



<u>Committee and date</u> Cabinet  21 <sup>st</sup> July 2010
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<u>Item No</u>
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## **NNDR Discretionary Rate Relief and Council Tax Discretionary Discount**

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### **Summary**

The Authority has discretion to award charitable relief and rural rate relief to certain qualifying businesses and a Council Tax reduction in certain circumstances. This report recommends the circumstances in which these reductions are awarded and the process to be followed.

### **Recommendations**

- A. That Members approve the discretionary rate reliefs set out in Appendix B, with effect from 1<sup>st</sup> April 2012 (a year's notice has to be given to existing recipients).
- B. Members are asked to agree that appeals for discretionary rate relief applications and Council Tax discretionary discount will be determined by the Director of Resources with any final appeals against the Director of Resources' decisions to be decided by the General Appeals Panel of Members.

### **Report**

#### **Background Information**

1. The Local Government Finance Act (LGFA) 1988 provides that Local Authorities can award a discretionary reduction to ratepayers in various circumstances. The five former district councils all had different arrangements for considering requests for discretionary rate reduction and awarded different amounts of relief in different circumstances. There is a need for Shropshire Council to have an agreed consistent process for consideration of applications for discretionary rate relief. The areas for discretionary consideration are listed below.

- Discretionary Charitable Top-Up Relief
  - Discretionary Charitable Rate Relief
  - Rural Discretionary Relief
  - Hardship Relief
2. A summary of the rate relief awarded by the former district/borough council is at Appendix A. A summary of the proposed reliefs for Shropshire Council is at Appendix B. The costs for the Council are estimated to be broadly neutral.

## **Discretionary Charitable Top-Up Relief Guidance**

3. On receipt of an application for charitable relief, billing authorities should first consider whether the institution or organisation is eligible for mandatory relief.
4. To qualify for mandatory relief the property must be wholly or mainly used for charitable purposes and the institution or organisation must be established for charitable purposes. Registration under the charities Act 1993 is conclusive evidence of charitable status.
5. Mandatory Relief of 80% of the full rate liability for charities and other organisations is provided for in sections 43 and 45 of the 1988 act.
6. Under section 47 of the 1988 Act Shropshire Council has the discretion to top-up this relief to 100%.

## **Financial Implications**

7. 80% Mandatory Rate Relief is nationally funded. Billing authorities are not required to pay the amount foregone into the national non-domestic rate pool.
8. The 20% discretionary top-up is 25% nationally funded with the authority paying 75% of the top-up into the national non-domestic rate pool.
9. The cost of awarding the relief for the 2008/09 financial year to the five former district councils was £141,351 and this cost is already met within our base budget.

## **Former District/Borough Council Policy**

10. Of the former district/borough councils only Shrewsbury and Atcham Borough Council (SABC) made particular reference to awarding 20% discretionary top-up relief. This award was made by SABC to those local or national charities that provided a benefit to the local communities.

11. ***It is proposed*** that the Council awards a discretionary discount of 20% to local or national charities who provide a benefit to the local community.

### **Community Amateur Sports Clubs (CASCS)**

12. Registered Amateur Sports Clubs are entitled to mandatory relief at the same level as charities. This provision came into force with effect from 1 April 2004.
13. CASCS are defined by Schedule 18 Finance Act 1988 and registration forms are available from the Inland Revenue Website.
14. As with charities, billing authorities are also allowed to top-up the remaining 20% with discretionary relief with the authority paying 75% of the top-up into the national non-domestic rate pool.
15. ***It is proposed*** that we award 20% top-up to sports clubs that can demonstrate that:
  - Their membership is mainly composed of active membership rather than social membership. (Reference can be made as to whether the club has a bar or not).
  - The club is accessible to all.
  - The club has achieved the CLUB MARK accreditation standard.

### **Charity Shops**

16. Charity Shops are entitled to 80% mandatory relief providing that they are registered charities and they are used wholly or mainly for the sale of donated goods and the proceeds of the sale of goods are applied for the purposes of the charity.
17. As with charities, billing authorities are also allowed to top-up the remaining 20% with discretionary relief with the authority paying 75% of the top-up into the national non-domestic rate pool.
18. ***It is proposed*** that top –up relief of 20% should not be paid to charity shops. This is in line with 4 of the 5 former District Council policies.

### **Discretionary Relief for Charities Guidance**

19. Where the property does not qualify for mandatory relief authorities can still consider the award of a discretionary rate relief under section 47 of LGFA 1988. Authorities have discretion to award up to 100% to certain non-profit making bodies.

20. To be eligible for consideration the ratepayer:
- must be a charity or trustees of a charity and the property must be wholly or mainly used for charitable purposes; or
  - the property is not an excepted property and all or part of it is occupied for the purposes of one or more institutions none of which is established or conducted for profit and each of whose objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts: or
  - the property is not an excepted property and is wholly or mainly used for the purposes of recreation, and all or part is occupied for the purposes of a club, society or other organisation not established or conducted for profit.
  - (an excepted property is occupied by a billing authority or a precepting authority.)

