

Report To: Policy and Resources Committee **Date:** 18 September 2012

Report By: Chief Financial Officer / Head of Regeneration and Planning **Report No:** FIN/64/12/AP/FB

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Subject: Draft Policy – Non Domestic Rates – Discretionary Relief

1.0 PURPOSE

- 1.1 The purpose of this report is to ask Committee to approve the attached Policy regarding discretionary relief awarded in respect of Non-Domestic Rates and to agree to further consultation being undertaken in respect of potential restrictions to the relief awarded.

2.0 SUMMARY

- 2.1 The Council currently awards mandatory and discretionary relief to certain businesses dependent on their status. Mandatory relief is set at 80% of the rateable value and is fully funded by Scottish Government. The Council may then grant discretionary relief for the remaining 20%, of which 75% is funded by Scottish Government and 25% by the Council. The Council can also offer up to 100% relief in certain specific circumstances, again the Government funds 75% of this relief. There is currently no Council Policy for the application of discretionary relief and recently the current budget has not proven to be sufficient to meet rising demand.
- 2.2 The annual Council budget for discretionary relief sits within Finance and is currently £81,000 with commitments in 2012/13 currently being over £95,000. New applications are continuing to be received, particularly for charity shops which will mean a further budget overspend. The Council needs to review its current practice in this area and develop a Policy to ensure fairness and consistency whilst tying in with wider Regeneration objectives.
- 2.3 Many Councils are reviewing the way in which applications for discretionary relief on Non-Domestic Rates are awarded. Factors such as the contribution the organisation makes to the local area and achieving a balanced mix of shop types are taken into consideration when making a decision on what relief is appropriate.
- 2.4 Should spend continue at the current rate and also taking into consideration the growing number of charity shops opening up in Inverclyde then the budget overspend will increase year on year whilst also having a potentially adverse effect on the shopping mix in the area.
- 2.5 There are arguments for and against limiting the number of charity shops within town centres/parades of shops and in recognition of this it is proposed that the Corporate Director, Environment, Regeneration & Resources consult with the local business community on the specific proposals and thereafter report back to the Environment & Regeneration Committee.

3.0 RECOMMENDATIONS

- 3.1 That Committee approve the draft Policy which is attached as appendix 1.

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- 3.2 The Committee agree that the Corporate Director Environment Regeneration & Resources consult with the local business community on specific proposals outlined in Option 2 to limit the awarding of Discretionary Relief and to report thereon to the Environment & Regeneration Committee.

Alan Puckrin
Chief Financial Officer

Stuart Jamieson
Head of Regeneration and Planning

4.0 BACKGROUND

- 4.1 The Council currently awards mandatory and discretionary non-domestic rates relief to businesses dependent on their status. Mandatory relief is set at 80% of the rateable value and is fully funded by Scottish Government. To qualify for mandatory relief organisations must be an Office of the Scottish Charities regulator (OSCR) registered charity or trustees for such a charity and the premises must be wholly or mainly used for charitable purposes. Charity shops have additional legislative requirements that must be met. The Council may then grant discretionary relief for the remaining 20%, of which 75% is funded by Scottish Government and 25% by the Council. In addition the Council may award up to 100% Discretionary Relief in certain specific circumstances. The table below sets out the categories and amount of relief awarded for the year 2011/12.

	Mandatory relief	Discretionary relief	Council Discretionary element
Scouts, Guides etc	18,846.	4,712	1,178.
Community/Elderly Groups	91,403	31,648	7,912
Charity Shops	192,644	47,969	11,992
Private Homes	230,771	57,693	14,423
Leisure/Recreation	427,908.	106,977	26,744
Others (including registered charities)	855,821	95,484.	23,871
Totals	£1,817,393	£344,483	£86,120

Commitments in 2012/13 currently exceed £95,000 for the Council Discretionary element.

