

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Leader and Cabinet
AUTHOR: Finance and Resources Director

8 December 2005

POLICY FOR THE AWARD OF DISCRETIONARY RELIEF FROM NON-DOMESTIC RATES FOR CHARITABLE ORGANISATIONS

Purpose

1. To request that Cabinet formally adopt a policy for the award of discretionary rate relief to organisations qualifying for charitable rate relief in order to implement the reduction in expenditure agreed at the meeting of the full Council on 27 October 2005.
2. To ensure that future awards of rate relief are allocated in a manner that maximises the benefit to local residents and assists those organisations that contribute to the Council's Corporate Objectives.

Effect on Corporate Objectives

3. Quality, Accessible Services	Awards of rate relief to charitable organisations help to supplement services that the Council may otherwise be required to provide.
Village Life	Charities may provide assistance or facilities at a local level that contribute to village life.
Sustainability	
Partnership	Rate relief can form an important part of the funding mechanism for the Council's voluntary sector partners.

Background

4. The Local Government Finance Act 1988 and associated Regulations gives the Council a discretionary power to award a variety of forms of rate relief. This report is in respect of awards of discretionary rate relief to those organisations already qualifying for mandatory 80% charitable rate relief. This discretionary rate relief is often referred to as 'top-up' rate relief since it tops-up awards of the mandatory 80% rate relief up to a maximum of 100%.
5. There are currently 174 properties receiving this discretionary rate relief. The Council must fund 75% of the relief from its General Fund and therefore effectively from Council Tax receipts. The anticipated cost in 2005/06 is £132,000 but this figure does fluctuate through the year due to new applications and changes in rating liability.
6. The current criteria used for determining awards have been developed over the last 15 or so years, generally through decisions made by Committee or Portfolio Holder. These decisions were made at a time when the Council had considerable financial reserves and was able to take a generous approach to assisting charitable organisations. However, awards are currently restricted to a maximum cost of £5,000 per rateable property each financial year.

7. At the meeting of the Council on 27th October 2005 it was agreed that substantial savings of £70,000 per annum should be made from the budget set aside for awards of discretionary rate relief.

Considerations

8. There is a cost to the Council's General Fund for discretionary rate relief which means relief is effectively funded from Council Tax revenue. In considering requests for relief, and in setting budgets, the Council has a duty to consider the benefits or otherwise to local residents in awarding the relief and to balance these against the cost to taxpayers.
9. A review of current awards and criteria used to make decisions is necessary owing to the need to find substantial savings as a result of Council Tax capping. Government guidance indicates that the Council cannot operate a blanket policy with respect to awards and must consider each application on merit. However, it is permissible, and is also recognised as good practice, for the Council to have a formal policy in this area to ensure fairness, transparency and consistency when making decisions.

Options

10. Options are limited if the agreed savings are to be made. The Council cannot simply adopt a blanket policy to restrict awards in order to achieve savings, as each application must be considered on merit. The only option available is to adopt a policy that sets out clear and reasonable criteria to be used in considering awards.
11. The policy outlined in this report will assist in achieving the savings target and will mitigate the risk of legal challenge. In addition the policy will also ensure that the limited funds available in the future to finance awards of discretionary rate relief are utilised in a manner that is of the greatest benefit to local residents.

Financial Implications

12. The Council is required to fund 75% of the cost of 'top-up' rate relief from its General Fund, meaning the burden effectively falls on local taxpayers. The remaining 25% is paid for by central Government through the non-domestic rating pool. This adverse gearing means that local taxpayers contribute £3 for every £1 contributed by the Government.
13. The cost of awarding this rate relief in 2005/06 is anticipated to be £132,000. The meeting of the full Council on 27th October 2005 agreed that savings of £70,000 should be made in this area of expenditure in order to meet the overall savings required as a result of the Council Tax capping.
14. An initial evaluation of existing awards has been conducted and it is expected that the proposed policy would realise the required savings. However, the final savings figure will only be known once the ratepayers' applications have been individually considered. The policy will also ensure that the future budget provision is utilised in the most effective way by targeting awards to organisations assisting in the achievement of corporate objectives and providing services or facilities that directly benefit local residents,

Legal Implications

15. The Council has a legal obligation to consider each request for relief and must come to a reasonable decision. Both the Government and the Audit Commission have issued guidance for Council's to follow when considering awards. That advice indicates that Council's must not adopt a blanket policy regarding awards, and must consider the individual merit of each request. However, it is reasonable, and considered good practice, to set criteria against which applications can be measured.
16. There is no statutory appeals process for ratepayers dissatisfied with a decision and their only recourse is to challenge the decision through judicial review. The guidance recommends that it is good practice for the Council to adopt a local appeals process to enable dissatisfied applicants to ask for a decision to be reviewed.
17. Once awarded, relief can only be withdrawn at the end of a financial year (except where there is a relevant change in the recipient's circumstances). Current awards are due to end on 31st March 2006.
18. The Local Government Finance Act 1988 and subsequent amendments set out the legal criteria which must be met before consideration can be given to awarding discretionary rate relief. In broad terms, the organisation must be a registered charity, or an organisation with charitable aims, and the property must be occupied by the organisation and used for charitable purposes. If the circumstances do not meet the legal requirements the Council has no power to award top-up rate relief.

Staffing Implications

19. None.

Risk Management Implications

20. There is a slight risk that a negative decision may be challenged by way of judicial review. Establishing a fair and transparent policy and adopting a local appeals process as outlined in this report mitigates this risk.

Consultations

21. Portfolio Holder for Resources and Staffing.

Conclusions/Summary

22. The current criteria for the award of 'top up' discretionary rate relief to charitable organisations is overly generous and results in local council taxpayers subsidising organisations disproportionately to the facilities provided to local residents.
23. Adoption of a formal policy that ensures awards are made in proportion to the direct benefit provided to local residents, and rewards organisations contributing to the Council's Corporate Objectives, can return a significant contribution to the budget savings required as a result of Council Tax capping, whilst minimising detrimental impact on deserving organisations and local residents.

Recommendations

24. The following recommendations are made:
- a. The criteria described in **Appendix A** 'Policy for the Award of 'Top-up' Discretionary Rate Relief to Charitable Organisations' should be formally adopted as a policy for the award of 'top-up' rate relief with effect from 1st April 2006.
 - b. In order to minimise the administrative burden on both the Council and applicants this policy should only take effect where the award of relief to the organisation will cost the Council in excess of £1,000 per annum.
 - c. Authority to make decisions on awards within the criteria set out in the policy should be delegated to the Finance and Resources Director.
 - d. Authority to make decision on appeals against the decision of the Finance and Resource Director should be delegated to the Resources and Staffing Portfolio Holder.
 - e. A further report making recommendations for a policy to cover all other forms of discretionary rate relief should be submitted to Cabinet during the 2006/07 financial year.

Background Papers: the following background papers were used in the preparation of this report:

Non-Domestic Rating NNDR3 return for 2005/06.
Office of the Deputy Prime Minister's December 2002 publication 'Non-Domestic Rates – Guidance on Rate Relief for Charities and Other Non-Profit Making Organisations' December 2002

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