

# **WAVERLEY BOROUGH COUNCIL**

## **EXECUTIVE**

**1 DECEMBER 2015**

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**Title:**

**NATIONAL NON-DOMESTIC RATES  
DISCRETIONARY RATE RELIEF POLICY**

**[Portfolio Holder: Cllr Wyatt Ramsdale]  
[Wards Affected: All]**

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**Summary and purpose:**

Business rates (national non domestic rates or NNDR) are a tax on properties which are not used for domestic purposes. The Council has the power to grant local discretionary discounts where it is in the interests of the council tax payer.

This policy details the criteria and process against which the Council will consider applications for discretionary rate relief. The policy is reviewed periodically to ensure that it complies with current legislation and the Council's priorities and will be due for ratification again in December 2019.

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**How this report relates to the Council's Corporate Priorities:**

The provision of financial assistance to community organisations within the Borough supports a range of Corporate Priorities including improving lives, protect vulnerable people and health and well being.

**Financial Implications:**

The cost of any relief granted under s47 is borne in relation to the business rates retention scheme ratio. That is 50% from central government, 10% from Surrey County Council and 40% from Waverley Borough Council. A full list of the organisations currently receiving discretionary rate relief is included at Annexe 2.

All organisations in receipt of discretionary relief awards have had notice that the relief terminates at the end of 2015/16 and the scheme will be reviewed.

**Legal implications:**

The Local Government Finance Act 1988, as amended, requires local authorities to grant mandatory rate relief to specific categories of business rate payers; the relief is fully funded by central government. The 1988 Act also enables local authorities to grant discretionary business rate relief.

Section 47- 49 of the 1988 Act is amended by the Localism Act 2011 to give local authorities a general power to grant discretionary rate relief to any business on a case by case basis so long as the relief is in the best interests of the residents and Council Tax payers.

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## **Introduction and Background**

1. There are two types of business rate relief – Mandatory and Discretionary. The Local Government Finance Act 1988 requires local authorities to grant Mandatory rate relief to the following categories of Business Rates payer:
  - Registered charities – 80%
  - Registered Community Amateur Sports Clubs (CASCs)- 80%
  - Village Post Offices, general stores, specialist food shops, public houses and petrol filling stations – where they are in a designated rural settlement. (Rural Rate Relief) - 50%
2. The Local Government Finance Act 1988 also gives local authorities the power to grant Discretionary rate relief as follows:
  - To make a further award, a top up of Mandatory relief up to 100% (of rateable value) to those categories listed above; and also up to 100%:
    - In respect of sports grounds and clubs;
    - To other non-profit making organisations;
    - To other rural businesses situated within a designated rural settlement.
3. The Discretionary rate relief policy is reviewed on a four-yearly cycle, following the election of a new Council. All organisations currently receiving discretionary business rate relief were given a year's notice in March 2015 that the existing relief terminates with effect from 31 March 2016 and they will need to reapply under the new policy guidelines.

## **Waverley's current policy guidelines**

4. Discretionary Rate Relief Guidelines operated by Waverley is given in Annexe 1 and a full list of the organisations currently receiving discretionary rate relief is included at Annexe 2. Waverley's policy is to grant discretionary rate relief as follows:
  - i) Charities receiving 80% mandatory relief will not normally receive any additional discretionary relief, except for 58 organisations that currently receive 20% discretionary relief. The amount of discretionary relief given in 2015-2016 under this category is £66,174.
  - ii) 80% discretionary relief is granted for non-profit making organisations whose objects are charitable, philanthropic or religious or concerned with education, social welfare, science, or for the purpose of recreation and who are not in receipt of mandatory relief. In 2007 the Council agreed to include Waverley's leisure centres under this heading as they are operated under a 'commercial trust' model by DC Leisure (now Places for People Leisure Partnerships) which meets the rate relief criteria. The amount of discretionary relief given in 2015-16 under this category is £474,149.
  - iii) Where a sports club within Waverley is not allowed to register with the Inland Revenue as a Community Amateur Sports Club (CASC) and therefore be entitled to mandatory relief, the Council has awarded 50% discretionary relief (currently 5 in Waverley). The amount of discretionary relief given in 2015-16 under this category is £13,188.

- iv) Discretionary rate relief for properties in rural settlements is considered only for sole general stores, post offices or chemist shops. The amount of discretionary relief given in 2015-16 under this category is £10,873. Applications from a number of other businesses in rural settlements have been considered by Members, but no relief has been granted. See recommendation 2.

### **Community Interest Companies (CIC)**

5. CICs are a type of limited company designed specifically for those wishing to operate for the benefit of the community rather than for the benefit of the owners of the company. This means that a CIC cannot be formed or used solely for the personal gain of a particular person, or group of people. CICs can be limited by shares, or by guarantee, and have a statutory 'asset lock' to prevent assets and profits being distributed, except as permitted by legislation. This ensures the assets and profits are retained within the CIC for community purposes, or transferred to another asset locked organisation, such as another CIC or charity. A company that is a charity cannot be a CIC, unless it gives up its charitable status.
6. A CIC is a limited company and is liable to pay Corporation Tax just like any other company. It is eligible for any reliefs which are available to all companies but there are no CIC specific tax exemptions/reliefs available.

