

Discretionary Rate Relief Policy

For charities, not-for-profit organisations and other specified organisations under the Localism Act 2011

1 Purpose of the policy

- 1.1 To determine the level of Discretionary Business Rates Relief to be granted to certain defined ratepayers within the Rushmoor Borough Council area.
- 1.2 While we are obliged to grant relief to premises that fall within the mandatory category, we also have powers to grant discretionary relief and reductions to ratepayers, subject to certain criteria being met.
- 1.3 The Local Government Finance Act 1988 and subsequent legislation allows us to grant discretionary relief for premises occupied by charities and not-for-profit organisations that own or occupy them wholly or mainly for charitable purposes.
- 1.4 Powers have also been granted under the Localism Act 2011, which allow for the granting of Discretionary Rate Relief to any premises where we feel it would be of benefit to the local community.

This document outlines the following areas:

- Details of receiving an award under the Discretionary Business Rates Relief Scheme
- Our general policy for granting discretionary relief
- Guidance on granting and administering relief
- European Union requirements including provisions of state aid.

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Introduction

- 2.1 The original purpose of Discretionary Rate Relief was to provide assistance where the property does not qualify for mandatory relief or to “top up” cases where ratepayers already receive mandatory relief.
- 2.2 Over recent years, and particularly since 2011, the discretionary relief provisions have been amended to allow the flexibility to provide more assistance to businesses and organisations.
- 2.3 Ratepayers are obliged to make a written application to us. We will expect all businesses to complete our application form and for the businesses to provide information, evidence, and audited accounts for us to determine whether relief should be awarded.
- 2.4 We are obliged to consider carefully every application on its own merits, taking into account the contribution that the organisation make to the amenities within Rushmoor.
- 2.5 The granting of relief falls broadly into the following categories:
 - Discretionary relief – Charities who already receive mandatory relief
 - Discretionary relief – Premises occupied by not-for-profit organisations whose main objectives are charitable.
 - Discretionary relief – Granted under the Localism Act 2011 provisions

Other reliefs available and are announced by government and for a temporary period. As at the financial year 2018/ 19 they are currently:

- Local Newspaper Relief (from 1 April 2017 for a period of two years)
 - Local Public House Relief (from 1 April 2017 for a period of two year)
 - Supporting Small Business Relief (from 1 April 2017, for a period of five years or until businesses pay their full rate charge)
 - Discretionary Rate Relief (revaluation) (from 1 April 2017 for a period of up to four years)
- 2.6 This policy concentrates on the granting of discretionary relief for charities which are already receiving mandatory relief, not-for-profit organisations whose main objectives are charitable and discretionary relief awarded under the Localism Act 2011.

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Our general approach to granting Discretionary Rate Relief

- 3.1 In deciding which organisations should receive discretionary rate relief, we will consider the following factors and priorities:
 - That any award should support businesses, organisations and groups that help retain services in Rushmoor and not compete directly with existing businesses in an unfair manner.
 - It should help and encourage businesses, organisations, groups and communities to become self-reliant.
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- To enable appropriate organisations to start, develop or continue their activities, which deliver outcomes to the community, and that also relate to our priorities which, without granting relief, they would be unable to do so.
- To assist us in delivering services which could not be provided otherwise.
- To assist us to meet our priorities including:
 - Sustaining a thriving economy
 - Supporting and empowering our communities and meeting local needs
 - A cleaner, greener and more cultural Rushmoor; and
 - Financially sound with services fit for the future

4 Administration of discretionary relief – general approach

4.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief.

Applications and evidence

- 4.2 All reliefs under this policy must be applied for. Applications forms are available both electronically and in hard copy format.
- 4.3 Applications should initially be made to the Revenues and Benefits Section and will be determined in accordance with this policy.
- 4.4 Completed application forms should be returned with the following information:
- Evidence of being a registered charity or a copy of a letter from Her Majesty's Revenue and Customs (HMRC) confirming that the organisation is treated as a charity for tax purposes (if appropriate).
 - A copy of the organisation's equal opportunities policy (if the organisation has one).
 - A copy of the organisation's constitution, rulebook or Memorandum and Articles of Association.
 - Audited or certified accounts for the last two years.
 - An up-to-date trading statement showing the current financial situation of the organisation.
 - Any other document the ratepayer wishes to be taken into account in support of their application.
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- 4.5 Discretionary relief is granted from the beginning of the financial year in which the decision is made.
- 4.6 Applications can be made up to six months after the end of the relevant financial year.

