

Discretionary Rate Relief Policy

Document Control

Document Ref:	DRR 2017	Date Created:	27 th September 2017
Version:	2	Date Modified:	27 th November 2018
Revision due			
Author:	Iain Bell	Sign & Date:	
Owning Service			
Equality Impact Assessment: (EIA)	Date undertaken:		
	Issues (if any):		

Chief Executive	Sign & Date:	
Corporate Director (Communities)	Sign & Date:	
Corporate Director (Economy and Environment)	Sign & Date:	

Change History

Version	Date	Description	Change ID
1	Nov 2017	New policy	
2	27/09/18	Minor changes to the new 2017 Discretionary Scheme	
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1. Purpose

The purpose of this policy is to provide criteria for which Discretionary Rate Relief will be considered and applied by West Berkshire Council for organisations that are liable to pay Business Rates.

2. Discretionary relief where mandatory, charitable relief (80%) is in place

This form of relief applies to charities and community amateur sports clubs (CASC's) and allows the Council to award up to 20% Discretionary Relief from liability to Business Rates.

Legislation has provided that where the rated property is wholly or mainly used for the purpose of a relevant organisation, they are entitled to 80% Mandatory Relief. The Council can top this relief up by a further 20% thereby removing the rate liability.

As with the qualification of the 80% Mandatory or Charitable Relief in order to qualify for the 20% top up, the organisation must be:

- Registered Charity or CASC
- Voluntary sector organisation
- Not conducted for profit
- Provides services to the local community
- Provides support or facilities which support the Council Plan

Relief is not provided if the organisation has free reserves (i.e. not legally restricted) in excess of 12 months expenditure unless there is evidence of a business plan detailing how those reserves are to be used for the benefit of the local community.

In considering the extent of "local" provision, the Council will usually allow the full 20% top-up relief where the organisation operates solely in West Berkshire. This is reduced to 10% if the provision extends beyond the district boundaries and includes provision elsewhere in Berkshire. No relief will normally be allowed to national organisations and to those whose work extends beyond Berkshire.

With effect from the 1st April 2018 Scouts, Girl Guides and Cadet Groups will no longer automatically receive the 20% additional discretionary relief. Any new application received after this date from such an organisation will be considered and determined on the same basis as any other application for this relief.

3. Discretionary Rate Relief for other organisations (where Charitable Relief not applicable)

This form of relief may be granted to organisations which are not profit making and the rated property is used for purposes which are;

- charitable, philanthropic or religious; or
- concerned with social welfare, science, literature or the fine arts; or
- used wholly or mainly for recreation by a not-for-profit club or society

As with mandatory relief, the Council policy requires that the organisation is:

- voluntary sector
- not for profit
- Providing services to the local community
- Providing support or facilities which support the Council Plan

The types of organisations that may fall into this category include Community Interest Companies (CIC) and Friendly Provident Societies.

Relief is not provided if the organisation has free reserves (i.e. not legally restricted) in excess of 12 months expenditure unless there is evidence of a business plan detailing how those reserves are to be used for the benefit of the local community.

Where there is a bar or gaming machine on the premises the level of the relief awarded will normally be reduced proportionally if the net income from the bar and gaming machines, expressed as a percentage of total income, is 30% or greater.

If the organisation requires a membership or entry fee the Council will take account of whether:-

- The subscription or fees are set at a high level which excludes the general community
- Fee reductions are offered for certain groups such as under 18s or over 60s
- Membership is encouraged from particular groups such as young people, older age groups, persons with disabilities or ethnic minorities
- Facilities are available to people other than members, e.g. schools, public sessions.

In order to qualify for Discretionary Rate Relief clubs must be able to show that all facilities are available to members without any discrimination.

A club may, however have different classes of membership depending on:-

- The age of the member
- Whether the member is a student
- The member's employment status
- Whether the member is a playing or a non-playing member
- How far from the club the member lives or
- The presence of a restriction on the days or times when the member has access to the club's facilities.

