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Discretionary Rate Relief Policy

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1.0 Introduction and Context

1.0.1 North East Lincolnshire Council is empowered to award discretionary relief from National Non-Domestic Rates (NNDR) in certain circumstances under Section 47 of the Local Government Finance Act 1988.

1.0.2 From April 2012, the Localism Act amended Section 47 and extended the Council's power to grant relief in any circumstances, subject to the condition that 'it would be reasonable to do so having regard to the interests of the Council Tax payers in the area'.

1.0.3 This policy outlines the Council's intentions for dealing with discretionary rate relief applications from organisations located within North East Lincolnshire area

1.0.4 This policy is written in line with the Corporate Equalities Strategy, which seeks to value diversity and promote equality through practice and procedures. All developments are intended to ensure that no-one is treated in any way less favourably on the grounds of race, colour, national or ethnic or social origin, race, disability, gender, sexual orientation, gender reassignment, marriage & civil partnership, pregnancy & maternity, age, religion / belief or political / other personal beliefs.

Aims

The policy aims to provide clarity around the administration of applications for discretionary rate relief.

Objectives

The policy objective is to ensure consistency in the application of the policy itself, and to encourage new business and encourage employment in the area.

Guidelines

1.1 Background

1.1.1. The power for local authorities to grant business rate discounts is provided through the Localism Act and came into effect on 1st April 2012. The purpose of this change is to empower local authorities that until now had very little latitude to reduce the tax burden on non-domestic rate payers. Until the bill was passed local authorities were only able to provide discretionary rate relief in respect of:

- a) topping up the 80% mandatory relief given to charities and Community Amateur Sports Clubs to 100%;
- b) topping up the mandatory relief available to rural village shops;
- c) providing up to 100% relief to other non-profit making bodies;
- d) hardship relief to certain businesses that are finding it difficult to pay;
- e) discretionary relief to other small rural businesses.

1.1.2 The Governments objective for this change is to provide greater opportunity for local authorities to use innovative approaches in delivering a wide range of policy objectives through use of this new power.

1.1.3 The change in powers provides local authorities complete discretion allowing them to give no discounts at all through to the extreme of providing a 100% discount to all businesses. From 1st April 2013 the amount of discount provided is funded on a 50/50 basis with Central Government.

1.2 Issues to be considered when assessing applications

1.2.1 The NNDR (Discretionary Rate Relief) Regulations 1989 prescribe rules that must be followed by the billing authority (in this case North East Lincolnshire Council) in relation to decisions and determinations of discretionary rate relief for charities and non-profit making organisations. When the current NNDR scheme was introduced in 1990, the former Department of Environment (DOE) issued a guidance note which suggests a range of criteria which may be taken into consideration. These criteria and a scoring mechanism were approved by Members in January 2012 and remain unchanged. Links to the previous report, policy and scoring matrix can be found at paragraph 1.7, related documents.

1.2.2. The wider provision to allow relief which is contained within the Localism Bill must take account of the interests of the Council Tax payers within the area. The Council must also ensure that any relief given does not create budgetary pressures elsewhere that may impact on the delivery of other services.

1.2.3 It is, therefore, reasonable to restrict such awards to business developments that will increase the revenue received from the tax base in the medium to long term i.e. that are new developments or an expansion to an existing hereditament. Consideration should also be given to the businesses' commitment to creating new jobs and developing the skills of local people.

1.2.4 Giving rate relief to a business/organisation must be balanced against whether this creates unfair market conditions to the detriment of others, and consideration must be given to whether the rules relating to State Aid (see 1.3 below) would apply.

1.2.5 It should also be recognised that one of the main overheads of any business is Non Domestic Rates and therefore it is reasonable to expect that businesses have made provision to pay rates. Any award made will be for a maximum period of 5 years and it is anticipated that in the majority of cases this will taper down over that period.

