

**APPENDIX TO REPORT TO CABINET MEMBER FOR HUMAN RESOURCES & ASSETS
NEWPORT CITY COUNCIL**

LOCAL TAXATION: POLICY FOR MANDATORY & DISCRETIONARY RELIEFS

EFFECTIVE FROM 3 JUNE 2015

Introduction

- 1.1 This document sets out the Council's policy on the awards of various reliefs for Non Domestic Rates and Council Tax. Although each application will be considered on its own merits, the document provides a framework within which the Head of Finance may exercise delegated authority to deal with taxpayers consistently and fairly.
- 1.2 The legislation governing the award of reliefs is contained in the Local Government Finance Acts 1988 and 1992, as amended, and supporting regulations. (The Welsh Government periodically introduces relief schemes for particular categories of ratepayer, for example the Small Business Rate Relief Scheme, and the Wales Retail Relief Scheme 2014/15. This policy is not intended to cover such schemes since the qualification criteria are set by the Welsh Government).

Summary of Legislation

- 2.1 The law relating to reliefs is contained in the following sections of the above Acts:

Local Government Finance Act 1988

Section 43 relates to occupied property and requires Mandatory Rate Relief where the ratepayer is a charity or trustee for a charity and the property is used wholly or mainly for charitable purposes. This section also includes provisions for Community Amateur Sports Clubs.

Sections 47 and 48 permit Discretionary Rate Relief for charities and other organisations of prescribed type. The relief may be given for occupied or unoccupied property. Section 47 also includes provisions for Community Amateur Sports Clubs.

Section 69 of the Localism Act 2011 amended Section 47 to permit local authorities to grant discretionary relief in any circumstances, if it is reasonable for the authority to do so, having regard to the interests of council tax payers in its area.

Section 49 permits hardship relief for occupied and unoccupied properties where the ratepayer would sustain hardship if the authority did not grant Rate Relief and it is reasonable for the authority to do so, having regard to the interests of council tax payers in its area.

Section 64(10) relates to charity shops and provides that a shop is to be treated as wholly or mainly used for charitable purposes if it is wholly or mainly used for the sale of goods (less expenses) if the goods are donated and the proceeds are to be used for the purposes of that charity.

Section 44A permits the authority to request a certificate from the Valuation Office Agency in respect of a temporary reduction in the rateable value of premises that are partly unoccupied for a short period of time.

The Local Government Finance Act 1992

Section 13(A)(1)(c) permits the authority to reduce a person's council tax as it thinks fit, including a reduction to nil. This power may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced.

Mandatory Rate Relief

3.1 In order to qualify for Mandatory Rate Relief an organisation must not be conducted for profit and the property they occupy must be wholly or mainly used for charitable purposes, or those of a Community Amateur Sports Club. If the property is empty it must appear that when next in use the property will be wholly or mainly used for charitable purposes.

3.2 Organisations typically qualifying for Mandatory Rate Relief are: charities registered under Section 3 of the Charities Act 1983; those excepted from such registration: for example, Scout and Guide Associations, and Voluntary Schools within the meaning of the Education Acts 1944-1980; charity shops, provided that they are wholly or mainly used for the sale of goods donated to the charity and proceeds from sale are used for the charity only; registered Community Amateur Sports Clubs (CASC).

3.3 Entitlement to Mandatory Rate Relief is at the level of 80% of rates payable. (The rates income foregone is wholly funded by the Welsh Government).

Discretionary Rate Relief

4.1 In cases where ratepayers are entitled to Mandatory Relief is awarded at 80%, the Council will not consider any additional discretionary awards.

Where ratepayers do not qualify for Mandatory Relief, an award of Discretionary Relief attracts funding of 90% from the Welsh Government, with the Council bearing the remaining 10%.

4.2 In order to qualify for Discretionary Rate Relief, the ratepayer must be a non-profit making body and the premises used for charitable, philanthropic or religious purposes, or concerned with education, social welfare, science, literature or the fine arts, or used wholly or mainly for recreation by a not-for-profit club or society.

Discretionary Relief will not be awarded where:

- (a) the financial reserves of the organisation are considered excessive;
- (b) there is a bar, shop, restaurant or similar operation and the income from these is greater than 50% of total income;
- (c) the organisation charges fees which are set at such a high level as to exclude the general community.

