

CHESHIRE EAST COUNCIL

REPORT TO: CABINET

Date of Meeting: 17th September 2012
Report of: Director of Finance and Business Services
Subject/Title: Review of Discretionary Rate Relief Policy
Portfolio Holder: Councillor Peter Raynes

1. Report Summary

- 1.1 On 2 December 2008, Cabinet approved a Discretionary Rate Relief Policy for Cheshire East Council (appendix 4 *_dec08 cab report*). Rate Relief reduces the Council's contribution to the central pool for business rates, but in certain cases relief is also part funded by the Local Authority.

In 2011/2012 Cheshire East granted overall relief of £5,390,206 to registered charities, non-profit making organisations and businesses within rural settlement areas. £166,269 of this was funded directly by Cheshire East Council.

Changes in Non-Domestic Rate legislation have lead to some anomalies and some parts of the policy need updating.

In order to prevent loss of revenue, and ineligible or fraudulent relief being awarded, a review of relief awarded is included in the 2012/2013 revenues work programme. It is the intention that entitlement to relief will then be reviewed every 3 years.

2. Decision Requested

- Amend the wording of the policy so that ratepayers, applying for discretionary relief only, must also apply for Small Business Rate Relief if eligible.
- Award 50% Rural Settlement top-up Relief from 1st April 2011 to ratepayers who qualify for all categories of mandatory rural settlement relief.
- Remove all awards of legacy protection and grant relief to ratepayers solely in accordance with the Cheshire East Policy.
- Update the Rural Settlement List following recent boundary changes in Cheshire East. Styal & Kerridge to be added to the list. The settlement of Leighton to be removed from the list following an increase in population.

- From 1st April 2012 Cabinet to consider applications for discretionary rate relief under S 47 (5A) LGFA 1988 to determine whether applications are in the Council Tax payers' interests.
- In making their decision, Cabinet members should consider the responses received from affected organisations in conjunction with the EIA. The responses are attached (appendix – 2_*consultation*) as is a list with respondees highlighted.

3. Reasons for Recommendations

- 3.1. To ensure that discretionary rate relief is correctly awarded in accordance with Section 47 of the Local Government Finance Act 1988.
- 3.2. To ensure that the discretionary relief policy is up to date, robust and fair to all ratepayers in the Cheshire East area.
- 3.3. To prevent loss of revenue and ineligible or fraudulent relief being awarded.

4. Wards Affected

- 4.1. All

5.0 Local Ward Members

- 5.1 All – please see background

6.0 Policy Implications

- 6.1 This report relates to amendments to the Cheshire East policy dated 2nd December 2008.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- Requiring ratepayers to apply for Small Business Rate Relief before discretionary relief will have no financial implications.
- The decisions related to Rural Settlement top-up Relief will increase the relief given to ratepayers for 2012/2013 by £9,429 at a cost to Cheshire East Council of £2,357.
- Removing awards of legacy protection will reduce relief to ratepayers by £42,594 (based on 2012/2013 liabilities). The proportion of this funded by Cheshire East is £25,555. This will be the saving to Cheshire East.

- Updating the Rural Settlement List following recent boundary changes in the Cheshire East area will have no financial implications at this time.
- Applications under 47(5a) must be fully funded by the Local Authority, and must be awarded in the interests of the Council Tax payer. As such, decisions are to be delegated to Cabinet. The financial impact will be addressed on a case-by-case basis.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 A consultation has been carried out in respect of these proposals. Consultation with the ratepayers who will be affected if the legacy protection is removed has taken place, and the responses received are attached to this report. Case law states that consultation must comply with four elements:

(1) It must be at a time when proposals are still at a formative stage

(2) It must give sufficient reasons for any proposal to permit of intelligent consideration and response

(3) Adequate time must be given for any consideration and response

(4) The result of the consultation must be conscientiously taken into account in finalising any proposals

Members should satisfy themselves that the consultation has been appropriately conducted. Members need to take these results into account when making final decisions on the proposals in this report.

- 8.2 Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty as follows:

“A public authority must, in the exercise of its functions, have due regard to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it..”

Before making any decision on whether to remove legacy protection **due regard** must be paid to the Equality Act 2010. Members need to understand the effect that the removal of the protection will have on people with different protected characteristics. Essentially care must be taken to ensure that there is no disproportionate direct or indirect discrimination in relation to any person with a protected characteristic

which is defined by the Act as a disability, those who have undertaken gender re-assignment, married and civil partners, pregnancy and maternity, race religion or belief, sex and sexual orientation.

An Equality Impact Assessment which considers these issues has been undertaken and is attached to this report (appendix – 3_*EIA*).

