

South Hams District Council

Business Rates – Section 47 Discretionary Rates Relief Policy

Issue details	
Title:	Section 47 – Discretionary Rates Relief Policy
Version number	Version 1
Officer responsible:	Steve Henstock – Revenue Specialist, Housing, Revenues & Benefits COP
Authorisation by:	Executive
Authorisation date:	

1 Background

1.1 Section 47 of the Local Government Finance Act 1988, as amended, permits Billing Authorities to grant Discretionary Rate Relief to Charities and other organisations of prescribed types. Section 69 of the Localism Act 2011 amended Section 47 to allow Billing Authorities to grant relief to other Ratepayers.

1.1.1. To encourage growth and expansion, the Council has a separate Local Business Rates Relief Discount (LBRRD) policy agreed in 2015 for the Local Discounts mentioned above. Any discount awarded under the LBRRD policy may be at full cost to the local Council Taxpayer.

1.2 This policy is for cases where the application is made under the original Section 47 reliefs and for cases where a request is made for discretionary relief under the changes from the Localism Act, not covered by the existing LBRRD policy.

Applications for Discretionary Rate Relief will be considered and determined by the Rate Relief Panel (the Panel) which will comprise three Members of the Executive and at which two Executive Members are present throughout. The Panel will be supported by Specialist Officers from Revenues and/or Finance.

1.3 The areas where the Panel has discretion to award relief under the existing Section 47 Regulations are for:

1.3.1 Relief for Charities and Not-For-Profit Organisations:
Charities already receive a mandatory 80% relief from their business rates on premises that are wholly or mainly used for charitable purposes. They may apply for discretionary rate relief against the remaining 20% they are required to pay. Where the organisation is a not for profit organisation, whilst they do not receive any mandatory relief, they can apply for discretionary relief against the amount of the rates bill they are required to pay.

The types of business rate payer that can apply are Charities, Charity Shops, Village Halls, Emergency Services (but not Precepting Authorities such as Police or Fire Service), Academy Schools, Sports Clubs or Scouts, not for profit Community organisations etc.

1.3.2 Rural Rate Relief:

Businesses that are in receipt of Rural Rate Relief, which covers 50% of their bill, can apply for discretionary relief against the portion of the rates bill that they are required to pay.

Businesses that receive Rural Rate Relief are the sole post office, general store, public house or petrol filling station in a rural settlement (settlement with a population of not more than 3,000) within the Rateable Value limit set each year by Government.

Any business in a rural settlement (population of not more than 3,000), with a rateable value of less than £16,500 can also apply for discretionary rate relief against their business rates bill, even though they may not qualify for the 50% Rural Rate Relief reduction.

1.3.3 Community Amateur Sports Clubs:

Organisations registered with HMRC as Community Amateur Sports Clubs receive a mandatory 80% relief from their business rates. They may apply for discretionary relief against the remaining 20%.

1.3.4 Hardship Relief:

Under Section 49 of the Act, discretionary relief of up to 100% may be awarded to ratepayers who would suffer financial hardship due to the payment of their rates if relief were not granted.

Relief under this category is usually only awarded where a business is under threat of closure, but is either a viable business that needs short term support, or provides employment and / or provides significant services / amenities to a local area that would be lost if the business were to close.

The amount of any award, should the application be successful, will be at the discretion of the Panel, but could be up to 100% of the bill. When deciding on an application, the Panel will take into account the effect on similar businesses were they to make an award, and the Panel must have regard to the interests of the Council Tax payer who would be funding such an award.

- 1.4 The Localism Act amended the Section 47 Regulations to allow for Discretionary Relief to be awarded to Business that previous fell outside of the criteria in 1.3, provided the award was made having regard to the interests of the Council Tax payer who would be funding such an award.
- 1.5 The cost to the Council of any award, prior to any Government Rates Retention Scheme or Devon Pooling arrangements is 40% of any award. The Government meet 50%, Devon County Council 9% and the Fire Authority 1%.

1.5.1 Rates Retention Scheme

The cost to the Council, Devon County Council and the Fire Authority may be higher than above where the Council is in a pilot to retain more than 50% Business Rates locally.

1.5.2 Local Discretionary Relief Awards

Where an award is made under the changes from the Localism Act, the Council may be liable for 100% of the award depending on the Council's financial position at the end of the financial year.

2 What is South Hams District Council's policy?

2.1 The Panel will consider any applications for Discretionary Rate Relief.

2.2 The Panel will make a decision based on the individual application for relief, the Council's financial position and with regards to the best interests of the local Council Tax payer who will be funding the part of the award that is met by the Council.

