



Appendix A

Discretionary Rate Relief Policy

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1.0 Introduction

- 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 businesses and other organisations that meet certain criteria. Public funds are not, however, unlimited and a proportion of any relief granted is met by the council taxpayers of the borough. 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 award discretionary relief to any ratepayer where the authority believes the granting of such relief would benefit the local community.
- 1.4 This policy is designed to provide guidance to 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
 - Rural rate relief
 - Discretionary rural relief – other businesses
 - Hardship relief
 - Temporary relief for partly occupied properties
 - Relief for local newspapers
 - 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 rate relief on the Council's wider financial position and the impact on its council taxpayers.
 - 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, including the economic benefits to the borough.

2.0 The Discretionary Rate Relief Scheme

2.1 Discretionary rate relief (DRR) is awarded in accordance with Sections 47 to 49 of the Local Government Finance Act 1988, as amended by the Localism Act 2011.

2.2 Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988 to allow billing authorities to fund their own local discounts. The Council can grant discounts and incentives as it sees fits within the limits of primary legislation and any rules on subsidy control (the replacement for 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.

2.3 The legislation requires the Council to maintain a discretionary rate relief 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 receiving mandatory relief of 80%. The Council has a discretion to ‘top-up’ this relief to 100% of the businesses rates due.
- Not for profit organisations where the Council has the discretion to grant relief of up to 100% of the business rates due.
- Rural rate relief.
- Discretionary rate relief for ‘other rural businesses’.
- Relief on the grounds of hardship.
- Relief for part-occupied premises.
- Relief for local newspapers.
- Local discounts and incentives.

2.4 In making decisions the Council may:

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

2.5 Whilst mandatory relief can be backdated to previous financial years, legislation only permits discretionary relief to be awarded back to the start of the previous financial year where the application is submitted and assessed by 30 September in the relevant year.

2.6 Discretionary rate relief will only be awarded from the date of 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.

2.7 In the majority of cases discretionary rate relief will only be granted for a period of two financial years. Successful applicants will be advised by letter the period covered by the relief.

3.0 The application process

3.1 This document specifies how Tewkesbury Borough Council will assess applications for discretionary rate relief and indicates the factors that will be considered when deciding if discretionary rate relief can be awarded. Each application will be considered on its own merits, taking into consideration the guidelines detailed in this document. All applicants will be treated equally and fairly.

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

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

4.0 Charitable rate relief

4.1 Mandatory rate relief of 80% is granted to charities where:

- The ratepayer is a charity or 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 2011 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 receives mandatory relief of 80%, the Council has a discretion to award up to 20% discretionary rate relief. 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 it is in the best interests of the council taxpayers of Tewkesbury borough to do so and it provides a local benefit as the Council must contribute to the cost of each award.

4.4 Each case will be considered on its own merits, but generally top-up discretionary rate 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 organisation.
- 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 the residents of Tewkesbury borough and whose primary 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 other educational establishments will not be granted unless a special case for hardship can be shown.
- Top-up relief for housing associations will not be provided.

4.6 Applications for discretionary top-up relief should be made on the council's online application form with the relevant supporting evidence which includes:

- Details of the applicant's main purpose and objectives 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 used instead; and
- Details of how the organisation meets the criteria detailed in these guidelines.

4.7 Any applications made without the supporting evidence will be subject to a decision being made solely on the information available at the time of the decision.

4.8 As a guide, a charity must not have enough unrestricted funds 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.

4.9 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 on which the borough's residents depend and which they would be unlikely to find elsewhere in the borough.

5.0 Community Amateur Sports Clubs

- 5.1 Registered Community Amateur Sports Clubs are eligible for 80% mandatory relief. The Council will consider applications for discretionary rate relief 'top-up' 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 Tewkesbury borough.
 - Whether or not 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 membership from group such as young people, the disabled, women and those over retirement age.
 - How the CASC supports and links to the Council's priorities and the health and wellbeing of the residents of the borough
- 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 unrestricted 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 awarded relief where such restrictions are a genuine result of physical restraint (such as changing room facilities) or a 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 the main purpose of the club is the sale of food or drink. If the sale of food and drink aids the overall operation of the organisation meaning it achieves its objectives, this is permissible if the eligibility criteria at 5.2 are met. If the bar makes a profit, this must be reinvested to help the club meet its primary objectives. Financial information will be required to evidence any profit and its use.