9.0 Risk Management

- 9.1 Risk has been assessed through an Equality Impact Assessment as attached(appendix – 3_*EIA*).

10.0 Background and Options

10.1 Small Business Rate Relief

Under the current policy ratepayers applying for discretionary rate relief only are required to apply for Small Business Rate Relief where the rateable value of their property is below £10,000. The rateable value threshold for SBRR has now increased to £12,000.

The decision required will alter the wording of the policy so that ratepayers applying for discretionary relief only must also apply for Small Business Rate Relief if the rateable value of their property falls below the Small Business Rate Relief threshold.

This change will not alter the relief that any ratepayer is currently receiving but will make the policy more robust for future years

10.2 Legacy Protection

The current policy gives protection to ratepayers who would receive less relief under the Cheshire East Policy than they did from the legacy billing authorities. No time limit was set on this protection. We have written to all ratepayers who would be affected if legacy protection was removed. Cheshire East currently awards discretionary Rate Relief to around 400 organisations. This decision would affect a total of 46 organisations within Cheshire East (appendix – 1_*org*). Responses have been received from 9 of those organisations (appendix – 2_*consultation*). A number of the affected organisations also currently receive funding or grants from Cheshire East Council through other means . These awards are shown on the list at appendix 1_*org*.

In the interest of fairness and consistency, a decision is required to remove legacy protection and only grant relief to ratepayers in accordance with the Cheshire East Policy. Cheshire East must provide 12 months notice of this change to ratepayers.

Where an affected organisation considers that the removal of their protection may cause serious difficulties in the running of their business

it may apply for Hardship Relief. Hardship Relief can be awarded by the Council where it is satisfied that: the ratepayer would sustain hardship if the authority did not do so and, it is reasonable for the authority to do so, having regard to the interests of its council tax payers.

10.3 **Rural Settlement Relief**

Authorities have to draw up a rural settlement list based on rural communities of 3,000 population or less in a designated rural area (outlined by statute).

Recent boundary changes in Cheshire East means that Styal can now be added to our rural settlement list. The settlement of Kerridge needs adding to the list and due to an increase in population Leighton needs removing from the list.

The proposed Rural Settlement List needs to be available for public inspection for three months before the start of the financial year to which it relates.

10.4 **Rural Settlement Relief**

Mandatory rate relief is awarded to properties within a designated rural settlement area.

- A sole public house with a rateable value below £12,500 receives 50% mandatory relief and Cheshire East Council currently awards 25% top-up relief.
- A food shop with a rateable value below £8,500 receives 50% mandatory relief; Cheshire East does not award any top-up relief.
- A sole petrol filling station located on an A road, with a rateable value below £12,500 receives 50% mandatory; Cheshire East does not award any top-up relief.
- A sole petrol filling station not located on an A road, with a rateable value below £12,500 receives 50% mandatory relief and Cheshire East Council currently awards 25% top-up relief.

Small Business Rate Relief is available to ratepayers whose rateable value is below £12,000. From 1st October 2010 ratepayers with an RV below £6,000 receive 100% relief. However those in receipt of Mandatory Rate Relief are excluded from applying for Small Business Rate Relief.

The decisions required is to award 50% top-up relief from 1st April 2011 to ratepayers who qualify for all categories of mandatory rural settlement relief, at a cost to Cheshire East Council of £2,358

10.5 **Discretionary Rate Relief**

From 1st April 2012 billing authorities have the discretion to award rate relief where it is in the Council Tax payer's interests to do so under Section 47 (5A) LGFA 1988. It is proposed that any applications under this section are considered by Cabinet. If cabinet wishes it can set criteria for focusing any reductions, for example priority cases could include: Start-up businesses; businesses expanding and increasing levels of local employment; changes that will impact positively on the Council's Local Plan. Any relief awarded will be fully funded by Cheshire East Council.

10.6 **Consultation**

Amendments to the award of discretionary relief need to be advised to the relevant organisation 12 months prior to any award being amended. The review of this policy would take effect from 1st April 2013. Notification and consultation with organisations and members followed the timeline below:

March 2012 - Initial notification to organisations that relief would be reviewed for 2013-14.

23/24 May 2012 – Notification to Cabinet members (including original policy, letter explaining amendments, list of names and addresses of affected organisations and the possible financial impact for each)

25 May 2012 – Notification to affected ward members (including original policy, letter explaining amendments, list of names and addresses of affected organisations and the possible financial impact for each)

29 May 2012 – Letters issued to affected organisations indicating possible financial impact and inviting comments

1 June – Responses received from affected organisations

Cabinet meeting – Responses considered

11.0 **Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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Background papers: Charity Commission constitution reports

