

SEVENOAKS DISTRICT COUNCIL

# DISCRETIONARY LOCAL BUSINESS RATES RELIEF

## **1. Introduction and purpose of the guidelines**

- 1.1 The Government announced in the Budget on 8 March 2017 that it would provide £300m in funding over the period 2017/18 to 2020/21 to provide support to those businesses most affected by the revaluation of business rates on 1 April 2017.
- 1.2 As this is a measure for 2017/18 to 2020/21 only, the Government is not changing the legislation around the reliefs available to properties.
- 1.3 Government guidelines state that it will be for each billing authority to adopt a local scheme to provide targeted local discretionary business rates relief and decide in each individual case when to grant relief under Section 47 of the Local Government Finance Act 1988 as amended by Section 69 of the Localism Act 2011.

The application and award criteria rules are set out below.

- 1.4 These guidelines:
  - set out the criteria that will be used when making a decision to award or refuse relief;
  - set out the delegated authority to award relief in appropriate circumstances as provided for in the Council's constitution;
  - establish a review process for customers dissatisfied with the Council's decision.
- 1.5 These guidelines will apply to all decisions made on applications received by the Council in respect of 2017/18 to 2020/21.

## **2. General principles**

- 2.1 All decisions in respect of applications for local discretionary business rates relief will be taken by the Council in accordance with statutory requirements and with due regard to any guidance issued by the Secretary of State.

### **Requirement for Applications**

- 2.2 The Council will issue an application form to every business where it appears that the ratepayer may be eligible for local discretionary business rates relief.
- 2.3 Applications must be made on the form supplied by the Council. The form must be signed by the applicant or where the applicant is an organisation, by a person properly authorised to make an application on behalf of the organisation.
- 2.4 The Council will request such supporting evidence as it considers necessary to enable the application to be properly assessed.

### **Financial impact of awards of discretionary local business rates relief**

- 2.5 The business rates retention systems requires that 40% of any discretionary relief granted is funded from the business rates initially allocated to the Council however, due to the complexity of business rates retention, the actual impact on the Council is likely to be significantly smaller; the remainder being shared between the Government and the major preceptors (excluding the Police).
- 2.6 The Government has committed to reimbursing billing authorities and those major precepting authorities within the rates retention system for the actual cost to them of any local discretionary business rates relief up to their maximum funding allocation.

### **Relationship to other forms of rate relief**

- 2.7 Local discretionary business rates relief is to be applied after all other reliefs have been applied.

### **Authority to award relief**

- 2.8 Decisions on the award or otherwise of local discretionary business rates relief will be taken by designated Officers under delegated authority (see paragraph 3.15)

## **Timescale for decisions**

- 2.9 The Council will aim to make a decision within four weeks of receiving the application and all supporting evidence considered necessary to enable the application to be considered.

## **Publication of decisions and Data Protection**

- 2.10 To ensure there is a fair and consistent approach to the award of local discretionary business rate relief, all applications will be considered with reference to these guidelines and the outcome of all applications will be published on the Council's website [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk) Personal data will be processed in accordance with the Data Protection Act 1998 and the publication of information will be compliant with the 1998 Act.

## **Reviews and Appeals**

- 2.11 These guidelines provide unsuccessful applicants with a review mechanism. Any challenge to the Council's decision would be by way of judicial review in the High Court.
- 2.12 A decision may only be reviewed on one or more of the following grounds:
- an inconsistent or inappropriately harsh decision;
  - extenuating circumstances;
  - significant procedural flaw(s) in the decision making process (it is incumbent on an unsuccessful applicant to specify precisely what the significant procedural flaw(s) consists of);
  - new evidence subsequently coming to light
- 2.13 A request for the review of a decision must be made in writing to the Revenues Manager within four weeks of the date of the Council's decision letter. Reasons supporting each ground for review (see paragraph 2.13) must be fully set out. Any request for a review received outside of the four week period, will only be considered if the Council is satisfied that exceptional circumstances led to the delay in submitting the request.

Where the unsuccessful applicant is an organisation, the request for the review must be submitted by a person authorised on behalf of the organisation.

