

COMMITTEE	AUDIT AND GOVERNANCE COMMITTEE
DATE	30 NOVEMBER 2017
TITLE	NON-DOMESTIC RATES – DISCRETIONARY RELIEF
PURPOSE OF REPORT	TO REQUEST THAT THE AUDIT AND GOVERNANCE COMMITTEE CONSIDERS THE OPINION OF THE WORKING GROUP THAT WAS ESTABLISHED TO INVESTIGATE AND REVIEW THE COUNCIL’S POLICY ON ALLOWING DISCRETIONARY RELIEF
AUTHOR	DEWI MORGAN, SENIOR MANAGER REVENUES AND RISK
ACTION	TO CONSIDER THE RECOMMENDATIONS OF THE WORKING GROUP, TO AMEND AS NECESSARY, AND PRESENT THESE TO THE CABINET MEMBER FOR FINANCE FOR CONSIDERATION WHEN ESTABLISHING THE NEW FRAMEWORK

1. INTRODUCTION

- 1.1 At its meeting on 28 September 2017, the Audit and Governance Committee decided to establish a Working Group to investigate the Council’s Policy on allowing discretionary relief. The members of the Working Group were the Chair and Vice Chair of the Committee, together with Councillors Huw Gruffydd Wyn Jones, Aled Wyn Jones, Angela Russell and Dewi Wyn Roberts. The Cabinet Member for Finance was also to attend meetings of the Working Group.
- 1.2 This report informs the full Committee on the deliberations of the Working Group, and sets out its recommendations in formulating a new policy framework for the Council.

2. BACKGROUND

- 2.1 It was noted in the previous meeting of the Committee that the Council's current policy for the granting of discretionary relief to non-domestic rate payers have been established for several years, and have received only minor modifications since then. It was noted that it was timely for the Council to conduct a comprehensive review of the Discretionary Relief Policy not only to ensure that it remains appropriate as a result of legislative changes, but also to consider if the relief that the Council allows is being targeted to the right places and is affordable in view of the continuing need to find savings.
- 2.2 The report and appendix that were presented to the Committee on 28 September are found along the following links:
Report:
<https://democracy.cyngor.gwynedd.gov.uk/documents/s13453/Non-Domestic%20Rates%20Discretionary%20Relief.pdf>
Appendix:
<https://democracy.cyngor.gwynedd.gov.uk/documents/s13454/Appendix.pdf>
- 2.3 The Council’s role in terms of Non-Domestic Rates is as a tax collector. The Council, in its role as a “billing authority”, collected business rates and pays the sum over to the Wales NNDR pool, with the Council then receiving a portion of the total pooled amount from Welsh Government.

- 2.4 Although many types of business rate relief is available (e.g. small business relief, empty property relief), the scope of the Working Group focused in particular on the discretionary relief that the Council allows to certain bodies. Charitable organisations or bodies which are charitable in nature, and Community Amateur Sports Clubs (CASCs), have a right under section 43 of the Local Government Finance Act 1988 to pay only 20% of what would be payable on their property if they were not such bodies. Although the wording is not used in the Act, this 80% relief is commonly known as "Mandatory Relief".
- 2.5 Since this mandatory relief is allowed by legislation, and the National Pool funds this relief, there was no scope for the Working Group to give consideration to the mandatory relief that is awarded.
- 2.6 However, the current policy allows certain bodies that receive mandatory relief of 80% to receive further discretionary relief of up to 20%, so that they do not pay any business rates. When this is done, regulations mean that the Council pays 75% of the cost of the additional relief in the case of charitable bodies, and 10% of the cost of the additional relief in the case of CASCs.
- 2.7 The current policy also allows the Council to award discretionary relief – of up to 100% - to bodies that are not eligible to receive mandatory relief. The Council pays 10% of the cost of this discretionary relief if the recipient body falls into one of the following categories:
- An organisation which is not for profit, whose main objects are charitable **or** are otherwise philanthropic **or** religious **or** concerned with education, social welfare, science, literature or the fine arts
 - An organisation which is not for profit, for purposes of recreation
- 2.8 It should be noted that the Act also allows the Council to provide discretionary relief to any other taxpayer, but in those circumstances the Council must pay 100% of the cost of the relief, and must prove that the relief benefits the taxpayers of Gwynedd. There is no intention to use this power and it was therefore not within the scope of the work of the Working Group.

3. THE WORK OF THE WORKING GROUP

- 3.1 Two meetings of the Rates Relief Investigation Working Group were held, on 12 October and 14 November.
- 3.2 Where the discussion related to a charity or an activity relating to a field where a member of the Working Group had identified an interest because they were paid by a relevant body, the member declared an interest and withdrew from the discussion.
- 3.3 At the meeting of 12 October, a presentation was first given on the legislative background, namely the relevant sections of the 1988 Act and related Regulations. It was noted that the cost of any discretionary relief is shared between the National Non-Domestic Rates pool and the local authority, depending on the nature of the body and the use made of the property.
- 3.4 It was explained that the Council had adopted a Charitable Relief Policy, but that it is now timely to review this. In order to consider the arrangements in a systematic way, the Working Group decided to use the categories of the current framework as a guide, indicating one of three choices:
- Continue with the current level of relief
 - To change to discretionary relief that is allowed
 - To give further consideration at the subsequent meeting on 14 November.

3.5 At the meeting of 14 November, the additional details that had been requested at the previous meeting were presented. This included details of the nature of the property which currently receive relief in different categories, and particular consideration was given to whether the discretionary relief currently awarded displays fairness and appropriate use of Council resources.

