

Tewkesbury Borough Council

Discretionary Rate Relief Policy

1. Introduction and scope

- 1.1 Tewkesbury Borough Council recognises the importance of supporting local businesses, charities and voluntary organisations to promote the provision of local facilities, support economic growth and investment and improve prosperity.
- 1.2 Councils have the power to award relief from the payment of Non-Domestic Rates (Business Rates) to organisations and businesses that meet certain criteria. Public funds are not, however, unlimited and a proportion of any relief granted is met by the council tax payers of the district. We therefore need to be satisfied that money invested this way will be repaid in economic and/or community benefit.
- 1.3 The power for granting discretionary rate relief is provided for by Section 47 of the Local Government Finance Act 1988. This has been amended by subsequent legislation which gives wider powers to grant discretionary relief to any ratepayer where the authority feels the granting of such relief would benefit the local community.
- 1.4 This policy is designed to provide guidance to Council Officers and ratepayers on the application of Discretionary Rate Relief. This policy covers the following types of discretionary rate relief:
 - Charitable rate relief
 - Community Amateur Sports Clubs (CASCs)
 - Rate relief for not-for-profit organisations
 - Discretionary rural rate relief
 - Hardship relief
 - Temporary relief for partly occupied properties
 - Local discounts and incentives
- 1.5 This policy document outlines the various areas of local discretion and the Council's approach to the various reliefs. This approach has regard to the impact:
 - of granting discretionary relief on the Council's wider financial position and the impact on its council tax payers;
 - on the organisations and businesses that currently receive or may apply for relief in the future;
 - on the residents of Tewkesbury Borough if relief is awarded and the economic benefits to the Borough.

2. The Discretionary Rate Relief Scheme

2.1 Discretionary rate relief (DRR) is granted in accordance with Section 43 of the Local Government Finance Act 1988 and Sections 47 and 49 of the Local Government Finance Act 1988 as amended by the Localism Act 2011.

Section 69 of the Localism Act amended Section 47 of the Local Government Finance Act 1988 to allow billing authorities to fund their own local discounts. The Council can grant business rates discounts and incentives as it sees fit within the limits of primary legislation and European rules on state aid. These powers can be used to encourage new business and investment as well as support local shops or services to the community.

2.2 The legislation requires the Council to maintain a Discretionary Rate Relief (DRR) scheme to award rate relief of up to 100% to certain organisations and businesses which operate within specified criteria. This includes:

- charitable bodies already in receipt of mandatory relief of 80%. The Council has a discretion to 'top-up' this relief to 100% of the business rates due;
- registered community amateur sports clubs (CASCs) already in receipt of mandatory relief of 80%;
- non-profit making organisations – the Council has the discretion to grant relief of up to 100% of the business rates due;
- Discretionary rate relief for 'other rural businesses'
- Relief on the grounds of hardship
- Relief for part-occupied premises
- Local discounts and incentives

2.3 In making decisions the Council may:

- Grant relief up to a maximum of 100% of the business rates due;
- Grant relief for a sum less than 100% of the business rates due; or
- Refuse any application for relief

2.4 Whilst mandatory relief can be backdated to previous financial years, legislation permits discretionary relief only to be awarded back to the start of the previous financial year where the application is submitted and assessed prior to the end of September in a relevant year.

2.5 It is the Council's policy that discretionary relief will only be awarded from the date of the application or, in the case of hardship relief, where the hardship occurred at that point in time. Only in the most exceptional circumstances will consideration be given to awarding relief for a prior period. The ratepayer must provide valid reasons for not having submitted their application at an earlier date.

2.6 In the majority of cases discretionary relief will be granted for a period of two financial years only. Successful applicants will be sent a letter confirming the award of discretionary relief. This letter will also explain that the relief has been granted for two financial years only.

3. The application process

3.1 Applications for relief must be made on the Council's application form. Applicants are encouraged to apply online at www.tewkesbury.gov.uk.

Businesses and other organisations needing support or advice on making their application can contact us on businessrates@tewkesbury.gov.uk.

3.2 Applications should be submitted with the relevant supporting information which includes:

- Details of the applicant's main purposes and objectives (where applicable) as set out in a written constitution, a memorandum of association or membership rules;
- A full set of audited accounts relating to the two years prior to the date of application. Where audited accounts are not available projections should be provided instead;
- Details of how the organisation meets the relevant criteria detailed in these guidelines

3.3 Any applications which are made without the supporting documentation will be subject to a decision being made solely on the information that is available at the time of the decision

3.4 As a guide, to be eligible for discretionary rate relief a charity/organisation must not have enough unrestricted funds/reserves available to continue to operate for more than 12 months unless a business plan exists detailing how these additional funds are to be used to benefit the local community.

