

Item: 5

Policy and Resources Committee: 20 April 2021

Discretionary Rate Relief Policy.

Report by Head of Finance.

1. Purpose of Report

To consider amendments to the current Non-Domestic Rates discretionary relief policy to take into account statutory guidance published by the Scottish Government.

2. Recommendations

The Committee is invited to note:

2.1.

That the Scottish Ministers published statutory guidance on 25 February 2021 which requires discretionary rates relief policies which choose to award discretionary relief to local sports clubs to have regard to the statutory guidance.

2.2.

That the Council's policy on discretionary relief affords 100% rates relief to sports clubs for each 'property occupied for the purposes of a club, society or other organisation not established or conducted for profit, which is wholly or mainly used for purposes of recreation'.

2.3.

That, to comply with the statutory guidance, each organisation must be assessed individually and demonstrate that a continuing award of relief in terms of the Council's discretionary relief policy would be reasonable, having regard to the statutory guidance.

2.4.

That, of the 30 properties in Orkney benefitting from 100% rates relief during 2020/21, worth approximately £55,000, a total of 21 properties would be entitled to 100% rates relief in terms of the Small Business relief scheme and have now had their rates remitted under that scheme.

2.5.

That the discretionary relief to sports clubs is fully funded by the Scottish Government and there is no cost to the Council.

2.6.

That, in terms of existing policy, ratepayers must be given 12 months' notice where the withdrawal of discretionary relief would result in a ratepayer paying additional rates.

It is recommended:

2.7.

That, in addition to maintaining 100% rates relief based on existing policy, with effect from 1 April 2021 ratepayers applying for discretionary sport club relief should be required to demonstrate that the conditions set out in Annex 1 to this report are met.

3. Introduction

3.1.

On 24 September 1986, the Finance and General Purposes Committee recommended that the Council grant discretionary rates relief to sport clubs in Orkney where the facilities related to sporting activities only.

3.2.

The discretionary relief policy, including relief to sports clubs, was reviewed and recommended for approval by the Finance and General Purposes Committee on 15 September 1999 and again by the Policy and Resources Committee on 17 February 2009.

4. Background

4.1.

Local authorities in Scotland have the power under Section 4(5)(c) of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 to reduce or remit the Non-Domestic Rates payable in respect of "any lands and heritages occupied for the purposes of a club, society or other organisation not established or conducted for profit, and which are wholly or mainly used for purposes of recreation".

4.2.

Orkney Islands Council's current discretionary relief policy includes provision for 100% relief to sports clubs which fulfil these criteria. The Council does not incur any cost from affording this relief to local ratepayers as, unlike the other discretionary reliefs, it is fully funded from the national rating pool.

4.3.

The Scottish Government commissioned the independent Barclay Review of Non-Domestic Rates in Scotland which concluded with a report published on 22 August 2017, setting out 30 recommendations intended to support growth, improve administration of the rating system and to increase fairness.

4.4.

The Scottish Government accepted the majority of the Barclay Review recommendations, including number 27 – Sports club relief should be reviewed to ensure it supports affordable community-based facilities, rather than members' clubs with significant assets which do not require relief.

4.5.

Section 18 of the Non-Domestic Rates (Scotland) Act, which received Royal Assent in March 2020, includes provision for the Scottish Ministers to issue statutory guidance to local authorities on the use of discretion to award relief to sport clubs. The Scottish Government subsequently published guidance on 25 February 2021.

4.6.

From 1 April 2021, the Scottish Government's statutory guidance requires that the Council have regard to the guidance when choosing to award relief under Section 4(5)(c) of the 1962 Act.

4.7.

The statutory guidance outlines five criteria against which ratepayers should be assessed under councils' discretionary relief policies and elaborates on how ratepayers should be assessed. The criteria and definitions shown in the statutory guidance are attached at Annex 1 to this report.

4.8.

It is permissible for councils to include additional qualifying criteria in local relief schemes, beyond those in the statutory guidance. At present it is not being recommended that further criteria be included in the relief policy.

