

GWYNEDD COUNCIL CABINET



Report to the Cabinet

Meeting Date: 13 March 2018
Cabinet Member: Councillor Peredur Jenkins
Contact Officer: Dafydd Edwards, Head of Finance
Contact Number: 34668
Item Title: Discretionary Relief from Non Domestic Rates

DECISION SOUGHT

To adopt the Framework for Awarding Discretionary Relief from Non Domestic Rates that appears in Appendix 1.

REASON WHY DECISION IS NEEDED

1. The Council's current framework for the granting of Discretionary Relief to Non-Domestic Ratepayers has been established for several years. It is therefore timely for the Council to conduct a comprehensive review of its policy on Discretionary Relief 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 correct places and is affordable.

INTRODUCTION

2. The Council's role in terms of Non-Domestic Rates (NNDR) is that of a tax collector. The Council, in its role as a "billing authority", collects the 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.

Mandatory Charitable Relief

3. **Section 43** of the Local Government Finance Act 1988 sets out how the NNDR bill of an occupied property that does not have a domestic use should be calculated, which is:

$$\text{Non-Domestic Rates Bill} = \text{Rateable value} \times \text{National Multiplier}$$

4. It is seen that two factors are used to calculate the NNDR bill of any such property:
 - The rateable value of the property as determined by the Valuation Office Agency (VOA). This is a professional assessment of the annual rent a property would fetch at a set valuation date.
 - A multiplier set annually by the Welsh Government. The multiplier is constant for each business and for each local authority. For 2017/18, the multiplier is 0.499 and it will increase with the CPI inflation rate in 2018/19 to 0.514.

5. However, Sections 43(5) and 43(6) of the Act state that **20%** of the above is the amount payable on the property of:
 - A charity that is used for charitable purposes
 - A Community Amateur Sports Club (CASC) (as defined by Chapter 9 of the Corporation Tax Act 2010).
6. This 80% relief to charities and CASCs are often referred to as “mandatory charitable relief”.

Discretionary Relief

7. In addition to the above, **Section 47** of the 1988 Act includes discretionary provision for billing authorities to amend payable Non-Domestic Rates (except in specific cases such as local authority properties) beyond the mandatory relief permitted by Section 43.
8. The Council has the right to establish rules for awarding discretionary relief, but it cannot refuse any request for relief without considering the request on its own merits.
9. Specifically, Section 47 allows the Council to:
 - Award additional discretionary relief (above the mandatory 80%) to a charity or CASC.
 - Award discretionary relief to an organisation which has not been established or run 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.
 - Award discretionary relief on a property that is being used for purposes of recreation by a club, society or other organisation not established or conducted for profit.
10. In addition to this – following amendments introduced by the Localism Act 2011 – the Authority can make a decision to award discretionary relief to any other non-domestic property, but only if it is reasonable for it to do so after considering the interests of everyone who pays Council Tax in the area, and the local authority would have to fully fund the cost of any relief awarded by it in these cases.
11. It should be noted that there are other relief schemes available. These include the Small Business Rates Relief scheme, which is a national scheme that is controlled through regulations.

Financial burden

12. The National Pool carries the financial burden of every mandatory relief (charities and CASCs) that is allowed, but there is a financial cost to the authority when using its local discretion to grant discretionary relief under Section 47. In accordance with the Non-Domestic Rating Contributions (Wales) Regulations 1992, the proportion of this cost that is payable by the local taxpayers is as follows:

Type	Maximum Relief	Proportion of the cost from the National Pool	Proportion of the cost from the Council
Additional discretionary relief to a charity (above the mandatory 80%)	Additional 20%	25%	75%
Additional discretionary relief to a CASC (above the mandatory 80%)	Additional 20%	90%	10%
Discretionary relief to 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	100%	90%	10%
Discretionary relief to an organisation which is not for profit, for purposes of recreation	100%	90%	10%
Discretionary relief to any other non-domestic property	100%	None	100%

13. In 2017/18:

- There are **66** properties in charitable use that receive mandatory relief only
- There are **417** properties in charitable use that receive a “top-up” of 20% (apart from one that receives 10%) in addition to the mandatory relief, at a cost to the Council of approximately **£280,000**
- There are **64** properties in receipt of discretionary relief only, at a cost to the Council of approximately **£27,000**.

14. This is against a budget of **£295,000**, which means that there was an overspend of approximately 4% during the year. An additional £80,000 was received in the settlement by Welsh Government for this budget in 2018/19, which will further increase with inflation.