6.0 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 of benefit to the community.
- 6.2 The Council will consider applications from organisations which can demonstrate:

- Its activities support at least one of the Council's priorities;
- It promotes its services for the benefit of the residents of Tewkesbury borough;
- If membership is required, it is open to all members of the community regardless of ability.
- The facilities of the organisation are made available, where practicable, to other groups and organisations.
- It operates in such a way that it does not discriminate against any section of the community.
- It is not established or conducted for 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, gender, 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 such as 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 in Tewkesbury borough. Evidence of this may be required.

6.5 The applicant must provide a copy of their constitution and copies of the last two years' audited accounts.

7.0 Rural rate relief

7.1 Rural rate relief is available for post offices, village shops, petrol filling stations and public houses up to a specified rateable value where they are the only business of that type in the rural settlement.

7.2 In the Autumn Statement 2016, the government announced that the relief would increase from 50% to 100% from 1 April 2017. The government has not changed the legislation and instead requires local authorities to adopt a local scheme using their discretionary powers introduced by the Localism Act 2011 (under Section 47 of the Local Government Finance Act 1988).

7.3 Properties that will benefit from the relief will be hereditaments located in a rural settlement with a population of less than 3,000 and are either:

1. The sole general store, food shop or post office with a rateable value of up to £8,500 or;
 2. The sole public house or petrol filling station with a rateable value of up to £12,500
- 7.4 The borough's rural settlement list is reviewed annually and designated settlements in a rural area which have a population of 3,000 or less.
- 7.5 Any property eligible for mandatory rural rate relief, will be eligible for and increased relief of 100% of their business rates liability.**
- 8.0 Discretionary rural rate relief**
- 8.1 Applications for discretionary rural rate relief can be made by any business in a designated rural settlement are that are not eligible for mandatory rural rate relief.
- 8.2 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.
- 8.3 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.
- 8.4 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 by residents in the rural settlement.
- 8.5 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 taxpayers in general. This will be balanced by the detrimental impact on the rural community should the business cease trading either as a direct or indirect result of not awarding relief.
- 8.6 The amount of relief awarded will be up to 100% of the total business rates payable annually.

9.0 Hardship relief

- 9.1 The Council has discretion under Section 49 of the Local Government Finance Act 1988 to award 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.
- 9.2 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.
- 9.3 Hardship relief is granted at the discretion of the Council which can reduce or remit the amount of business rates payable providing 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 taxpayers.
- 9.4 The following factors will be considered in assessing the application:
- The test of hardship need 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 taxpayers 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 a 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.
- 9.5 A business will not be considered for hardship relief in the following circumstances:
- Where the business has experienced a minor loss in trade.
 - Where the drawings/remuneration of directors, partnerships and 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.
- 9.6 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 or Growth Hub.

- Considering other options such as negotiating with its creditors.
- Having in place a business plan to address the hardship

9.7 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.

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

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

10.0 Properties partly occupied for a temporary period

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

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

10.3 Section 44A relief may be awarded in the following circumstances:

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

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

10.5 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.

10.6 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.

10.7 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.

10.8 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.

10.9 Further visits may be made to the property throughout the duration of the relief

period to establish that the property is still partly occupied.

10.10 Part occupied relief will end if one of the following applies:

- The financial year ends; or
- The end of the period of relief awarded; or
- Where part or all of the unoccupied parts become occupied; or
- Where the liability for the property changes

11.0 Local discounts and incentives

11.1 The Council can grant business rates discounts and incentives entirely as it sees fit within the limits of primary legislation and the rules on subsidy control. These powers may be used to complement the strategic priorities and key objectives of the Council of increasing employment at strategic employment sites, investing in town centres and encouraging new business and investment in the borough.

12.0 Relief for local newspapers

12.1 From 1 April 2017, the government announced a business rates discount of up to £1,500 a year for office space occupied by local newspapers. This is to a maximum of one discount per local newspaper title and per hereditament. This relief scheme runs to 31 March 2025.

