

## Policy Committee – 7<sup>th</sup> June 2016

### Discretionary Business Rates Relief Policy



Report of the Corporate Head – Business Support

Presenting Officer – Revenues and Benefits Manager

Ward(s) affected: All

- 1 **Purpose of Report** – To propose the introduction of a policy permitting discretionary reductions of Business Rates under S44a of the Local Government Finance Act (LGFA) 1988.
  
2. **Recommendations** – Members are recommended to:-
  - 2.1 Approve the introduction of a policy permitting discretionary reductions of Business Rates under S44a of the Local Government Finance Act (LGFA) 1988.
  - 2.2 Give delegated authority to the Corporate Head – Business Support to approve ongoing minor adjustments to this policy in future years.
  
- 3 **Background**
  - 3.1 There are various discretionary reliefs permitted to reduce the amount of Business Rates a person or organisation is liable to pay if the qualifying criteria are met. Over the next 12 months we propose to develop a policy for each permitted area of discretion in order to support appropriate Enterprising Craven initiatives and the Council's Financial Strategy.

The first policy in this process is under S44a of the Local Government Finance Act (LGFA) 1988 which relates to partly occupied properties. Section 44a of the LGFA 1988 enables the Council to grant relief on business premises that are partly occupied, as long as this situation is for 'a short time only'. At present Craven does not have a policy under S44a.
  - 3.2 It is proposed to adopt a new policy (see attached) under S44a of the LGFA 1988. The awards will be short term in nature to a maximum of three months (or six months in the case of industrial hereditaments). It is envisaged that the policy will, where appropriate, also link into schemes promoted under Enterprising Craven.
  - 3.3 Additional discretionary policies will be presented to Policy Committee as they are developed.

**4 Caseload and expenditure**

It is envisaged that the number of awards made under this scheme will be few in number. A review of the numbers and amounts awarded will be reviewed on a quarterly basis.

**5 Impact of the changes**

There will be minimal financial impact for the authority however there may be occasions when, from an economic perspective through the economic development function, that discretionary assistance with rates is provided to business to assist Enterprising Craven initiatives to attract new business into the District.

**6 Future changes beyond 2016/17**

It is anticipated that minor changes to the scheme will be required as the links to Enterprising Craven evolve. Any major changes will be referred back to Policy Committee for approval.

**7 Financial and Value for Money (vfm) Implications**

The authorisation of use of this discretion is an efficient option to support Enterprising Craven and its associated budgets.

**8 Legal Implications**

In the interests of openness and transparency the Council should have a policy for any discretionary Business Rates Relief. The policy should have a degree of flexibility to prevent fettering the Council's discretion.

**9 Contribution to Council Priorities – Contributes to Enterprising Craven.****10 Risk Management – No direct risk management issues are envisaged****11 Equality Analysis – *Analysis undertaken.* No equality issues were highlighted.****12 Consultations with Others – Consultation is ongoing with Economic Development to explore how this policy can contribute and be expanded to support Enterprising Craven.**

**Author of the Report** – David Carré – Revenues and Benefits Manager  
dcarre@cravenc.gov.uk telephone 01756 706482

Note : Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

**Appendices****1. The proposed policy.**

## Appendix 1

**Discretionary Business Rates Relief (under Section 44A) Policy**

(1) The relief is discretionary in nature, and we are mindful that the adoption of too rigid a policy may result in the fettering of our discretion (as with other forms of discretionary relief);

(2) Conditions to be satisfied

- The situation is essentially temporary in nature - that is, there must be a defined start **and** end date. The relief should not be utilised in “open – ended” cases where there is no defined end date, as these cannot properly be termed “temporary”;
- Cases where the situation is one of temporary low capacity for warehouses and other storage hereditaments may be refused, as we believe the unoccupied parts of such hereditaments should be treated in the same manner as whole hereditaments, and as such, subject to the same precedents established by case law (e.g. R v Melladew). Even for non-storage hereditaments, fluctuating levels of usage alone, being part and parcel of commercial experience, will not necessarily constitute good reason to award section 44A relief. The only exception to this is if the hereditament falls under an Enterprising Craven initiative.
- Typically, the relief will be used to reflect scenarios such as progressive occupation/vacation, or those where a definable part of the hereditament is temporarily incapable of use, and a formal split would not be practical and/or appropriate;
- Relief should not be utilised if it is more appropriate for the VOA to split the hereditament, or reduce its rateable value;
- The benefits of Section 44A apportionments will be limited to three months (or six months in the case of industrial hereditaments), in virtue of the current legislation regarding unoccupied rate liability. Where a property is exempt from unoccupied rates (e.g. as in the case of listed buildings), the Council may exercise its discretion to extend the relief for longer periods, but with due regard to the “short time only” criterion
- Where section 44A relief is awarded, this will normally take effect from the beginning of the month in which the Council received the initial request.
- The Council will always carry out a site visit as part of the decision process.
- We believe that, as the legislation (specifically Subsection (1)) is worded in the present tense, the relief cannot be awarded for a retrospective closed period. Requests for backdated relief will therefore be refused.