### **Financial Implications**

21. 75% of this discretionary relief is met centrally with the billing authority, meeting the remaining 25%.
22. The cost of awarding this relief the 2008/09 financial year to the five former district councils was £69,791.

### **Former District/Borough Council's Policy**

23. The five former district/borough councils all awarded discretionary charitable rate relief in slightly different circumstances. Annex A breaks down the relief awarded by the former district/borough councils.
24. Common factors from the former district/borough council's are:
- Village Halls and Community Centres were awarded 100% discretionary rate relief (SABC restricted this to 25% for Village Halls and similar organisations with bars).
  - Other organisations whose emphasis was on recreational activity rather than social activity (e.g. Senior Citizens Clubs, Scouts/Guide Huts) were awarded 100% discretionary rate relief.
  - North Shropshire District Council (NSDC) awarded 80% discretionary rate relief to Amateur Dramatic Clubs.
25. The most varied award of discretionary rate relief from the former district/borough councils was for sports clubs.
- South Shropshire District Council (SSDC) awarded 100% discretionary relief for sports clubs providing that the organisation's membership was mainly composed of active participants rather than social membership.
  - SABC awarded 100% discretionary rate relief to sports clubs without bars and 25% discretionary rate relief to sports clubs with bars (with some exceptions).

- Bridgnorth District Council (BDC) awarded 90% discretionary rate relief to sports clubs whose emphasis was on the sporting activity, and 25% discretionary rate relief to Sports Clubs whose emphasis was on social activity.
  - NSDC awarded 80% discretionary rate relief to Sports Clubs.
  - Oswestry Borough Council (OBC) considered each individual application separately but a number of sports clubs were awarded 100% discretionary rate relief.
26. Consideration should be given to the introduction of 80% mandatory rate relief for CASCs referred to above when formulating this policy. 80% Mandatory Relief is centrally funded and therefore there is no cost to the Authority. It would be sensible for the authority to encourage sports clubs to register as CASCs and the policy in awarding discretionary relief for sports clubs should be determined to add incentive as follows.
27. ***It is proposed*** that the Council awards Village Halls and Community Centres 100% discretionary rate relief.
28. It is proposed that the Council awards other similar voluntary organisations (e.g. Senior Citizens Clubs, Scouts/Guide Huts) whose emphasis is on recreational activity rather than social activity 100% discretionary rate relief.
29. To award 75% relief to Sports Clubs that can demonstrate that:-
- their membership is mainly composed of active membership rather than social membership. (Reference can be made as to whether the club has a bar or not).
  - the club is accessible to all.
  - the club has achieved the CLUB MARK accreditation standard.

This will provide an incentive for them to register with the Inland Revenue as CASCs. Once registered they would receive 80% mandatory rate relief plus 20% top-up and see no financial detriment. The Council would benefit financially by making a smaller payment to the national non-domestic rate pool.

30. ***It is proposed*** that the Council awards 25% discretionary relief to other sports clubs.

## Rural Discretionary Relief Guidance

31. The Local Government Finance and Rating Act 1997 introduced a scheme of 50% mandatory rate relief for certain kinds of property with effect from 1 April 1998. To qualify businesses must be within a rural settlement with a population of not more than 3,000.

32. Mandatory rate relief applies to a qualifying property which is within a settlement identified in an authority's rural settlement list for the chargeable financial year where its rateable value is not, at the beginning of the year in question more than a relevant prescribed amount. The rateable value limits are as follows:
- For qualifying sole shop, general store or post office £8,500.
  - For qualifying sole petrol filling station or pub £12,500.
33. In addition discretionary rate relief may be allowed if:
- The property is in a rural settlement.
  - The rateable value of the property is £16,500 or less.
  - The property is used for purposes which are of benefit to the local community: and
  - It is reasonable for the Council to grant relief taking into account the interests of its council taxpayers.

### **Financial Implications**

34. As with charities, rural mandatory relief is fully centrally funded, in that billing authorities are not required to pay the amount foregone into the national non-domestic rate pool.
35. 75% of the discretionary relief is met centrally with the billing authority meeting the remaining 25%.
36. The cost of awarding this relief for the 2008/09 financial year to the five former district councils was £3,134.
37. It is proposed that the Council continues to award rural rate relief to current qualifying properties and awards 25% rate relief to any new applications from qualifying post offices and consider new applications on an ad hoc basis.

### **Hardship Relief**

38. Section 48 of the Local Government Finance Act 1988 provides that the Council may reduce or remit any amount that a person is liable to pay in respect of Non-Domestic Rates. The Council cannot act under this section unless it is satisfied that:
- The ratepayer would sustain hardship if the authority did not do so, and
  - It is reasonable for the authority to do so, having regard to the interest of its council tax payers.
39. Any amount up to 100% of the rates liability can be remitted.