- 2.14 The reviewing officer (who will not be the same officer who made the original decision) will:
- consider the decision afresh having regard to the original documents submitted by the applicant and/or associated with the application;
  - check that the decision has been made in accordance with the relevant sections in these guidelines;

- consider any new evidence submitted;
- consider whether an interview with the applicant is necessary;
- make a determination either:
  - upholding the original decision
  - substituting a revised decision
- prepare a written response for the applicant setting out the review decision and reasons.

2.15 The review decision will be issued within four weeks of the date of receipt by the Council of the review request. The review decision will be final.

### **Requirement to make payment of amounts falling due**

2.16 Business rate payments remain legally due and payable in accordance with the most recent bill, until such time as any relief is awarded. Applicants must therefore continue to pay any business rates that fall due whilst an application is pending. If payments are not kept up to date, the Council may continue with its normal recovery procedures to secure payment.

### **State Aid**

2.17 European Union competition rules restrict Government subsidies to businesses. Relief from taxes, including business rates, could be considered as state aid.

2.18 Local discretionary business rates relief will not be awarded in any circumstances where it appears that an award will result in the applicant receiving state aid above the current de minimis level. Each application must be accompanied by a signed statement setting out the amount of state aid, including but not limited to retail rate relief, which the applicant has received within the previous three years (of the application date). Applications will not be considered until this statement is received.

### 3. Ratepayers intended to benefit from local discretionary business rates relief

- 3.1 Applications will be considered if the ratepayer meets the following criteria:
- In occupation of the property as at 31 March 2017 with ongoing liability for 2017/2018
  - The net business rates payable (after all other reliefs have been applied) in 2017/18 have risen by **10% or more AND** the rateable value of the property is **less than or equal to £275,000**
- 3.2 Assistance will be limited to ratepayers facing an increase in bills solely attributable to revaluation. It will not be available where there is an increase in rateable value because of a material change in the hereditament).
- 3.3 Local discretionary business rates relief will **not** be available under the following circumstances:
- Where the property is unoccupied;
  - Where the ratepayer is a billing or precepting authority;
  - Where the ratepayer is already receiving mandatory or discretionary rate relief (whether charitable or rural).
  - Where the ratepayer is a national chain

#### The decision making process

- 3.4 Each application will be considered on an individual basis.
- 3.5 The Council will notify the applicant of the decision in writing and where local discretionary business rates relief is refused, an explanation of the reasons why will be given.
- 3.6 The Council will not consider applications where the applicant has failed to provide a completed application form or where the State Aid declaration has not been completed. The applicant will be notified in writing that the application has been refused.

#### Calculation of Local Discretionary Business Rate Relief

- 3.7 For **2017/18** the maximum award will be **30%** of the increase in the rates payable for 2017/18 after all other reliefs as compared with the rates payable for 2016/17.
- 3.8 For **2018/19** the maximum award will be **15%** of the increase in the rates payable for 2017/18 after all other reliefs as compared with the rates payable for 2016/17 reducing to **5% in 2019/20** and **1% in 2020/21**.

- 3.9 Where the rates bill reduces within the period of an award of local discretionary rate relief, the relief will be reduced proportionately.
- 3.10 If the rates bill increases during the period of an award of local discretionary business rates relief no additional relief will become payable.

**Period of relief**

- 3.11 Local discretionary business rates relief will initially be awarded for 2017/18 only.
- 3.12 Relief for subsequent years will be considered and if appropriate awarded prior to the commencement of the relevant years.

**Authority to award relief**

- 3.13 The Revenues Manager shall be authorised to determine an application for local discretionary business rates relief where there is no question of State Aid de minimis rules being breached.
- 3.14 The Chief Finance Officer will determine any case where State Aid is considered relevant.

## **4. Promotion of the availability of relief**

- 4.1 The Council will proactively promote the availability of local discretionary business rates relief in the following ways:
- Council staff will be made aware of these guidelines and will actively promote the availability of relief when responding to enquiries;
  - Information regarding the availability of reliefs will be published on the Council's website [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk);
  - A copy of these guidelines will be made available on request by contacting [revenues@sevenoaks.gov.uk](mailto:revenues@sevenoaks.gov.uk) or by calling the Business Rates team on 01732 227000.

## **5. Review of these guidelines**

- 5.1 These guidelines will be reviewed periodically in order to ensure they remain valid, effective and relevant.