REASON AND JUSTIFICATION BEHIND THE DECISION

15. The Council's current Framework has been in place for several years now, and it should be regularly reviewed to ensure that it remains appropriate. Such a review includes considering if the local taxpayers are now contributing to assist some bodies to pay their non-domestic rates bills despite there being no clear benefit to the people of Gwynedd deriving from that.
16. On 28 September 2017, the Audit and Governance Committee – in its corporate scrutiny role – agreed to set up a Working Group to review the current Framework. The Working Group met twice – on 12 October and 14 November – in order to review the current Framework; I attended the two meetings. It reported back to the Audit and Governance Committee at its meeting on 28 November 2017.
17. The outcome of the scrutiny work was that the Audit and Governance Committee, on the whole, was satisfied with the framework that is in place, but the report presented to the Committee on 28 November highlights some amendments recommended by the Working Group:

<https://democracy.cyngor.gwynedd.gov.uk/documents/s15204/Non-Domestic%20Rates%20Discretionary%20Relief.pdf>

18. The recommendations of the Working Group, that was approved in full by the Audit and Governance Committee, is found along the following link:

<https://democracy.cyngor.gwynedd.gov.uk/documents/s15205/Appendix%20-%20Comments%20on%20Current%20Policy.pdf>

19. I am grateful to the members of the Working Group and to the Audit and Governance Committee for their work in looking in detail at this issue. The framework presented in Appendix 1 reflects the outcome of their work.
20. I refer in particular to the recommendation that the discretionary additional relief that is being given by default to the properties of the National Trust, the RSPCA and the RSPB should cease. There is no reason to justify that these national charities deserve different treatment to other charities, and receive an additional discretionary relief of 20% on any property in their occupation by default. The Audit and Governance Committee's recommendation was that these charities should be treated like everyone else, with discretionary relief on individual properties being considered on their merits (e.g. relief could be allowed to educational properties, but not to offices or "hydro" schemes).
21. Furthermore, the Working Group was keen for the new framework to consider in certain circumstances, not only the nature of use of the property, but also the financial situation of some of the charities who apply for discretionary relief. The Working Group was eager for wanted the Finance Department to consider the feasibility of using means testing on the support provided through the discretionary relief scheme.
22. After considering the feasibility of introducing such a regime and assessing the risks, the Finance Department has advised me to proceed with caution and see the impact of such a procedure in other billing authority areas before taking these steps. However, this option has not been ruled out completely, and we will revisit this issue over the next year or two when the results of the further research has become apparent.

NEXT STEPS & TIMETABLE

23. The Framework will be operational for new applications from 1 April 2018.
24. Due to the requirements of 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, any body that will see a reduction in the relief that is allowed to them will see its effect from 1 April 2019 onwards.

ANY CONSULTATIONS UNDERTAKEN PRIOR TO MAKING THE DECISION

Scrutiny Arrangements

25. It is noted above that this matter was scrutinised by members of the Audit and Governance Committee during October and November 2017.

Equality Impact Assessment

26. As with all the far-reaching decisions, the Council must give due consideration to its statutory duties to carry out equality impact assessments under the Equality Act 2010 and the Welsh Public Sector Equality Duties 2011 and to all other relevant considerations.
27. An Equality Impact Assessment was carried out in accordance with the statutory requirements on the Council. The full assessment is included in Appendix 2. We do not believe that there are specific equality issues that need to be brought to the attention of the Cabinet when considering this issue.

Welfare of Future Generations (Wales) Act 2015

28. There is a duty to act in accordance with the sustainable development principle, which is to try to ensure that the needs of the present are met without compromising the ability of future generations to meet their needs. When acting in accordance with this general duty the Council needs to consider the importance of the long term impact, being integrated and inclusive, collaboration and prevention in developing the proposal.
29. When considering changing the Framework for the granting of discretionary relief, consideration was given to the significant work that charities and other not-for-profit organisations undertake within Gwynedd's communities. However, the scrutiny work showed that there is some concern about sustainability of an arrangement where Gwynedd taxpayers pay for relief for bodies that do not operate in particular for the benefit of residents of Gwynedd. The proposed framework addresses this.

Opinion of Local Member

Not a local matter.

Opinion of Statutory Officers

Monitoring Officer:

No comments from the perspective of propriety.

Head of Finance:

I have collaborated with the Cabinet Member in the preparation of this report and I confirm the content.