### **Options for Discretionary Rate Relief Policy 2016/17 to 2019/20**

7. There are a number of options available to the authority for discretionary business rate relief:
- a) To continue with the current policy and consider new requests for discretionary rate relief under the provisions in the Localism Act on a case by case basis including CIC's;
  - b) To withdraw some categories of the existing discretionary rate relief policy;
  - c) To withdraw the discretionary rate relief to those organisations receiving a 20% top-up to mandatory relief they receive – this would save Waverley £13,235;
8. In considering the options, Members are asked to consider a number of factors:
- Other financial and service pressures
  - Consistency of application of the Council's discretion across organisations
  - The need for clear and robust policy guidelines that enable the Director of Finance and Resources to fulfil his delegated authority to consider applications for relief, minimising the risk of challenge and objection
  - Waverley's aims, objectives and priorities

### **Appeals process**

9. It is proposed that delegation will continue to be requested for the Director of Finance and Resources, in conjunction with the Finance Portfolio Holder, to make discretionary award decisions and that any objections will be considered by the Executive.

## **Recommendation**

The Executive is requested to consider any observations and comments passed on from the Corporate Overview and Scrutiny Committee and recommend to the Council that:

1. the policy for the granting of discretionary rate relief for the period 2016/17 to 2019/20 remains the same as the current policy;
2. the policy on the use of the provision for granting discretionary rate relief to any body other than those currently included in the approved policy is to do so on a case by case basis, provided that any proposed reductions are clearly in the wider interests of all Waverley's council tax payers;
3. in relation to recommendation 2, delegation be given to the Director of Finance and Resources, in consultation with the Finance Portfolio Holder, to make decisions about such applications and only if an objection is received would the Executive be asked to consider the case, and the Scheme of Delegation be amended accordingly;
4. in relation to Community Interest Companies, each case should be taken on its merits in the same manner as cases under section 69 of the Localism Act 2011 (delegation to the Director of Finance and Resources, in consultation with the Finance Portfolio Holder, and only if an objection is received would the Executive be asked to consider the case); and
5. in relation to recommendation 4, consideration be based on the condition that relief can only be granted where it would be reasonable to do so having regard to the interests of all Waverley's taxpayers.

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## **Background Papers**

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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WAVERLEY BOROUGH COUNCIL

**Discretionary Rate Relief Guidelines operated by Waverley Borough Council**

For organisations that satisfy the conditions of Section 47 of the Local Government Finance Act 1988 for the granting of discretionary relief, and who are not in receipt of mandatory relief in respect of the property, for the general categories of properties listed below the rates chargeable will be reduced by 80%.

- (i) Welfare organisations; improvement of health and teaching of first aid; care of the sick, crippled and disabled.
- (ii) Institutes; village halls; community centre.
- (iii) Premises used for the advancement of religion.
- (iv) Educational Trusts.
- (v) National Trust premises.
- (vi) Youth Hostel.
- (vii) (a) Sports and Youth Clubs, whose membership is of a primarily local character, and where no liquor licence is in operation,  
  
(b) In respect of those organisations falling into (vii) (a) above, **where a liquor licence is operated to reduce the payment of rates chargeable by 50%.**
- (viii) the sole village store, post office and chemist shop in a rural settlement.
- (ix) Waverley's leisure centres operated on a 'commercial trust' basis

For organisations that satisfy the conditions of Section 47, to remit the rates chargeable on premises used as Day Centres for the Elderly and premises used by the following bodies:-

Scouts and Guides Associations  
Hindhead Playing Fields Association  
WRVS Gostrey Club  
Haslemere Educational Museum  
Chantrys Community Association  
40 Degreez  
Voluntary Action South West Surrey  
Godalming Museum Trust  
Old Kiln Museum Trust

Remit the payment of rates chargeable against the premises used by the following bodies for the purposes specified:

St. John Ambulance Brigade	Ambulance Station
Red Cross	Ambulance Station
Phyllis Tuckwell Hospice	Charity Shop
Cranleigh Village Hospital Trust	Charity Shop
Citizens Advice Bureaux	Advice Centres

For organisations that satisfy the conditions of Section 43 (6B) (rural properties) and qualify for 50% mandatory relief, to reduce the payment of the rates chargeable by a further 30%, thereby giving total relief of 80%. It is recommended that

1. the council tax base for Waverley be approved for the year 2016/17, as shown in Annexe 1; and
2. the business rate estimates for 2016/17 be approved, as set out in Annexe 2, and that authority be delegated to the Director of Finance and Resources, in conjunction with the Finance Portfolio Holder, to make any final changes necessary before the NNDR1 return is submitted to the Government on 31 January 2016.