4.3 The Council will award 90% Discretionary Rate Relief to organisations that do not qualify for Mandatory Rate Relief, and which, provided they are not excluded by points (a)-(c) in 4.2 above, meet relevant criteria from the following list:

- (a) it can be demonstrated that the service that is being provided is predominantly for the benefit of residents of Newport;
- (b) where goods are sold, the goods sold must be predominantly donated (regardless of the organisation's objectives);
- (c) membership of clubs must be open to all sections of the community; clubs or organisations should not be considered if the membership fees are set at such a high level as to exclude the general community;
- (d) where organisations actively encourage membership from particular groups in the Community e.g. ethnic groups, young people, other age groups, disabled persons;
- (e) where membership is drawn from people mainly resident within the Newport area;
- (f) where the organisation encourages membership or provides support for particular groups considered to be worthy of support; and/or promote social and economic schemes e.g. job clubs, back to work schemes, training or retraining schemes;
- (g) where the facilities of the organisation made available to people other than its members, e.g. schools, casual public sessions;
- (h) where the organisation provides training or education for its members, or there are schemes for particular groups to develop skills, e.g. young people, disabled people;
- (i) where the organisation's facilities have been provided by self-help or grant aid;
- (j) where the organisation providing the facilities indirectly relieve the Council from providing that facility;
- (k) where the organisation is affiliated to local or national representative bodies.

4.5 In the case of organisations that do not qualify for Mandatory Rate Relief and run a licensed bar, the Council will award 60% Discretionary Rate Relief, provided they are not excluded by points (a)-(c) in 4.2 above, and meet the relevant criteria in 4.3 (a)-(k).

4.6 In the case of Discretionary Relief 'in any circumstances', the individual merits of each application will be considered within the general context of whether it is reasonable to grant relief, having regard to the interests of council tax payers. Regard will be paid to any guidance issued by the Welsh Ministers. This form of relief is wholly funded by the Council.

Applications for Mandatory and/or Discretionary Relief

5.1 Applications for reliefs should be made in writing using the forms available on the Council's website. Applications for Discretionary Relief should also provide the following information:

- (a) latest set of Audited Accounts;
- (b) a copy of the organisation's constitution
- (c) evidence of registration as a Community Amateur Sports Club (if relevant).
- (d) for organisations that are exempt from registering as a charity – evidence of the exemption is required in the form of a letter from the Inland Revenue stating that they are exempt from tax under S505 of the Income and Corporation Tax Act 1988.

5.2 Applications will be considered by the Head of Finance, in accordance with delegated authority.

5.3 Entitlements to relief will usually commence from the beginning of a ratepayer's liability in the billing year in which the application is made.

5.4 Reviews of entitlements to Mandatory and Discretionary Reliefs will be carried out periodically to ensure that the applicant continues to qualify.

Hardship Relief: Non-Domestic Rates

6.1 Hardship relief of up to 100% of rates payable may be awarded. Each case is determined on its own merits. Relief may be awarded only for a period where there is clear evidence of hardship.

6.2 The Local Government Finance Act 1988, Section 49, provides that the Council may reduce or remit the payment of Rates where it is satisfied that:

- (a) the ratepayer would sustain hardship if it did not do so; and
- (b) it is reasonable for it to do so having regard to the interests of its council tax payers.

6.3 Reductions or remissions on the grounds of hardship will be the exception rather than the rule.

6.4 The Welsh Government funds 75% of the cost of hardship relief, with the Council meeting the remaining 25%.

6.5 The test of hardship need not be confined to financial hardship: all relevant factors affecting the ability of a business to meet its rates liability will be taken into account.

6.6 The interests of council tax payers will also not be confined to financial considerations. Other factors, such as employment prospects in the Council's area, may also be relevant. A consideration will be to what degree taxpayers or the local community will benefit from the relief.

6.7 Applications should be in writing and provide sufficient information to enable a decision to be made, including the ratepayer's most recent set of audited accounts and other relevant financial information.

6.8 Entitlements to relief will usually commence from the beginning of a ratepayer's liability in the billing year in which the application is made. Relief will be granted for a maximum of one billing year, and applicants will be required to reapply annually.