3.5 In exceptional cases, discretionary rate relief will be granted to organisations which have enough financial resources in unrestricted funds/reserves to continue to operate for more than 12 months. This may include charities and community organisations which require a large amount of available resources to sustain the service they deliver to the community. In such cases the applicant must be able to prove it offers a service which the Borough's residents depend on and which they would be unlikely to find elsewhere in the Borough.

3.6 The Council will aim to make a decision within a maximum of 2 weeks of the application and supporting information being received. Decisions on the award of discretionary rate relief will be made by the Revenues and Benefits Manager. Ratepayers are required to continue to pay business rates whilst their application is being considered. Failure to make payment will result in the Council pursuing collection through the usual enforcement procedures which could result in Court action.

3.7 There is no statutory right of appeal against a decision other than by way of judicial review. An unsuccessful applicant may make a request for the authority to review a decision, but only where:

1. Additional information relevant to the application that was not made available at the time the decision was made becomes available.
2. There are good grounds to believe the application or supporting information was not interpreted correctly at the time the decision was made.

A request for review must be within 28 days of notification of the decision and must set out the reasons for the request and any supporting information.

Cases will be reviewed by the Head of Corporate Services.

3.8 All amounts of relief awarded are subject to state aid limits as defined by European legislation. Relief will not exceed €200,000 in any 3-year financial period.

3.9 The cost of awarding discretionary relief is apportioned as follows:

50% will be funded by Central Government

40% will be funded by Tewkesbury Borough Council

10% will be funded by Gloucestershire County Council

3.10 Any decision regarding rate relief will be communicated to the applicant in writing. Where the decision is a refusal the reasons for refusal will be provided in the letter.

3.11 A review of the guidelines will be undertaken every 3 years in line with the Valuation Office Agency's revaluation cycle, or if business rates legislation is amended, or as necessary to ensure it complies with current legislation and Tewkesbury Borough Council's priorities.

3.12 The ratepayer must inform the Council immediately of any change if their circumstances which may affect their eligibility for relief.

4. Charitable Rate Relief

4.1 Mandatory Rate Relief of 80% is granted to charities where:

- The ratepayer is a charity or the trustees of a charity; and
- The property is wholly or mainly used for charitable purposes (including charity shops where the goods sold are mainly donated and the proceeds are used for the purposes of the charity)

4.2 Registration under the Charities Act 1993 is conclusive evidence of charitable status. Bodies which are excepted from registration or are exempt charities are also eligible for mandatory relief.

4.3 In cases where a charity is in receipt of mandatory relief of 80% the Council has discretion to grant up to 20% additional discretionary relief. This is also known as discretionary rate relief 'top-up'. The Council will consider applications for discretionary relief from charities based on their own merits on a case by case basis. The principal consideration in awarding relief is that is in the best interests of the residents and council tax payers of Tewkesbury Borough to do so and it produces a local benefit as the Council must contribute to the cost of each award.

4.4 Each case will be assessed on its own merits, but generally top-up discretionary relief will only be awarded to the following charities or excepted organisations:

- Scouts, guides, cadets and other clubs and organisations for young people;
- Organisations providing support in the form of advice, employment training and counselling;
- Community schemes including those providing support for those over retirement age, community transport and volunteer organisations;
- Charitable supporting clubs;
- Armed Forces veterans associations;
- Locally based leisure and cultural organisations;

4.5 The following general exclusions will apply:

- 'Top-up' relief will only be granted to local charities (defined as those set up with the sole purpose of assisting residents of Tewkesbury Borough and whose main office is situated in the Borough);
- Unless a special case for financial hardship can be proved 'top-up' relief to national charities (including charity shops) will not be granted;

- Academy, free, grant maintained, faith and trust schools are classified as charities and therefore receive 80% mandatory relief. 'Top-up' relief for schools and educational establishments which receive central or local government support should not be granted unless a special case for hardship can be shown;
- 'Top-up' relief for Housing Associations will not be granted.

5. Registered Community Amateur Sports Clubs (CACs)

5.1 Registered Community Amateur Sports Clubs (CASCs) are entitled to 80% mandatory relief. The Council will consider applications for discretionary rate relief 'top-up' from CASCs based on their own merits on an application by application basis.