- 4.2 The Council also awards discretionary relief to qualifying non profit making organisations. This relief is applicable where the property is one where all or part of it is occupied for the purposes of one or more institutions or other organisations, none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts. There are 3 organisations that currently receive this relief with an annual cost to the Council of £2,199.22. This relief is included in the above table under the Community/Elderly Groups.
- 4.3 Many Councils are in the process of reviewing how they apply discretionary relief. While there are some anomalies between Councils in the decision making process, what is clear is that the majority are reducing spend in the area of discretionary relief. Inverclyde Council is currently facing an overspend of in the region of £15,000 in 2012/13 which is likely to increase year on year if relief continues to be awarded without a clear policy, particularly with relation to charity shops. This cost is over and above the considerable cost to the Scottish Government in lost Non-Domestic Rates at a time Government fiscal policy is to increase reliance on NDR income.
- 4.4 Over and above eliminating the overspend on this budget by reducing the amount of discretionary relief awarded, an annual saving could be made albeit this saving has to be balanced against the effect on those organisations who would lose their discretionary relief.
- 4.5 The existing scheme provides an anomaly which is leading to a trend regarding shops which are lying void. Landlords are using this anomaly to gain full rates relief by letting charity shops occupy their void premises at low or nil rent. A balance needs to be achieved between ensuring an appropriate mix of shopping and an overage of charity shops or voids. It could be considered that charity shop discretionary relief could be limited to maximum 12.5% of the total gross footprint in a parade of shops. This figure would not be appropriate for the Oak Mall Shopping Centre and it is suggested that a ceiling figure of 25,000ft² be set.

5.0 OPTIONS CONSIDERED BY CMT

- 5.1 **Option 1** – Withdraw relief for charity shops where there is no direct benefit to the local community or area, or that the density of charity shops in a parade creates an imbalance in the shopping offer. In addition to this remove discretionary relief for privately owned homes. Inverclyde Council currently has 3 children's homes and full rates are payable for these as the Council cannot grant itself relief. Private homes are considered as commercial enterprises. The 80% mandatory relief as noted above will still be awarded to these organisations. Based on the current position this option will save the Council in the region of £26,000 per annum less any successful applications for charity shops who fit the above criteria.

Option 2 – As with option one but continue to award relief to private homes. This will reduce the saving to the Council to in the region of £12,000.

Option 3 – Continue as now, i.e. awarding discretionary relief to all charity shops and privately run homes and allocating extra resources to ensure the budget is adequate.

6.0 COMMENTARY

- 6.1 **Option 1** - Would reduce the relief given to charity shops which do not wholly or mainly provide benefits to the local residents of Inverclyde or where the density of charity shops in a parade creates an imbalance in the shopping offer. This latter issue will be based on advice from the Head of Regeneration & Planning Services. This may reduce the take up of charity shops in Inverclyde, particularly the Oak Mall which could result in vacant units in the town centre. It should be noted however that although the discretionary relief would not be awarded, 80% mandatory relief will still apply where shops comply with the legislative requirements. As companies such as the Oak Mall have to pay 50% empty property rates charges for empty units/shops they commonly offer properties to charity shops for a token rental sum of £1 per month. The combination of a token rent charge and 80% mandatory relief should still make it viable for these charities to open a shop/unit.

This option would also reduce the amount of relief paid to privately run homes at a saving to the Council of approximately £14k.

Option 2 – Would have the same effect on charity shops as detailed at option 1 but would not affect the privately run homes. The level of savings achieved to the Council would be reduced by somewhere in the region of £14,000.

Option 3 - Would have no effect on any organisation but would have a budgetary impact on the Council as this budget is currently overspent. Together with the fact that there is an increasing number of applications for charity shop relief, the overspend in this budget is likely to be compounded and would require an increase in budget.

- 6.2 There are arguments both for and against limiting the growth of charitable shops in the town centres/parades of shops. Many clearly meet a need whilst there is a concern that some are being used by landlords simply to reduce their Non-Domestic Rates liability with the resultant impact on the Public Purse.
- 6.3 In order to better inform the Council's ultimate decision therefore it is proposed that the Corporate Director, Environment, Regeneration & Resources undertake a consultation with the Local Business Community on option 2 and report thereon to the Environment & Regeneration Committee.

