



# Cabinet Report

## ISLE OF WIGHT COUNCIL

Date **11 JANUARY 2024**

Title **NON-DOMESTIC RATES - DISCRETIONARY RATE RELIEF**

Report of **DEPUTY LEADER CABINET MEMBER FOR HOUSING AND FINANCE**

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### EXECUTIVE SUMMARY

1. The report recommends changes to the council's Non-Domestic Rating Discretionary Rate Relief Policy (DRR) in line with the changes made by the Non-Domestic Rating Act 2023.
2. The Non-Domestic Rating Act 2023 makes changes to the provisions of Section 47 of the Local Government Finance Act 1988 in terms of; the effective start date of any relief; and changes to the notices and period of notice to be given to ratepayers who receive discretionary relief.
3. As this is a change to the Non-Domestic Rating Discretionary Rate Relief provisions, the council is required to determine its approach to granting relief with effect from 1 April 2024. This paper addresses the need for the council to determine its approach to the backdating of discretionary rate reliefs.

### RECOMMENDATIONS

4. That Cabinet recommends that Full Council adopts Options 1 and 4 within this report, namely that:

OPTION 1: Backdating provisions which mirror the current legislative backdating rules are adopted within the Discretionary Rate Relief Policy. Awards will be considered from the date the application is received. In exceptional circumstances consideration may be given to awarding rate relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting the application earlier, subject to the following constraints relating to discretionary awards:

- i. If the application is received by 30 September, the award can be backdated to 1 April of the previous financial year.
- ii. If the application is received after 30 September, the award can only be backdated to 1 April of the current financial year.

- iii. that relief can be amended or ceased by the Council at any such time (determined on a daily basis) as the Council considers that the ratepayer no longer meets the criteria for receiving the relief.

OPTION 4: That any future changes required to the Discretionary Rate Relief Policy are passed for delegated decision to the Deputy Leader and Cabinet Member for Housing and Finance and the s151 Officer, in conjunction with the Monitoring Officer, if appropriate.

## BACKGROUND

5. Non-Domestic Rating has a large number of reliefs divided basically into two types, mandatory and discretionary. Mandatory are dictated by legislation and the Isle of Wight Council will be obliged to implement those in full. In the case of discretionary relief, these are themselves broadly divided into three types as follows:
- (a) **Discretionary relief which is defined by legislation and borne by the Council and Government under the Business Rates Retention provision (50 per cent/50 per cent).**
- The basic provisions for these reliefs are laid down by legislation (S47) but the decision whether to grant relief is at the discretion of each Council. Councils are required to develop their approach to granting within the legislative framework.
- (b) **Discretionary relief which is wholly defined by the Council and borne by the Council and Government under the Business Rates Retention provision (50 per cent/50 per cent)**
- Each Council has full discretion to develop its own policy for these reliefs and relief can be awarded to any ratepayer.
  - Relief under this provision is wholly determined by each Council. This relief is commonly known as the localism provisions and allows authorities to grant up to 100% relief to any ratepayer that meets the Council's defined policy.
- (c) **Discretionary relief which is wholly defined and reimbursed by the Government under a S31 Grant.**
- Government has for a considerable time developed schemes which are expected to be adopted by Councils. These are normally in response to economic events such as the financial crisis or the recent pandemic.
  - In these cases, where Councils adopt the suggested approach, the full amount of relief is reimbursed by means of a S31 grant. It is therefore obvious, that with these reliefs, all billing authorities currently adopt Government guidance in full.
6. For completeness, details of these reliefs have been included within the proposed policy document. (Appendix 1)

## Changes due to the Non-Domestic Rating Act 2023

7. Crucially, under the new Act, the approach currently taken by the Council in granting discretionary rate relief will remain as at present but, as required under the new provisions, the Council now has freedom to decide when relief should commence when a new application for relief is received.

### Effective start date of the relief

8. Currently when granting relief, the regulations (the Non-Domestic Rating (Discretionary Relief) Regulations 1989) require that the authority commences the relief from the beginning of the financial year in which the decision is made.
9. The current regulations also allow for an authority's decision to be backdated up to six calendar months. In effect, this means that the Council can decide up to 30th September of any year to backdate their decision into the previous financial year. This would allow relief to be granted from the commencement of that (the previous) financial year.
10. The Government will, ahead of billing for the 2024/25 financial year, revoke the Non-Domestic Rating (Discretionary Relief) Regulations 1989 to give billing authorities full flexibility in this area from 1 April 2024 and this will allow the Council to decide when any relief should commence. There will be no limitation or restriction. The date from which relief is granted will be solely a matter for the Council.

