council will offer relief to organizations which are located within the Leeds enterprise zone.

The amount of relief offered will be the full business rates up to a maximum of £55,000 per year.

The relief will be awarded for a period of five years from the date of entry into the zone, provided that this is before 1<sup>st</sup> April 2015.

Any application for relief must include a statement to the effect that the organization is not in receipt of any other form of de minimis State Aid, or a statement of the monetary value of any such aid.