From the 1st April 2018, where a sports club can apply for CASC status but have not chosen to do so, the maximum amount of relief that can be applied will be 20%. An organisation in obtaining CASC status will then be entitled to apply for the 80% Mandatory or Charitable Relief.

4. 50% Discretionary Relief & 50% Mandatory Relief for properties in rural settlements (Rural Rate Relief).

Specified properties in rural settlements such as Post Offices, food shops, general stores, petrol filling stations and public houses may be given relief provided that they are;

- located within rural settlements with a population below 3,000,
- the sole such property within the settlement and
- below rateable value limits.

These properties will receive 50% Mandatory Relief and the Council may allow further Discretionary Relief of up to a further 50%.

A site visit may be undertaken by officers to verify applications such as these.

Where a property falling within this section is the only one of its type in area of the settlement, there will be a presumption in favour of granting the full Discretionary Relief in addition to any Mandatory Relief. This is due to Government having suggested relief should be awarded to support local rural businesses

5. Discretionary rate relief to other properties in rural settlements

Subject to rateable value limits the Council may allow Discretionary Rate Relief to other businesses which fall outside the scope of the Rural Rate Relief scheme and which are located in rural settlements with populations of fewer than 3,000.

The Council will normally apply this relief to village post offices, village shops, general stores and petrol stations and public houses where the business fails to qualify for mandatory relief because there is another business of the same type within the settlement. In such cases, discretionary relief will be granted up to a maximum of 50%, but this may be reduced where there is more than one business of the same type within the settlement seeking the same relief.”

A site visit to the ‘settlement’ may be required to verify such applications.

Again Government have suggested that relief should be awarded wherever possible to support local rural businesses.

6 Hardship Relief

The Council may grant Hardship Relief where it is satisfied that;

- the ratepayer would sustain hardship if the authority did not do so
- it is reasonable for the authority to do so, having regard to the interests of the persons subject to its council tax.

The Council’s policy is to allow relief where –

- It is in the interest of West Berkshire council tax payers to grant relief;
- there is proof of hardship evidenced by accounts

- the business is of special amenity value, or cessation would have an adverse effect on local employment; and
- the applicant is an existing, and not newly established business as it is reasonable to expect rate liability to have been taken account of in the business plan for a new business.

The intention was that this relief should be allowed for temporary periods only. Neither “hardship” nor “temporary” are defined and are subject to the Council’s own interpretation.

7. Section 44A Local Government Finance Act 1988 - Part Occupation Relief

This form of relief applies where a business is occupying part only of the rated property.

Section 44a relief may be applicable in the following circumstances;

- Where the occupied and unoccupied parts of the property can be easily segregated
- Where there are short term practical and financial difficulties in occupying. Phased vacations maybe considered if moving within the West Berkshire area.
- For example - where the business is relocating heavy machinery or where fire/flood or some other exceptional event has rendered part of a property unoccupied for a short period.

Once a decision is made to award the relief a certificate is requested from the Valuation Office Agency (VOA) as to the rateable value of the occupied element and the charges are revised accordingly.

Relief should not normally be given where:

- Part occupation is likely to exceed a short time
- Part occupation is seasonal
- It appears there is no effort being taken to let, sell, re-occupy or totally vacate
- It is for a retrospective period

The duration of relief is defined by legislation as:

- Six months for industrial premises
- Unlimited for listed buildings
- Three months for other types of property

All applications should be made in writing and should include the following information;

- The period for the relief
- The reasons for why relief should be given and the circumstances leading to the partial occupation
- A plan of the rated premises which clearly identifies the occupied and the unoccupied areas.
- Its declaration as to the amount of de minimis state aid it receives is under the EU thresholds.

Normally the premises will need to be inspected to verify applications for this type of relief.