5. Ratepayers Benefitting from Relief

5.1.

There are currently 30 properties in Orkney, occupied by 19 distinct ratepayers, benefitting from 100% relief of rates under the discretionary relief policy. A full list of these properties, the occupying ratepayers, and the relief afforded in 2020/21 is attached at Annex 2 to this report.

5.2.

Analysis of the rating list has determined that, whilst 21 of those properties would pay no rates under the current rating system, even without discretionary relief, a further 9 properties, occupied by 4 different ratepayers would stand to see a rate levied if the discretionary relief were removed.

5.3.

It is therefore recommended that only those 9 properties be considered for discretionary relief in the future; the remaining 21 properties have been granted the Small Business Relief which remits 100% of their rates liability.

5.4.

The ratepayers who would stand to see a rate levied if discretionary relief were removed are the Deerness Small Boat Owners Association, Orkney Golf Club Ltd, Orkney Sailing Club, and Stromness Golf Club Ltd.

5.5.

If the recommendations are adopted, and the Council's discretionary relief policy is amended to include the provisions in the statutory guidance, these ratepayers would then need to be assessed against the qualifying criteria. Similarly, future requests for relief from other ratepayers would be assessed against these criteria.

5.6.

The Council's existing discretionary relief policy requires that ratepayers be given 12 months' notice before an award of relief is terminated. The Scottish Government has given assurances that funding of relief awards will continue where additional time is required by councils to review existing relief awards and notify affected ratepayers.

5.7.

For this reason, the ratepayers listed at section 5.4 above will be allowed an easement, to continue receiving 100% relief for 12 months beyond the date an assessment takes place.

5.8.

Allowing this easement means that the Council would fulfil its obligation under the existing policy to notify ratepayers 12 months in advance of any changes, and would allow additional time for those ratepayers to plan for any possible future rates liability in 2022/23.

5.9.

It is envisaged that the Revenues section would contact the ratepayers listed at section 5.4 above during 2021, inviting a representative to set out how the ratepayers meet the criteria in the revised discretionary relief policy, with the expectation that a decision on whether to award relief be made within 28 days of the ratepayer's submission.

6. Equalities Impact

An updated Equality Impact Assessment in relation to the proposed change is attached at Annex 3 to this report.

7. Corporate Governance

This report relates to the Council complying with its financial processes, and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

8. Financial Implications

There are no financial implications arising from the policy changes proposed in this report.

9. Legal Aspects

The legal aspects are contained within the body of the report.

10. Contact Officers

Gareth Waterson, Head of Finance, extension 2103, Email gareth.waterson@orkney.gov.uk

William Moore, Revenues and Benefits Manager, extension 2104, Email william.moore@orkney.gov.uk

11. Annexes

Annex 1: Recommended criteria in amended discretionary relief policy

Annex 2: Full list of ratepayers and properties benefitting from discretionary relief for sports clubs, extracted from the rating list on 15 February 2021.

Annex 3: Equality Impact Assessment.

Policy on Awarding Discretionary Relief to Sports Clubs

Sports club relief is statutorily only available on premises occupied for the purposes of a club, society or other organisation not established or conducted for profit, and which are wholly or mainly used for purposes of recreation.

The Council's policy on discretionary relief requires that relief only be awarded where an organisation:

- Is set up with a formal constitution or governing document;
- Provides facilities that are open to the whole community (taking into account reasonable exclusions);
- Has affordable membership or participation fees;
- Is organised on an amateur basis;
- Is managed by 'fit and proper persons'.

Definitions of Terms Used

Formal Constitution or Governing Document –

A document setting out the purpose and structure of the organisation, the rules by which and by whom it is managed, and may be helpful in determining if an organisation meets the criteria set out in this guidance.

The council must be satisfied that this document has been formally adopted by the organisation, for example it may be signed and dated by officers or lodged with the relevant registrar (if applicable).

Open to the whole community (taking into account reasonable exclusions) –

The facilities are open to people of all ethnicities, nationalities, sexual orientations, religions or beliefs, sexes, ages and ability – except where there is a reasonable cause for exclusions or segregations to apply such as to ensure the health and safety or dignity of participants.