### Cancellation or amendment of the relief

11. In addition to allowing flexibility on the commencement date of relief, the revocation of the regulations will allow the Council to determine when relief should end or be amended. Currently a period of one year's notice has to be given when changing or cancelling any entitlement of relief and relief can only be ceased at the end of a financial year. With effect from 1 April 2024, the Council will be able to determine when relief will end.

## CORPORATE PRIORITIES AND STRATEGIC CONTEXT

12. The changes proposed will have no effect on the Council's support to ratepayers who currently already receive Discretionary Rate Relief.
13. The council's policy on Discretionary Rate Relief has been adjusted to allow for the new powers given under the Non-Domestic Rating Act 2023, and the draft policy can be seen at Appendix 1.
14. The policy continues to meet corporate aims, as detailed below.

## ECONOMIC RECOVERY AND REDUCING POVERTY

15. The core strengths of the Island economy remain as a platform for recovery and restoring Island business growth following the pandemic and the subsequent cost of living crisis, as well as existing businesses expanding on the Island to create jobs and wealth for the Island's community as it looks to recover.

16. The new provision to backdate discretionary reliefs will help to support Island businesses in assisting them to recover from these unprecedented events over the last few years.
17. Backdating discretionary reliefs on premises aligns with the Corporate Plan as it helps businesses maintain a stable premises, which will in turn help to realise the council's regeneration ambitions.
18. Any award of discretionary rate reliefs provide support to local business; however, the cost of awards needs to be borne in mind as 50 per cent is taken from the total of business rates monies collected.

## IMPACT ON YOUNG PEOPLE AND FUTURE GENERATIONS

19. The backdating of DRR will provide support to local business and in turn to their workforce and families through assisting with financial stability. Maintaining businesses' financial stability means that there may be job prospects for Island residents and future generations.

## RESPONDING TO CLIMATE CHANGE AND ENHANCING THE BIOSPHERE

20. Adopting the discretionary rate relief policy will have no impact on climate change.
21. A CSDIA has been completed in full for Discretionary Rate Relief scheme with the score visible below. The full rationale and scoring can be found at Appendix 2.



Socio-economic Outer Ring	Scores
No Poverty	3
Zero Hunger	3
Good health and wellbeing	3
Quality Education	3
Gender Equality	3
Clean Water and Sanitation	3
Affordable and clean energy	3
Decent work and economic growth	3
Industry, Innovation and Infrastructure	3
Reduced inequalities	3
Sustainable cities and communities	3
Responsible consumption and production	3
Climate Action	3
Life below water	3
Life on land	3
Peace, justice and strong institutions	3
Partnerships for the Goals	3

Environment Inner Ring	Scores
Transport	3
Energy	3
Housing	3
Environment	3
Offset	3
Adaptation	3

## CORPORATE AIMS

22. The Discretionary Rate Relief policy needs to be considered in the context of the council's overall financial position, budget strategy and the ability to continue to deliver public services on a sustainable basis.
23. It also needs to be consistent with, and balance this with the Corporate Plan priorities that seek to ensure the following:
  - Keeping the council solvent and take all the measures we can to improve the financial position of the council.
  - The council will need to ensure that backdating of DRR is considered through a fair and transparent process which takes into account the council's finances.

- Covid-19 recovery will be integral to everything we do for residents and Island businesses.

Backdating of DRR will support local businesses to regain economic stability following the pandemic and other recent unprecedented events.

Many of the businesses considered eligible for DRR are smaller local businesses who may be struggling financially.

### FINANCIAL / BUDGET IMPLICATIONS

24. Most discretionary reliefs are funded by local authorities and central government in equal shares. The provision to backdate these reliefs would therefore have an impact on the council's finances, which is why the recommended option amends the council's policy to allow backdating from the beginning of the financial year in which the application is received, or the date of occupation of the hereditament by the ratepayer, whichever is the latter.
25. However, there are certain reliefs which are fully funded through a government section 31 grant. It is being recommended to amend the council's policy to allow these reliefs to be granted as far back as eligibility rules allow because the funding for them can be fully reclaimed from government.
26. The costs of discretionary rate relief will remain largely as at present if the recommended Option 1 is adopted because the backdating provision mirrors the current approach under the legislation.