8. 2017 Revaluation and the new discretionary schemes

Following the 2017 Revaluation the Government introduced 3 new relief schemes;

Supporting Small Businesses New Pub Relief New Discretionary Scheme

These schemes were aimed at those organisations that faced substantial increases in their 2017 Business Rates bills due to the revaluation.

8.1 Supporting Small Business relief.

Supporting Small Businesses Relief will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their small business or rural rate relief and, as a result, are facing large increases in their bills. A limit of £600 will be placed on the increase.

8.2. Pub Relief

The Government also recognised the role that pubs play in communities across the country. They also announced a £1,000 discount for public houses with a rateable value of up to £100,000 for one year from 1 April 2017 (this is now to continue for a further year) .

Some pubs may also qualify for either Supporting Small Business Relief or the new Discretionary Relief.

Government will reimburse billing authorities and those major precepting authorities for the actual cost to them under the rates retention scheme of the Supporting Small Businesses Relief and the Pub Relief

8.3 New 2017 Discretionary Relief

This is a new form of relief which provides support for businesses that are facing the largest increases as a result of the revaluation. The scheme has been designed to;

- Minimise bureaucracy for the council and for businesses. For example it is not based on affordability
- Take into account the council's allocation of government funding
- Take into account other existing reliefs
- Minimise the potential of breaching state aid limits
- Take account of businesses likely 'ability to pay'
- Provide support for businesses that contribute to the local economy

No application is required. The council will award the relief on the basis of the criteria and by reviewing information contained on the organisations website. With each award notification a disclaimer will be sent asking the organisation to contact the council if they do not or no longer qualify.

The following properties will not be eligible for this form of relief;

Ineligible property type	Reasons
Any property that has not seen an above £600 increase in bills following the 2017 revaluation	Proposed government condition for the grant
Any property with Rateable Value over £150,000	Properties occupying these size of properties tend to be large organisations such as supermarkets or national companies Providing relief for such properties could quickly reach state aid limits
Properties occupied by a national chain or other such organisation. Any organisation which is known to have more than 3 properties in any area of this or another country.	Minimises risk of state aid limits being reached. National organisations including charities are able to absorb or cope with increased costs better than more independent or local organisations
Doctors Surgeries & other NHS properties	Doctor's surgeries have recently seen a significant reduction in their bills due to a recent appeal. NHS properties should contribute in full to their business rates bills just as precepting authorities do
Schools and other relevant educational establishments	Academies are entitled to charity relief and precepting authorities are liable to pay the full Business rates bill.
Empty properties	Empty property relief can be awarded for 3 months (6 months for industrial properties)

If eligible the following amount of relief will be awarded;

Year 1	Year 2	Year 3	Year 4
70% (of the increase)	35% 50%	15% 25%	2%

9. Application Process

The table describes the process in considering an application

Relief Type	Completed application required	Completed State Aid form required	Visit to property required
Mandatory (80%) & Discretionary Relief (20%)	Yes	Yes	No
Discretionary Relief only (100%)	Yes	Yes	No
Rural Rate Relief - statutory	Yes	Yes	Yes
Rural Rate Relief – non statutory	Yes	Yes	Yes
Hardship Relief (*)	No	No	No
Part Occupied Relief (*)	No	Yes	Yes
Supporting Small Business Relief	Yes	Yes	No
Pub Relief	Yes	Yes	No
New 2017 Discretionary Relief	No	No	No

(*) in respect to Hardship Relief & Part Occupied Relief a written statement is required as to how the organisation meets the criteria.

10. Appeals

Legislation provides no appeals process for unsuccessful applicants for relief other than to challenge the issue of a liability order at the magistrate's court. Nevertheless it is good practice to have a procedure in place for internal review of decisions.

After the decision is reviewed by the Head of Finance and Property if the applicant remains dissatisfied then arrangements will be made for a councillor review panel to decide upon the matter. This review process does not affect a ratepayer's legal right to seek leave to challenge a decision by way of Judicial Review.

11. Review

This policy will be reviewed to respond to any changes and at least every 3 years.