Membership or use of the facilities by persons with disabilities should not be discouraged, and organisations should display a willingness to make reasonable adjustments for such persons.

An organisation should not discriminate between classes or categories of members (except where this is reasonable e.g. different facility use for adults and children), and it must make its facilities available within reason and without discrimination, to all members.

The organisation's membership admission procedures should also be clear and open. They should be free from any restrictions that might foster discrimination, for example, proposing and seconding applications for membership.

Affordable membership fees –

Fees should be set at a level that does not pose a significant obstacle to membership or use of the facilities. There should be no “hidden” exclusions based on ability or wealth.

An organisation may offer different classes of membership depending on factors such as the age of the member, whether the member is waged or unwaged, or whether the member is a playing or non-playing member. They may offer other concessions to facilitate affordability such as payments by instalments, pay-as-you-go options or hardship support.

In determining what is affordable, the Council will have regard to the fact that the costs of providing facilities or activities and the fees and membership packages may differ from organisation to organisation, sport to sport, and have different inclusive benefits such as insurance, coaching sessions, use of kit or equipment, etc.

The Council will also give consideration to the level of assets (including facilities) of the organisation in considering whether they meet this guidance, in recognition that different sports may require different levels of assets, may require reserve funds for maintenance, repair or replacement of facilities and some organisations may have inherited assets which they hold or maintain. The Council may request sight of the organisation’s financial accounts as part of this consideration.

Organised on an amateur basis –

The organisation must meet the requirement set by section 4(5)(c) of the Local Government (Financial Provisions etc.) (Scotland) 1962 Act, of not being established or conducted for profit and:

- Where income exceeds expenditure (or receipts exceeds payments if the accounts are on a cash basis), that excess income must only be used to further the objectives of the organisation. This applies to any excess of income in any year and any excess of income which is held in reserve;
- It must only pay expenses for matches and tours where players take part in and promote the organisation’s sport or objectives;
- It must not pay more than necessary and reasonable expenses to all players in a year. This does not refer to staff costs for coaching/management or activities that advance public participation in the sport; and
- It must provide the benefits reasonably associated with an amateur sports club, e.g. use of equipment, coaching, post-match refreshments.

The governing document should also state that any assets left after settlement of all proper debts and liabilities upon dissolution of the organisation are to be used only by a Community Amateur Sports Club, charity or other community sport organisation.

Staff costs for coaching/management should be consistent with the local commercial rate of pay.

Fit and proper persons –

For the purposes of this policy, an organisation's managers are individuals who have the general control and/or management of the administration of the organisation. This includes committee members and therefore can be unpaid.

The definition of 'a fit and proper person' includes that the organisation's managers will ensure, or are likely to ensure, that the savings on non-domestic rates made from claiming sports club relief are invested in the organisation.

The Council will any appropriate information deemed relevant to the question of whether an individual is a fit and proper person. This could include whether, for instance, the individual has been:

- Convicted in relation to tax fraud or other fraudulent behaviour;
- Engaged in non-domestic rates avoidance arrangements that are artificial as defined under sections 39 and 40 of the Non-Domestic Rates (Scotland) Act 2020;
- Removed or disqualified as a charity trustee or company director.

Annex 2

All ratepayers with discretionary sport club relief (2020-21)