3.6 The Appendix contains the current framework, with the view of the Working Group is set out on it.

4. THE WORKING GROUP'S CONCLUSIONS

4.1 In most cases, it can be seen that the Working Group was of the opinion that the current arrangements should continue. However, the Working Group was of the opinion that the following changes should be made:

4.2 **Category 5 - Organisations of Specific Interest to Some.** The Working Group was of the opinion that a new sub-category should be added, namely 5(c), such bodies which have been registered as a charity (and therefore eligible to receive mandatory rate of 80%), but without local connections. That is, although the charity is responsible for non-domestic rates within Gwynedd, it does not appear that the organisation serves the residents of the County. Properties in category 5 (c) should not receive additional discretionary relief.

4.3 **Category 9 - Charity Shops.** At present, an additional discretionary relief of 20% is awarded to charity shops if they do not sell "new stock" or "bought-in stock", with mandatory relief only being awarded to charity shops that sell "new" or ""bought-in stock". At present, 50 shops receive additional relief, and no shop receives mandatory relief only. That suggests, therefore, that no charity shop within Gwynedd sells new goods. To avoid misunderstanding, and to avoid a situation where selling a few new items such as Christmas cards prevents a shop from receiving additional relief, the Working Group was of the view that the definition should be amended to clarify that the discretionary relief of 20% is to be allowed for charity shops where the majority of the material sold had been donated to the charity for selling on.

4.4 **Category 10 - National Trust Properties and Category 12 - RSPCA / RSPB Properties.** The Working Group did not see what reason now exists to justify that these national charities deserve to be treated differently from other charities, by receiving additional discretionary relief of 20% on any property in their possession by default. The Working Group's conclusion was that these charities should be treated like everyone else, with discretionary relief being considered for individual properties on merit (e.g. relief could be allowed for educational properties, but not for offices or hydro schemes).

4.5 **Category 11 - Leisure Property Managed by National Registered Charity Organisations.** Several of the properties in this category are hostels run by bodies such as the YHA, or by charities for the welfare of individuals from specific geographical areas. Because the properties in this category relate to properties managed by registered charitable organizations, they are eligible for mandatory release of 80%. The current policy allows additional discretionary relief of 20% to Leisure Hostels without a bar (or other commercial activity), but no additional relief to a leisure centre with a bar (or other commercial activity). The Working Group's view was that these definitions are now outdated, and "use by residents of Gwynedd" should be used as a measure to determine if discretionary relief is appropriate or not, not the presence of a bar or commercial activity.

4.6 **Category 13 - Housing Association Offices.** The views of the Working Group was that the relative financial position of the housing associations and the Council has changed substantially since the current policy was adopted, and that by now there is no justification for using the Council's budgets to provide support to the housing associations. Nevertheless, the Working Group is keen to continue to award additional discretionary relief to properties on a housing estate which has been converted into an office specifically for the benefit of the residents of the estate.

4.7 **Category 14 - Amateur Sports / Leisure e.g. Rugby Club, Golf Club, etc.** Currently, this category has been split into three, and varies based on local membership, the Club's profits etc. In addition to the need to update this category to reflect changes in the Act with the advent of Community Amateur Sports Clubs (CASC), the Working Group was of the opinion that Category 14 needs to be simplified, combining the various sub-categories. CASCs has their own category, namely Category 17.

4.8 **Category 15 - Organisation Which is Not a Registered Charity But Charitable by Nature.** The Working Group was of the opinion that there is a need to continue to have such a category, and although there is no financial cost to the Council (only mandatory relief is permitted), it would be appropriate to have the approval of the Cabinet Member in all cases to ensure consistency and transparency.

4.9 Financial Situation

As well as the nature of the use of the property, the Group was keen for a new framework to give an overriding consideration to the financial position of charities and was eager for the Finance Department to look into the feasibility of placing a floor and ceiling on the support provided through discretionary relief:

- Where the framework states that additional discretionary relief is not available to a charitable body receiving mandatory relief, consideration should be given to the charity's financial situation, and allow the additional relief in a situation where the charity would suffer if the additional relief was not received.
- The Working Group is keen for the Finance Department to consider how to undertake a financial assessment of charitable bodies that receive additional discretionary relief in accordance with the framework, and to withdraw additional relief if that body has sufficient income and/or reserves to pay 20% of the non-domestic rates on their property. This would mean that resources are available to support more needy charitable bodies, as well as saving money for the Council and the National Pool.

5. **NEXT STEPS**

5.1 The Cabinet has responsibility for adopting a new Policy Framework.

5.2 In accordance with regulation 2(3) of the the Non-Domestic Rates (Discretionary Relief) Regulations 1989 (1989/1059), at least a year's notice must be given when discretionary relief is revoked or reduced, and revocation or amendment can only occur at the end of a financial year. Therefore, where a decision is made to bring cease the awarding of discretionary relief, the taxpayer must be notified before 31 March 2018 if the relief is to come to an end on 31 March 2019. If a notice of decision to stop relief were to slip to April 2018, say, it cannot come into force until the 2020/21 financial year.

5.3 As a result, in order to have a framework in place as soon as possible, it will be necessary for the Cabinet to adopt a new policy by the end of February 2018.

5.4 For information, when granting new discretionary relief, there is no need for a year's notice— it can be granted immediately, and backdated as appropriate.

6. RECOMMENDATION

- 6.1 The Audit and Governance Committee is asked to considered the Working Group's comments as appear in Part 4 above, propose modifications, and offered them as recommendations to the Cabinet Member for Finance for consideration when adopting a new Policy Framework.