5.2 The Council will consider applications that can demonstrate:

- The contribution the organisation makes to the Tewkesbury Borough;
- The club is open to the whole community and its membership fees are not excessive;
- It is a non-profit making organisation;
- Evidence that every effort is made by the organisation to encourage open membership from groups such as young people, disabled persons, women and those over retirement age;
- Schemes of education and training are provided particularly for young people, disabled persons, women and those over retirement age;
- How the CASC supports and links into the Council's priorities

5.3 The Council will also take into consideration if any building used is accessible to disabled people or if reasonable attempts have been made to make it accessible.

5.4 Applications will only be considered where the club has an open access policy. If a club only accepts members who have reached a certain standard, rather than seeking to promote the attainment of excellence by developing sporting aptitude, it does not fulfil the requirements.

5.5 Although clubs should be open to all without discrimination, single sex clubs may be permitted where such restrictions are a genuine result of physical restraint (such as changing room facilities) or the requirement of the sport. In such cases the applicant will be required to provide proof of these factors.

5.6 It should be noted that sports clubs which run a bar are unlikely to be awarded discretionary rate relief if their main purpose is the sale of food and drink. If the sale of food and drink by the organisation aids the overall operation and development of the organisation meaning it achieves its objectives this is permissible if the principle objectives of the organisation meet the eligibility criteria detailed at 5.2. If the bar makes a profit this relief must be reinvested to help the organisation meet its principal objectives. Financial information will be required to evidence any profit and its use.

6. Rate relief for not-for-profit organisations

6.1 Not-for-profit organisations which are not classed as registered charities or CASCs can apply for discretionary rate relief of up to 100%. Such organisations include those which are philanthropic, religious, concerned with education or social welfare, science, literature, the fine arts, recreation or are otherwise beneficial to the community.

6.2 The Council will consider application from organisations which can demonstrate:

- Its activities support at least one of the Council's priorities;
- It promotes its service for the benefit of Tewkesbury Borough's residents;
- Membership of the organisation is open to all members of the community regardless of ability;
- The facilities of the organisation are to be made available, where practicable, to other organisations and groups;
- Operates in such a way that it does not discriminate against any section of the community;
- It is not established or conducted for the primary purpose of profit

6.3 Membership and entry fees

If the organisation applying for discretionary rate relief requires membership or an entry fee the Council will consider whether:

- Membership is open to everyone regardless of race, ethnicity, sex, marital or parental status, sexual orientation, creed, disability, age, religious affiliation or political belief;
- The subscription or fee is set at a level which is not prohibitively high and is affordable by most sections of the community;
- Fee reductions are offered to certain groups, for example the under 18s and over 60s;
- Membership is encouraged from the unemployed, young people not in employment, education or training, those of retirement age and people with disabilities.

6.4 Where the applicant organisation requires membership, at least 50% of members should reside within the Tewkesbury Borough. Proof of this will be required.

6.5 The organisation must provide a copy of their constitution and copies of the latest two years of audited annual accounts where available.

7. Discretionary Rural Rate Relief

7.1 Applications for discretionary rural rate relief can be made by any business in a designated rural settlement area that are not eligible for mandatory rural rate relief. The rateable value of the property must not be more than £16,500.

7.2 Discretionary rural rate relief for 'other rural businesses' will be considered where:

- The rateable value of the property is not more than £16,500;
- The property is used for purposes which benefit the local community
- The award of relief is in the interests of Tewkesbury Borough residents and its council taxpayers

7.3 As a general guide, a ratepayer must not have enough resources available in unrestricted funds or reserves (i.e. those not being held for a specific purpose) to continue to operate for more than 12 months unless it can show how these additional reserves are to be used to benefit the local community.

7.4 The following will be taken into consideration when assessing an application for discretionary rural rate relief:

- The number of staff employed by the business who are resident in the community in which the business is located; and
- Whether there are any other suppliers of the same goods or services which are easily accessible to residents in the rural settlement.

7.5 Every application must be accompanied by the latest trading accounts and evidence of the proportion of expenditure attributable to business rates. In determining the application, the Council will consider the financial viability of the business concerned, thereby having regard to the interests of council tax payers in general. This will be balanced by the detrimental effect on the rural community should the business cease trading either as a direct or indirect result of not awarding relief.