Property	Ratepayer name	Property Address	Relief (£)
CLUBHOUSE	Bowling Club	School Road, St Margaret's Hope, Orkney, KW17 2TN	354
BOWLING GREEN	Bowling Club	School Road, St Margaret's Hope, Orkney, KW17 2TN	598
SLIPWAY	Deerness Small Boat Owners Association	Newark Bay, Deerness, Orkney, KW17 2QQ	10,583
BOWLING GREEN & CLUBHOUSE	Kirkwall Bowling Club	Brandyquoy Park, Palace Road, Kirkwall, Orkney, KW15 1PA	2,739
OLD CLUBHOUSE	Kirkwall Bowling Club	Watergate, Kirkwall, Orkney, KW15 1JW	60
CLUBROOM	Mr Michael E J Williams	Mistra, Evie, Orkney, KW17 2PJ	610
SHOOTING RANGE	Orkney Clay Pigeon Club	Ramsdale, Orphir, Orkney, KW17 2RB	5,229
CLUBHOUSE	Orkney Golf Club Ltd	Grainbank, St Ola, Orkney, KW15 1UA	5,279
GOLF COURSE	Orkney Golf Club Ltd	Grainbank, St Ola, Orkney, KW15 1UA	3,586
GROUND	Orkney Motocross Club	Hedde Road, Finstown, Orkney, KW17 2JX	872
CLUB	Orkney Sailing Club	Harbour Street, Kirkwall, Orkney, KW15 1LE	3,436
TRAINING CENTRE	Orkney Sailing Club	Grainshore Road, Hatston Ind Estate, Kirkwall, Orkney, KW15 1FL	6,424
CLUBROOMS	Orkney Sub Aqua Club	Scotts Road, Hatston Ind Estate, Kirkwall, Orkney, KW15 1GR	784
HUT	Orkney Trout Fishing Assoc	Brodgar, Stenness, Orkney, KW16 3LA	364
HUT	Orkney Trout Fishing Assoc	Hundland, Swannay, Orkney, KW17 2NR	324
HUT	Orkney Trout Fishing Assoc	Whitemire, Birsay, Orkney, KW17 2NL	304
HUT	Orkney Trout Fishing Assoc	Castlehill, Birsay, Orkney, KW17 2LZ	284
HUT	Orkney Trout Fishing Assoc	Davy'S Noust, Diamond Cottage, Stenness, Orkney, KW16 3JX	398
CLUBROOMS	Orkney Weightlifting Club	Papdale Loan, Kirkwall, Orkney, KW15 1NA	436
CLUBROOM	Rousay Snooker Club	Wasbister, Rousay, Orkney, KW17 2PS	219
CLUBHOUSE	Sanday Golf Club	Newark, Sanday, Orkney, KW17 2BP	45

Property	Ratepayer name	Property Address	Relief (£)
GOLF COURSE	South Ronaldsay Golf Club	Surgery Road, West End, St Margaret's Hope, Orkney, KW17 2SN	1,270
GOLF COURSE	Stromness Golf Club Ltd	Ness, Stromness, Orkney, KW16 3DW	3,262
CLUBHOUSE	Stromness Golf Club Ltd	Ness, Stromness, Orkney, KW16 3DW	5,627
BOWLING GREEN	Stromness Golf Club Ltd	Ness, Stromness, Orkney, KW16 3DW	386
STORES & COMPOUND	Stromness Sailing Club	Ness, Stromness, Orkney, KW16 3DW	834
STORE	Stronsay Sea Sports Club	Whitehall, Stronsay, Orkney, KW17 2AS	339
PAVILION	Tennis Club	School Road, St Margaret's Hope, Orkney, KW17 2TN	25
TENNIS COURT	Tennis Club	School Road, St Margaret's Hope, Orkney, KW17 2TN	294
BOAT STORE	Westray Sailing Club	Gill Pier, Westray, Orkney, KW17 2DL	199
Total Relief Awards			£55,164



Equality Impact Assessment

The purpose of an Equality Impact Assessment (EqIA) is to improve the work of Orkney Islands Council by making sure it promotes equality and does not discriminate. This assessment records the likely impact of any changes to a function, policy or plan by anticipating the consequences, and making sure that any negative impacts are eliminated or minimised and positive impacts are maximised.

1. Identification of Function, Policy or Plan	
Name of function / policy / plan to be assessed.	Non-Domestic Rates – Discretionary Relief to Sports Clubs
Service / service area responsible.	Chief Executive's – Finance.
Name of person carrying out the assessment and contact details.	William Moore, Revenues & Benefits Manager. Telephone: 01856 873535 Extension 2104. Email: william.moore@orkney.gov.uk
Date of assessment.	15 February 2021
Is the function / policy / plan new or existing? (Please indicate also if the service is to be deleted, reduced or changed significantly).	The existing policy on discretionary rates relief awarded to sports clubs is being changed to take account of statutory guidance published by the Scottish Government.