12.2 We are required to adopt a local scheme and decide each individual case using our discretionary powers introduced by the Localism Act 2011.

12.3 The Council will use Government criteria to determine qualifying ratepayers.

12.4 Properties that will benefit:

- Must be occupied by a local newspaper and must be wholly or mainly used as office premises for journalists and reporters; and
- The local newspaper must be considered a 'traditional local newspaper'. This relief is not available to magazines.

12.4 Relief of up to £1,500 per year will be awarded to qualifying hereditaments. The relief is limited to a maximum of one amount

- Per newspaper title; and
- Per hereditament that is wholly or mainly occupied by the local newspaper.

12.5 The amount of newspaper relief will be recalculated in the event of a change in circumstances including changes to occupation of premises by the local newspaper or identification that the relief has been applied on additional accounts.

13.0 Awards for retrospective periods

- 13.1 Rate relief will not normally be awarded in respect of any day prior to the day that an 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.
- 13.2 No consideration will be given to an award of relief for a retrospective period where the Council is unable to verify to its satisfaction that the circumstances giving rise to the application pertained to that period.
- 13.3 We are unable to grant discretionary rate relief with an effective date of more than 6 months after the end of the financial year to it relates. Applications received after this date will not be considered.

14.0 Reporting changes in circumstances

- 14.1 Where a discretionary rate relief is granted to a ratepayer, the Council requires any changes in circumstances which may affect the relief to be reported as soon as possible and within 21 days of the change.
- 14.2 Where a change in circumstances is reported which affects eligibility, the relief will be revised or cancelled as appropriate.

15.0 Subsidy Control

- 15.1 Prior to 1 January 2021, the award of discretionary rate relief was considered likely to amount to state aid as defined by the European Union. The European Union required that all state aid (including discretionary rate relief) complied with the De Minimis Regulations EC 1407/2013. The De Minimis Regulations allowed an undertaking to receive €200,000 aid over a rolling three-year period.
- 15.2 From 1 January 2021, the United Kingdom left the European Union single market and customs union and is no longer subject to *de minimis* regulations.
- 15.3 The Government has introduced its own rules regarding state subsidies. Discretionary rate relief is considered a subsidy under the rules, but the matters which must be considered relate to the effect of the subsidy on international trade. In making an award the public body must consider:
- the effects on international trade;
 - if the subsidy is prohibited under World Trading Organisation rules;
 - if the subsidy is in line with those agreed by the UK-EU Cooperation and Trade Agreement;
 - if the subsidy is unlikely to trigger a dispute under WTO rules.
- 15.4 It is unlikely that an award of discretionary rate relief would breach these rules.

16.0 Notification of decisions

- 16.1 The Council will aim to make a decision within 14 working days of the application of the application and the supporting evidence being received. Decisions to award discretionary rate relief will be made by the Revenues and Benefits Manager. Ratepayers must ensure they 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.
- 16.2 Any decision regarding discretionary rate relief will be communicated to the applicant in writing, usually by email. Where the decision is to refuse the application, the reasons for refusal will be provided.

17.0 Complaints

- 17.1 The Council's complaints procedure (available on the Council's website) will be applied in the event of any complaint received about this scheme apart from the decision to award or not to award discretionary rate relief.

18.0 Appeals

- 18.1 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 a review of the decision by an independent officer, but only where:
1. additional information relevant to the application that was not provided at the time of the application is made available; or
 2. there are good grounds to believe the application or supporting information was not interpreted correctly at the time the decision was made.
- 18.2 A request for a review must be made within 21 days of notification of the decision and must clearly set out the reasons for the request and any supporting information.

19.0 Fraud

- 19.1 The Council is committed to the prevention and detection of fraud and the protection of public funds. Cases of suspected fraud will be referred to the Counter Fraud and Enforcement Unit for investigation which may result in clawback of relief and/or further action being taken.

20.0 Policy review

- 20.1 The policy will be reviewed annually by officers to ensure it remains valid, effective and relevant. If any significant policy amendments are required, the policy will be brought back to the Executive Committee for consideration.