2.3 The general factors that the Panel will take into consideration:

- Any relevant guidance issued by Central Government
- Whether the award of relief is in the interests of the Council Tax payers who will be funding the part of any award that is met by the Council
- A decision of whether to make an award and how much, will only be taken once the ratepayers liability for business rates is known, and any mandatory reliefs / reductions taken in to account
- Applications from any ratepayer are dealt with on their individual merits
- The financial position of the ratepayer
- The business or organisation must bring significant benefits to the local area or community
- National and profitable organisations are less likely to receive relief
- Ratepayers should not view discretionary relief as an automatic entitlement every year
- The Panel would expect ratepayers to do all they can to negate the need for discretionary relief, such as applying for any mandatory reliefs they may be entitled to, or improving the commercial viability of the business

2.3.1 For a Business applying for relief under the additional powers conferred by the Localism Act, the ratepayer would also need to show:

- Should they be successful, how the relief awarded would benefit the local taxpayer? This could be, but not limited to, additional employment or services provided locally.

2.4 The Application Process:

2.4.1 An application must be made, where possible, in writing by the ratepayer or someone authorised to do so on their behalf.

2.4.2 The application will be considered by the Panel, along with any supporting evidence provided with that application.

2.4.3 The application should be made with a copy of the ratepayers most recent accounts.

2.4.4 The Panel may request any reasonable further information for them to make a decision. Should that not be provided, the Panel will make a decision on the original application, which may not be to the advantage of the ratepayer.

2.4.5 Applications for Hardship Relief will need to be fully supported with previous years accounts and future forecasts to show an accurate financial and trading position of the ratepayer.

2.4.6 Where discretionary awards have been made in previous years, the Panel may ask for evidence of what that has been used for, before making any decision. This is especially the case for Hardship Relief applications, to show the business has been strengthened, or the service to local residents maintained or improved.

2.4.7 Whilst an application is made, the ratepayer should continue to pay their Business Rates instalments. Discretionary awards are not guaranteed and should not be assumed to be automatic.

2.5 Decisions, Awards and Appeals:

2.5.1 The Council will inform the ratepayer of the decision of the Panel with reasons for the decision in writing, which for the avoidance of doubt includes email.

2.5.2 Any award will be reduced from the ratepayers Business Rates bill.

2.5.3 The period and amount of any discretionary award will be decided by the Panel. An award will normally be a daily award for a maximum of one financial year, and therefore discretionary relief, if required, would need to be applied for annually.

The award will only continue for the full year should the ratepayers circumstances remain the same as at the time of the application.

Should there be a change to the ratepayers circumstances, such as moving premises or losing Charitable status, the award will be recalculated (on a daily basis) to the date of the change.

2.5.4 There is no right of appeal against the decision of a discretionary award by the Panel. A ratepayer may ask the Panel to review the decision within four weeks of being notified of the outcome. Any decision will only be reviewed once, and the Panel would expect additional information not provided with the original application, to support the request for a review. The

Panel may decide to review any decision where it is felt the award was not originally sufficient.

2.5.5 Should an application find to have been made with false or incorrect information, any award will be reviewed by the Panel, and in the case of deliberately false information any award removed completely.

2.5.6 If successful in receiving an award, the ratepayer will notify the Council of any change to their circumstances that may affect the award – such as ceasing to occupy a premises.

2.6 Fully Government funded Discretionary Relief Schemes:

Where the Government have designed a scheme of relief and provide guidance for qualification, but expect the use of the Council's powers under Section 47 to grant that relief, the decision as to whether award the relief to qualifying businesses based on that scheme or guidance, will be with the Panel.

This is only where the Government will fully compensate the Council for its lost income through a Section 31 Grant, so there is no impact on local Council Taxpayers, in the circumstances where the Government has had insufficient time to properly Legislate for the relief.

3 **Equality impact considerations** – the policy is high relevance to equality if it has a big impact on residents and users of the service.

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3.1 This Equality Impact Assessment considers the impact of this policy on the relevant protected characteristics, as defined by the Equality Duty, which are:

- Age (including children and young people)
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage or civil partnership status (in respect of the requirement to have due regard to eliminate discrimination)

3.2 This policy has a positive or neutral impact on all protected characteristics.

3.3 The protected characteristics which are positively impacted are local factor of community considerations. This is because the policy, will reduce the outgoings through the rates bill of successful applicants. When considering discretionary applications, the Panel will have the interests of local taxpayers in mind.

4 Related Policies/Strategies, Procedures and Legislation

4.1 Related policies

Local Business Rates Relief Discount (LBRRD) policy

4.2 Legislation

Local Government Finance Act 1988 – Section 47

5 Policy date for review

5.1 This Policy will be reviewed periodically where the Panel feels it is required.

The Policy may also be reviewed or replaced should there be changes to the Business Rates Retention scheme, or through changes to Legislation.

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