Part Occupied Relief (Section 44a Relief): Non-Domestic Rates

7.1 The Council has discretion to grant relief where it appears that part of a property is unoccupied and will remain so for a short time only. Relief is at the rate of 100% for the vacant area, provided the Valuation Office Agency issues a certificate of apportionment.

7.2 The cost of funding partly occupied property relief is met by the Welsh Government.

7.3 In considering applications, the Council will consider the period of part occupation; the size and use of the overall premises; the reason for the part occupation.

7.4 The section 44a relief will run for the shorter period of the following:

- 3 months if retail premise/offices or 6 months if industrial/manufacturing
- A change in the extent of partial occupation
- The ending of the rate period to which the apportionment relates
- The beginning of a new operative period under a new certificate

- The hereditament becoming completely unoccupied

7.5 Applications should be made in writing and will be considered by the Head of Finance, in accordance with delegated authority

State Aid: Non-Domestic Discretionary Rates Relief

8.1 In coming to decisions in relation to Non-Domestic Rates discretionary reliefs, regard will be paid to the State Aid rules applicable at the time.

Discretionary Relief: Council Tax

9.1 The Council has the discretion to reduce a person's council tax as it thinks fit, including a reduction to nil, either in particular cases or by determining classes of cases. The Council bears all the costs of Council Tax Discretionary Relief.

9.2 No classes of cases have yet been considered, but could include instances such as where flooding or other incidents have taken place in a locality.

9.3 The Council's exercise of discretion 'as it thinks fit' carries with it the requirement to make a decision about awarding relief because of a particular situation or event that has affected the taxpayer(s) adversely, rather than because of circumstances that are routine.

9.4 In respect of an individual person's council tax liability, financial hardship may be considered as a reason for granting relief, although other causes will be considered. Each case will be assessed on its merits in relation to events, individual circumstances and/or financial ability to make payment. It is for the taxpayer(s) to demonstrate why relief should be awarded, when under other circumstances it would not be available.

9.5 In the case of financial circumstances, the taxpayer will be required to prove that they are experiencing hardship, in particular that they cannot meet their immediate basic and essential needs. Basic and essential needs are having sufficient resources to pay for adequate:

- Heating
- Food
- Hygiene

9.6 Other factors, such as the taxpayer's age, health and family circumstances will be taken into account. Unless special reasons exist, outgoings for subscription TV; internet services; unreasonably high mobile or landline phone services; credit cards; store cards; loans; and other catalogue debts will not be considered to be essential needs. There should be a priority obligation to pay council tax, over and above non-essential expenditure, including that related to life-style choices.

9.7 Applicants for financial hardship relief must have an outstanding balance on their council tax liability, and will also be expected to have been properly assessed for other means of assistance, such as Council Tax Reduction, Housing Benefit, and Discretionary Housing Payments, where appropriate.

9.8 Hardship awards will not be considered for Court Costs or bailiff fees and charges, or for council tax on vacant dwellings.

9.9 Applications for Council Tax Discretionary Relief should be made in writing, supported by appropriate evidence, and will be considered by the Head of Finance, in accordance with delegated authority. Any awards of discretionary relief will be made as a credit to the applicant's council tax account.

Communication with Applicants

10.1 The Council will notify in writing all applicants for reliefs of its decision.

10.2 Where relief is granted, the notification will include:

- the amount of relief granted and the effective date of the award;
- the period of the award, if it is limited;
- the new chargeable amount;
- the details of any planned reviews, and the notice that will be given in advance of any changes to the level of relief;
- a requirement that the applicant should notify the Council of any relevant change in circumstances.

10.3 Where applications are unsuccessful, or limited to a lower amount of relief, the Council will provide an explanation within the context of its statutory duty.

Rights of Appeal

11.1 In cases where an application for Discretionary Relief or Hardship Relief has been refused or limited, applicants may appeal by writing to the Head of Finance detailing the grounds of their appeal. Unsuccessful applicants will be informed of this right.

11.2 Applications that are subject to appeals will be reconsidered by the Head of Law & Standards. The decision of the reconsideration will be notified to the applicant in writing, and include the reasons for the decision.

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