### LEGAL IMPLICATIONS

27. The Council' has discretion to grant relief in certain situations to non-domestic properties under Local Government Finance Act 1988. Section 47 provides the authority with the power to grant relief in any circumstances provided that it would be reasonable to do so having regard to the interests of council taxpayers in its area.
  - S4 Non-Domestic Rating Act 2023 amended s47 of the 1988 Act which now provides that a billing authority can make a decision to apply rate relief no more than six months after the end of the financial year.
28. Although the use of the power under this legislation is discretionary, the government funds a share of the reliefs using a grant under Section 31 of the Local Government Finance Act 2003, subject to subsidy control rules.

### EQUALITY AND DIVERSITY

29. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

30. The proposed recommendations make no change to the eligibility criteria and entitlement of ratepayers who receive discretionary rate relief.
31. The Equality Impact Assessment at Appendix 3 shows that there are no equality and diversity implications.

## OPTIONS

32. The Council is required to make the changes outlined given the changes in the legislation effected by the Non-Domestic Rating Act 2023 and must include the provision for backdating of DRR within its local policy.
33. Therefore, the options to consider relate only to the period of time for which reliefs can be backdated to be included within the council's local policy.
34. OPTION 1 – To adopt backdating provisions which mirror the current legislative backdating rules. Awards will be considered from the date the application is received. In exceptional circumstances consideration may be given to awarding rate relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting the application earlier, subject to the following constraints relating to discretionary awards:
  - i) If the application is received by 30 September, the award can be backdated to 1 April of the previous financial year.
  - ii) If the application is received after 30 September, the award can only be backdated to 1 April of the current financial year.
  - iii) that relief can be amended or ceased by the Council at any such time (determined on a daily basis) as the Council considers that the ratepayer no longer meets the criteria for receiving the relief.
35. OPTION 2 – To allow an indefinite period of backdating of discretionary rate relief awards up to 1 April 2023 at the earliest and that relief can be amended or ceased by the Council at any such time (determined on a daily basis) as the Council considers that the ratepayer no longer meets the criteria for receiving the relief.
36. OPTION 3 – To allow no backdating period at all, meaning relief will only apply from the date of application going forward and that relief can be amended or ceased by the Council at any such time (determined on a daily basis) as the Council considers that the ratepayer no longer meets the criteria for receiving the relief.
37. OPTION 4 – That any future changes required to the Discretionary Rate Relief Policy are passed for delegated decision to the Deputy Leader Cabinet Member for Housing and Finance and the s151 officer in conjunction with the Monitoring Officer, if appropriate.

## RISK MANAGEMENT

38. Option 1 will manage the financial burden on the council in keeping awards of backdating to a specific period, whereas option 2 will not, and could pose a financial risk to the council if it is not able to fund its share of the relief due to potentially extensive backdating across multiple years being approved. The award

of discretionary rate relief has an impact on Island taxpayers and the collection of revenues for the council.

39. Option 1 provides ratepayers who currently receive relief, the same level of backdating provision.
40. New applicants will still receive relief if they meet the eligibility criteria set within the policy (by council and central government).
41. Applications will continue to be dealt with in a fair and transparent manner as each application is considered on its own merits for the relevant relief to be applied.
42. The risk of adopting Option 3 is that the council would not be acting in line with its corporate objectives to support local businesses with economic recovery.

## EVALUATION

43. The original purpose of discretionary reliefs was to provide assistance where a business property does not qualify for mandatory relief, or to 'top up' cases where ratepayers already receive mandatory relief.
44. The Council is obliged to carefully consider every application on its merits, taking into account the contribution that the organisation makes to the amenities of the Island.
45. Allowing a period of backdating will provide additional support to those business who meet the eligibility criteria as defined in the policy and allows for some flexibility of awards.
46. By setting a maximum backdating period in Option 1, it strikes a balance between providing a level of support to local businesses whilst maintaining a consistent approach in financial undertakings of the council.
47. Adopting Option 1 mirrors the current backdating provisions under the legislation, making the new discretionary provisions consistent.

## Appendices Attached

- Appendix 1: IWC Discretionary Rate Relief Policy 2024 (Draft)
- Appendix 2: CSDIA Rationale
- Appendix 3: Equality Impact Assessment

## Background Papers

Non-Domestic Rating Act 2023: <https://www.legislation.gov.uk/ukpga/2023/53/enacted>

Contact Point: Debbie Vallas, Benefits Manager – Tel (01983) 823950 e-mail [Debbie.vallas@iow.gov.uk](mailto:Debbie.vallas@iow.gov.uk)

CHRIS WARD  
*Director of Finance and S151 Officer*

COUNCILLOR IAN STEPHENS  
*Deputy Leader and Cabinet Member for  
Housing and Finance*