7.6 The amount awarded will be up to 100% of the total business rates payable.

8. Hardship Relief

- 8.1 The Council has discretion under Section 49 of the Local Government Finance Act 1988 to grant relief of up to 100% where hardship is demonstrated. Hardship relief can only be considered if it would be reasonable to do so in the interests of council taxpayers in general.
- 8.2 Hardship relief will be awarded where the business is suffering from unexpected hardship which is outside of the normal risks associated with business. Reduction or remission of business rates on the grounds of hardship will only be made in exceptional circumstances.
- 8.3 Hardship relief is granted at the discretion of the Council which can reduce or remit the amount of business rates due provided it is satisfied that:
- The ratepayer would sustain hardship if it did not do so; and
 - It is reasonable to do so having regard to the interests of its council tax payers.
- 8.4 The following factors will be considered in assessing the application:
- The test of hardship needs not be confined strictly to financial hardship. All relevant factors affecting the ability of the business to meet its rates liability will be considered.
 - The interests of council tax payers in the area may be wider than direct financial interests. Examples of this include where employment prospects in the area would be worsened by a company going out of business or the amenities of the area being reduced.
 - The ratepayer must provide evidence of hardship, for example a severe loss or marked decline in trade compared to similar periods in previous years.
 - The business must be able to show evidence of its viability for the future which is two years for these purposes.
- 8.5 A business will not be considered for hardship relief in the following circumstances:
- Where the business is profitable;
 - Where the business has experienced a minor loss in trade;
 - Where the drawings/remuneration of directors, partnerships or sole traders are of an amount not deemed reasonable by the Council;
 - Where the business is new and hardship relief is being requested to fund the initial progression of the business;
 - Where the property is empty;
 - Where similar goods or services are already being provided in the locality or within a reasonable distance.

8.6 Prior to any award being made the business is expected to act to mitigate or alleviate their hardship by:

- contacting the Council's Economic Development Team;
- considering other options such as renegotiating with its creditors;
- having in place a business plan to address the hardship

8.7 Applications for hardship relief shall be regarded as a last resort and will only be accepted after consideration of any other forms of rate relief for which the applicant may be eligible.

8.8 The period and amount of any award will be determined on a case by case basis, but may be up to 100% of business rates liability.

8.9 Hardship relief will only be granted for short periods of time and usually up to a maximum of 6 months.

9. Properties partly occupied for a temporary period

9.1 There may be times where a property is only partly occupied for a short period of time. This may be due to a business relocating to a new property. In certain circumstances, the Council may use its discretion to award part occupied relief which is also known as Section 44a relief (Section 44a of the Local Government Finance Act 1988).

9.2 In these circumstances the Council may request that the Valuation Office Agency apportions the rateable value of the property between occupied and unoccupied parts.

9.3 Section 44a relief may be awarded in the following circumstances:

- where the occupied and unoccupied parts of the property can easily be separately assessed; or
- Where there are short term practical or financial difficulties in either occupying or vacating the premises.

9.4 The part occupation must be for a temporary period only.

9.5 Rate relief will not be awarded where the partial occupation is due to the normal day to day operation of the business, for example where a warehouse has despatched a large order and no longer needs to store stock.

9.6 For the purposes of this policy a period of up to 6 months will be temporary. Periods of time exceeding 6 months will be treated as a permanent change and will not be eligible for partly occupied relief.

9.7 Relief will not be awarded where it appears to the Council that part of the property is being kept empty for the sole purpose of claiming rate relief.

- 9.8 Prior to an award being made, a visit to the premises will be made by a Council Officer to establish the exact area of the property that is empty. The application must be supported by a plan of the property which clearly marks the boundary of the occupied and unoccupied parts. This plan will be given to the Valuation Office Agency to apportion the rateable value.
- 9.9 Further visits may be made to the property throughout the duration of the relief to establish that the property is still partly occupied.
- 9.10 Further applications for part occupied relief may be considered where there is a change to the area which is unoccupied.
- 9.11 Part occupied relief will end if one of the following applies:
- The financial year comes to an end;
 - The end of the award;
 - Where part or all the unoccupied parts become occupied;
 - Where the whole of the property becomes unoccupied;
 - Where the liability for the property changes

10. Local discounts and incentives

- 10.1 The Council can grant business rates discounts and incentives entirely as it sees fit within the limits of primary legislation and European rules on State Aid. These powers may be used to complement the strategic priorities and key objectives of the Council including increasing employment at strategic employment sites, investing in town centres and encouraging new business and investment to the Borough.
- 10.2 Using the general exception from the State Aid rule where the aid is below the 'de minimis' level, the Council will limit awards to maximum of €200,000 to any one business over any three-year period.
- 10.3 Applications will be considered in accordance with section 10.1 and where applicants seek rate relief under Localism Act powers the application should include information about how the business complements the strategic priorities and key objectives of the Council.