### **Former District/Borough Council's Policy**

40. Government guidance on the award of hardship relief is that each case must be treated on its merits and a 'blanket policy' must not be adopted. Although the former district/borough councils considered applications for hardship relief it was rare for hardship relief to be awarded.
41. No hardship relief was awarded by any of the former district/borough council's during the 2008/09 financial year.
42. ***It is proposed*** that the authority should consider applications for hardship relief based on merit.

### **Council Tax Discretionary Discount**

43. The Local Government Act 2003 provides for Billing Authorities with the discretion to reduce the amount of council tax that a person is liable to pay to such extent as they see fit. The power can be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced.

### **Former District/Borough Council's Policy**

44. Only Oswestry Borough Council had exercised this discretion where, by application, they awarded a further year exemption from council tax to liable persons undertaking building works to make property habitable.

### **Financial Implications**

45. Any cost associated with such a reduction is borne by the billing authority.

### **Process to consider applications to the authority to exercise its discretion**

46. Government guidelines state that an authority may delegate the decision making process on applications for discretionary relief either to individual officers or committees.
47. The authority should have a mechanism that allows applicants to appeal against a decision by an authority to revoke, reject or restrict the award of discretionary rate relief. The same officials that made the original decision should not consider appeals. Guidelines suggest that it may be appropriate to refer any appeal to a panel of council members, especially where an officer of the council made the original decision under delegated powers.

48. ***It is proposed*** to delegate the determination of non-domestic rate discretionary awards and council tax discretionary discount awards to the Director of Resources with any appeal against that decision to be decided by the General Appeals Panel of Members.

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

Local Government Finance Act 1988.

**Human Rights Act Appraisal**

The recommendations contained in this report are compatible with the provisions of the Human Rights Act 1998.

**Environmental Appraisal**

None

**Risk Management Appraisal**

None

**Community / Consultations Appraisal**

None

**Cabinet Member**

Keith Barrow, Leader of the Council

**Local Member**

N/A

**Appendices**

Appendix A – Current Relief awarded in accordance with the former district/borough council

Appendix B – Proposals for the awarding of discretionary rate relief for Shropshire Council.

## Appendix A

Current relief awarded in accordance with the former district/borough council is set out below.

Discretionary Rate Relief Break Down by Former District/Borough								
Relief Type	Cost to Authority 08/09	Relief Description	SSDC	BDC	SABC	NSDC	OBC	
Top Up	£141,351.09	Top Up Relief - individual consideration	20%	20%		20%	20%	
		Top Up Relief - to charities that benefited the local community			20%			
Discretionary Relief	£69,791.09	Village Halls	100%	100%		100%		
		Village Hall and similar charitable organisations without bars			100%			
		Village Halls and similar charitable organisations with bars			25%			
		Organisations/Activities rather than social	100%					
		Organisations/recreation/leisure rather than social	100%					
		Senior Citizens Club		100%				
		Scouts and Guide Huts		100%				
		Youth Clubs		100%				
		Social Welfare Welfare Clubs (Guides\Scouts\Trusts)					100%	
		Amateur Dramatic Clubs					80%	
		Sports Club/Social facilities prominent			25%			
		Sports Club/Sporting activity prominent			90%			
		Sports Clubs without bars					100%	
		Sports Clubs with bars					25%	
		Sports Clubs						80%
		Rural Discretionary	£3,134.43	Individual consideration given to applications for rural relief	Various	Various		
25% to rural post offices that qualify for mandatory relief					25			
25% to rural village shops that qualify for mandatory relief					25	25		
None							11	

## Appendix B

### Proposals for the awarding of discretionary rate relief for Shropshire Council

Recommended award of Discretionary Rate Relief			
Relief Type		Relief Description	Percentage
Top Up		Top Up Relief - to charities that benefit the local community	20%
		Top up relief to sports clubs that are registered as Community Amateur Sports Clubs that can demonstrate that: <ul style="list-style-type: none"> <li>• their membership is mainly composed of active membership rather than social membership</li> <li>• (reference can be made as to whether the club has a bar or not)</li> <li>• The club is accessible to all</li> <li>• The club has achieved the SPORT MARK accreditation standard</li> </ul>	20%
Discretionary Relief		Village Hall and similar charitable organisations without bars	100%
		Organisations whose emphasis is on recreational activity rather than social <ul style="list-style-type: none"> <li>•Senior Citizens Clubs</li> <li>•scout and guide huts</li> <li>• youth clubs</li> </ul>	100%
		Sports clubs that are not registered as Community Amateur Sports Clubs that can demonstrate that: <ul style="list-style-type: none"> <li>• their membership is mainly composed of active membership rather than social membership</li> <li>• (reference can be made as to whether the club has a bar or not)</li> <li>• The club is accessible to all</li> <li>• The club has achieved the SPORT MARK accreditation standard</li> </ul>	75%
		Other Sports clubs that are not registered as Community Amateur Sports Clubs	25%
Rural Rate Relief		25% to rural post offices that qualify for mandatory relief	
		25% to rural village shops that qualify for mandatory relief	