1.3 State Aid

1.3.1 There are European Union (EU) regulations that restrict the award of state aid under certain circumstances. Relief from taxes, including non-domestic rates, can constitute state aid. State aid rules aim to ensure fair competition and a single common market. Discretionary rate relief must at all times fall within the criteria specified by the relevant Articles of "Functioning of the EU" for it to be treated as "de minimis aid".

1.3.2 The total de minimis aid which can be given to a single recipient is currently €200,000 over 3 fiscal years. This ceiling takes into account all public assistance given to the applicant or any linked organisation (such as another group company) and includes the monetary amount of any aid given in respect of operational locations outside North East Lincolnshire. This threshold does not apply to all sectors in industry.

1.3.3. Discretionary rate relief will not qualify as de minimis aid if given on condition that use of domestic materials is to be preferred over imported materials, or if given to an organisation defined by the EU as "an undertaking in difficulty" (which EU defines as a company in respect of the absence of "outside intervention by public authorities will almost certainly condemn it to go out of business in the short or medium term").

1.3.4. The Council must ensure that it is complying with State Aid rules when administering discretionary rate relief.

1.3.5 Applications pursuant to this policy which may constitute State Aid will be considered by the Joint Executive Board of North East Lincolnshire Council. Where an award is considered to constitute State Aid, legal clearance will be required from the European Commission.

1.4 NELC assessment process

1.4.1 Charities, Community Amateur Sports Clubs, Rural Village Shops and non-profit making organisations.

Each individual application is scored against the criteria agreed by Cabinet in January 2012, and the level of relief awarded is dependant on the points scored.

This process ensures that all applications are considered on a fair and transparent basis. Organisations will be encouraged, where appropriate, to apply for small business rate relief or to register as a community amateur sports club.

Organisations that have more than 12 months spending available as 'free reserves' (not legally restricted) will not be considered for discretionary rate relief unless a business plan exists which details how the reserves are to be used to the benefit of the local community.

Academy Trusts eligible for 80% mandatory relief will be not be considered for discretionary rate relief on the grounds that such organisations receive Central Government funding to cover all normal running costs, including rates.

1.4.2 Applications made for discretionary relief under the Localism Act

Businesses applying for relief under the Localism Act must demonstrate that they are assisting the Council to deliver their strategic priorities; stronger economy and stronger communities.

Businesses are required to submit an application form which is available on the Council's website. In order for relief to be awarded there must be clear evidence that the award of any relief will enable the people of North East Lincolnshire to benefit from a stronger economy, through business growth and job creation. There must also be evidence of a longer term increase in business rate income to the council through major expansion or a completely new development.

Applications will be assessed on the basis of the following criteria:-

- No of new jobs created
- Level of increased business rate income to the Council for future years
- Level of financial need demonstrated by the applicant.
- An assessment of the benefit of the business to the area

The level of relief awarded will be at the discretion of the Council and only where it can be demonstrated that the application will lead to net growth in the business rate .

1.5 Applications and period of award

Completed application forms are required from each applicant as appropriate. Where new applications are received any relief awarded will commence from the start of the current financial year or the first date of the organisation's liability if it falls within the current financial year. In some circumstances relief may be backdated to the previous financial year, but only if the application is received before 30th September of the current year.

The billing authority can only revoke or vary an award from the start of a financial year, and must provide organisations in receipt of discretionary rate relief with at

least 1 years' notice of any change.

1.6 Decision making and appeals

General applications for discretionary relief referred to in paragraphs 1.1.1. will be assessed by the Non Domestic Rating team and scored against the standard criteria. The Chief Finance Officer will decide whether the relief should be allowed at the level proposed.

Recommendations regarding relief under the Localism Act, as detailed in paragraph 1.4.2 will be agreed by the Chief Executive or Strategic Director for Place, subject to agreement by the Chief Finance Officer.

In the event of any dispute on matters of rate relief, the matter will be referred to the Portfolio Holder for Finance, Governance & Support Services for re-consideration.

1.7 Related Documents

- Local Government Finance Act 1988
- Localism Act 2011