7.0 CONCLUSION

- 7.1 In order to ensure consistency of approach a Policy for the application of discretionary relief

on Non-Domestic Rates needs to be approved by the Policy and Resources Committee.

- 7.2 It is the view of CMT that while option 1 would bring the highest level of savings, it is not in the Council's interest to withdraw relief from privately run homes. CMT consider that option 2 gives a balance of fairness as well as a degree of budgetary control and agree that this should form the basis of consultation with the Local Business Community.
- 7.3 Following consultation a further report will be presented to the Environment & Regeneration Committee.

8.0 IMPLICATIONS

- 8.1 Financial – There will be an ongoing budget pressure if no change is made to current practice. Savings of up to £26k could be achieved depending on which option is selected.

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
Finance	Discretionary Relief	2013/14	£(11,000) £3000 £15,000		Net budget reduction based on option 1 Net budget cost – Option 2 Cost contained by Service. Net budget cost – Option 3 Remit to budget process

- 8.2 Legal – The Head of Legal & Democratic Services has been consulted.
- 8.3 Human Resource – None.
- 8.4 Equalities – None.

**Inverclyde Council – Finance Services
Revenues and Benefits**

Non-Domestic Rates Policy

Discretionary Relief

Date produced/reviewed: July 2012
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Approved by:

Inverclyde Council – Finance Services Revenues and Benefits

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Inverclyde Council – Finance Services Revenues and Benefits

1.0 Introduction

This document details the Policy of Inverclyde Council with regard to Discretionary Relief for Non Domestic Rates and the procedures that should be followed in awarding relief.

2.0 Background

Registered Charities or Trustees for a charity that uses its business premises wholly or mainly for the purposes of the charity may be eligible for an 80% reduction in their Rates bill. This is generally referred to as **Mandatory Relief** and is awarded in accordance with Section 4(2) and(8) of the Local Government (Financial Provisions etc.) (Scotland) Act 1962.

Whilst the Council is obliged to grant relief to premises which fall within the mandatory category (and the Council is subsequently recompensed for any amounts granted), the Council also has powers to grant **Discretionary Relief** to ratepayers subject to certain criteria being met.

The primary purpose of discretionary relief is to provide assistance where the property does not qualify for mandatory relief, although discretionary relief can also be given to 'top' up cases where ratepayers already receive mandatory relief.

Where no mandatory relief is given then discretionary relief of up to 100% of the total rates liability can be granted to qualifying non profit making organisations.

The range of organisations which are eligible for discretionary rate relief is wide and not all of the criteria laid down by the legislation will be applicable in each case.

Qualifying Post Offices, general stores, food stores and petrol filling stations in designated rural settlement areas may also be awarded discretionary rates relief.

Discretionary relief may also be awarded in respect of other qualifying premises in designated rural areas provided they are of benefit to the local community

It should be noted that the Council incurs 25% of the cost of any discretionary relief granted and it is therefore borne by the council tax payer

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3.0 Eligibility

In deciding whether to grant discretionary relief, the Council will consider the contribution that the organisation makes to the Council area. Consideration will also be given to whether services provided replace, enhance or supplement current Council facilities and priority will be given to those organisations that benefit the local community specifically.

In considering whether the interests of council taxpayers are being best served, other Services may be consulted as appropriate.

3.1 Who may apply:

Mandatory relief recipients

The ratepayer is an OSCR registered charity or trustees for a charity and the premises are wholly or mainly used for charitable purposes.

Non profit making organisations

The property is one where all or part of it is occupied for the purposes of one or more institutions or other organisations, none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.

Sports clubs and societies

The property is wholly or mainly used for purposes of recreation, and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

3.2 Eligibility Conditions

The following conditions must be met before the Council can consider an application:

- (a) The premises must not hold liquor or gaming licences.
- (b) The premises must not be used to carry out an operation of a commercial nature where proceeds from the operation represent a significant proportion of the organisation's total turnover from the premises.