2. Initial Screening	
What are the intended outcomes of the function / policy / plan?	To align the current discretionary relief policy with the aims set out in the Scottish Government's statutory guidance published February 2021.
Is the function / policy / plan strategically important?	The policy change will contribute towards the Council's support for local not-for-profit organisations promoting sport and recreation in Orkney.
State who is, or may be affected by this function / policy / plan, and how.	Ratepayers currently afforded a discretionary relief, who are not eligible for an alternative form of relief under the Small Business Bonus relief scheme.

<p>How have stakeholders been involved in the development of this function / policy / plan?</p>	<p>Consultation was undertaken by the Scottish Government following the publication of the independent Barclay Review report, prior to laying the Non-Domestic Rates (Scotland) Act 2020.</p>
<p>Is there any existing data and / or research relating to equalities issues in this policy area? Please summarise. E.g. consultations, national surveys, performance data, complaints, service user feedback, academic / consultants' reports, benchmarking (see equalities resources on OIC information portal).</p>	<p>Data held indicates that there are 4 affected ratepayers in Orkney receiving a rates relief in respect of 9 rated properties.</p>
<p>Is there any existing evidence relating to socio-economic disadvantage and inequalities of outcome in this policy area? Please summarise. E.g. For people living in poverty or for people of low income. See The Fairer Scotland Duty Interim Guidance for Public Bodies for further information.</p>	<p>Evidence on this would be explored once the revised policy is agreed; ratepayers would be given the opportunity to submit evidence demonstrating that their organisation meets the criteria set out in the policy.</p>
<p>Could the function / policy have a differential impact on any of the following equality areas?</p>	<p>(Please provide any evidence – positive impacts / benefits, negative impacts and reasons).</p>
<p>1. Race: this includes ethnic or national groups, colour and nationality.</p>	<p>No differential impact.</p>
<p>2. Sex: a man or a woman.</p>	<p>No differential impact.</p>
<p>3. Sexual Orientation: whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.</p>	<p>No differential impact.</p>
<p>4. Gender Reassignment: the process of transitioning from one gender to another.</p>	<p>No differential impact.</p>
<p>5. Pregnancy and maternity.</p>	<p>No differential impact.</p>
<p>6. Age: people of different ages.</p>	<p>No differential impact.</p>

7. Religion or beliefs or none (atheists).	No differential impact.
8. Caring responsibilities.	No differential impact.
9. Care experienced.	No differential impact.
10. Marriage and Civil Partnerships.	No differential impact.
11. Disability: people with disabilities (whether registered or not).	No differential impact.
12. Socio-economic disadvantage.	Possible impact. One of the criteria used to judge relief awards will be affordability of membership fees for local organisations.
13. Isles-proofing.	No differential impact resulting from this amendment to the policy. The ratepayers affected by this policy and the properties they operate are all on the Orkney mainland.

3. Impact Assessment

Does the analysis above identify any differential impacts which need to be addressed?	None.
How could you minimise or remove any potential negative impacts?	Not Applicable.
Do you have enough information to make a judgement? If no, what information do you require?	Yes.

4. Conclusions and Planned Action

Is further work required?	Yes.
What action is to be taken?	Updating of policy documents on the OIC website, Issue of notice to affected ratepayers
Who will undertake it?	Revenues Manager
When will it be done?	April/May 2021
How will it be monitored? (e.g. through service plans).	Management information on discretionary reliefs is reported as part of the reporting on Non-Domestic Rates income.

Signature:



Name: WILLIAM MOORE

Date: 15 February 2021

(BLOCK CAPITALS).

Please sign and date this form, keep one copy and send a copy to HR and Performance. A Word version should also be emailed to HR and Performance at hrsupport@orkney.gov.uk