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- (c) The organisation must not fall within a class of applicants which the Council wishes to exclude from discretionary award.
- (d) The organisation must use the premises for charitable purposes, i.e. (i) the relief of poverty, (ii) the advancement of religion, (iii) the advancement of education, (iv) other purposes beneficial to the community.
- (e) The application must provide sufficient information to allow officers of the Council to determine whether the organisation is of a quasi-charitable nature in terms of Section 4 (5) of the Local Government (Financial Provisions Etc) (Scotland) Act, 1962.
- (f) Entitlement is reviewed periodically, and on any change of occupation and/or use relief may be curtailed

3.3 Policy for granting relief:

The following matrices show the recommended policy for granting discretionary relief.

The amount of relief granted will be dependant on the following key factors:

- a. is the organisation entitled / or could be entitled to mandatory relief?
- b. are the premises of benefit to residents of the area?
- c. does the use of the premises relieve the Council from providing similar facilities?
- d. does the organisation provide special facilities to certain priority groups such as elderly, disabled, minority groups, disadvantaged groups?
- e. what is the percentage level of funding for the organisation available by commercial means e.g. bar profits , sales of merchandise etc;
- f. in the case of clubs etc, is the organisation available and open to all members of the public within the Council area? (No relief is granted to organisations where membership is restricted because of race, creed or gender.)
- g. In the case of rural rate relief, is the organisation of significant benefit to that rural community?
- h. Discretionary relief for charity shops will be considered only in cases where the charity is a local charity that wholly or mainly benefits the local residents of Inverclyde; national charity shops will not be eligible for discretionary relief.

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- i. Factors such as the contribution the organisation makes to the local area and a balanced mix of shop types will be taken into consideration when making a decision on what relief is appropriate.
- j.. rural post offices, eligible for mandatory relief, will not be eligible for discretionary relief;
- k. rural shops, eligible for mandatory relief, will not be eligible for discretionary relief

4.0 Application Process

In order to make an application for Discretionary Relief an application form must be fully completed and submitted with supporting evidence to the Chief Financial Officer:

- A copy of the organisation's constitution.
- The last 2 years financial statements in respect of the property for which relief is being applied. If the organisation has not started to occupy the property, a statement of the anticipated income and expenditure in respect of the first 12 months.
- A copy of the letter from the Inland Revenue stating acceptance as a charity for tax purposes, if applicable.
- A statement outlining how an award of discretionary rates relief would serve the interests of Council Tax payers in the Inverclyde Council area
- The Council may also require ratepayers to provide any other information it sees as reasonable when considering an application for relief.

All discretionary reliefs awarded will be checked for compliance with the Council's policy and all applications will be authorised by the Revenues and Customer Services Manager or Revenues Team Leader prior to processing relief.

Where an application is for a charity shop and the criteria as set out at section 3.3, paragraph h, the Head of Regeneration and Planning will then be consulted to ensure that the criteria in relation to the balanced mix of shops is met.

5.0 Backdating

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Where a charity, sports club or similar body makes an application for relief in the first 6 months of the financial year, then relief can be backdated to the start of the previous financial year provided the organisation satisfied the requirements at that time.

Where an application is made after the first 6 months of the financial year then relief can only be granted from the start of that year except in exceptional circumstances such as the original application being made timeously but not able to be traced.

6.0 Cancellation

Where a decision is made to cancel a discretionary relief the ratepayer must be given 12 months notice in writing.

7.0 Appeals

Once an application has been processed, the ratepayer will be notified in writing of the decision. As this is a discretionary power there is no formal appeal process against the Council's decision. However the decision can be re-considered by the Chief Financial Officer in the light of any additional points that the ratepayer wishes to make.

8.0 Financial Implications

Under the National Rates pooling arrangements, 25% of the cost of any Discretionary Relief awards must be met by the Local Authority.