Granting of relief

- 4.7 Members of our Cabinet will determine all applications, with recommendations made by the Cabinet member for Corporate and Democratic Services.
- 4.8 In all cases, we will notify the ratepayers of decisions made.
- 4.9 Where an application is successful, then the following will be notified to the ratepayer in writing.
- The amount of relief granted and the date from which it has been granted
 - If relief has been awarded for a specified period, the date on which it will end
 - The new chargeable amount
 - The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
 - A requirement that the applicant should notify us of any change in circumstances that may affect entitlement to relief.
- 4.10 Where relief is not granted, then an explanation of the decision will be provided in writing.

Variation of decision

- 4.11 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased due to a change in rate charge or a change in our decision, which increases the award, this will apply from the date of the increase in rate charge or the date determined by us as appropriate.
 - Where the amount is to be reduced due to a reduction in the rate charge or liability, including any reduction in rateable value or awarding of another relief or exemption, then this will apply from the date of decrease in the rate charge; and
 - Where the amount is to be reduced for any other reason, it will take effect at the expiry of a financial year, so that at least one year's notice is given.
- 4.12 A decision may be revoked at any time. However, a one-year period of notice will be given and the change will take effect at the expiry of a financial year.
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- 4.13 This will be important where the change would result in the amount of the award being reduced or cancelled. For example, where the premises become unoccupied or is used for a purpose other than that determined by us as eligible for relief.
- 4.14 Where a change of circumstances is reported, the relief will, if appropriate be revised or cancelled.
- 4.15 Where a change in circumstances is not reported and it is subsequently identified that it would have reduced the relief awarded, we reserve the right to remove any award completely.

5 Our policy for granting discretionary relief

5.1 Discretionary Rate Relief - Charities who already received mandatory relief and organisations not established or conducted for profit whose main objectives are charitable

5.2 Section 47 of the LGFA 1988 provides for the granting of Discretionary Rate Relief for the following:

- An authority can award up to an additional 20% top up relief to charities and community amateur sports clubs (CASCs) that have received the 80% mandatory relief, or
- An authority can grant relief of up to 100% relief to certain non-profit making organisations that do not qualify for any mandatory relief due to not holding charitable status.

The Department of the Environment (DoE) issued a practice note in August 1990 to give guidance to authorities on the criteria they should take into consideration in the exercise of the discretion to grant rate relief. Rushmoor Borough Council's Financial Support Sub Committee formerly adopted these guidelines in October 1993.

The practice note has now been supplemented by guidance issued by the Office of Deputy Prime Minister (ODPM) "Guidance on rate reliefs for charities and other non-profit making organisations" in December 2002, which in particular focuses on sports clubs.

The practice note recommends that:

- Authorities should have readily understood policies for deciding whether or not to grant relief, and for determining the amount of relief. They should not, however, adopt guidelines or rules which allows a case to be disposed of without any consideration as to its individual merits. Any criteria by which the individual case is judged should be made public to help interested individuals and bodies.

We have adopted the recommendations and guidelines in exercising our discretion in awarding discretionary rate relief to charities and not-for-profit organisations.

Where a ratepayer can demonstrate that the criteria is met, the period and value of relief granted will be solely at our discretion.

A formal application from the ratepayer will be required in each case and any relief will be granted in line with state aid requirements.

5.3 Discretionary relief – Localism Act 2011

Section 69 of the Localism Act 2011 allows a local authority to grant discretionary relief in any circumstances where it feels fit, having regard to the effect on the council tax payers of its area.

The provision is designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to council tax payers.

The government has not issued guidance in respect of how this power might be used except advising that relief “may be granted in any circumstances where a local authority sees fit, having regard to the effect on council tax payers in the area”.

The English Guide to the Act addresses this as follows:

- “The Localism Act gives councils more freedom to offer business rates discounts – to help attract firms, investment and jobs. While the local authority would need to meet the cost of any discount, it may be decided that the immediate cost of the discount is outweighed by the long-term benefit of attracting growth and jobs to their area”.

Our policy on awarding relief under The Localism Act 2011 is that any ratepayer applying for relief under these provisions which does not meet the criteria for existing relief (charities, community amateur sports clubs) and not-for-profit making organisations), must meet all of the following criteria and the amount of relief granted will be dependent on the following key factors:

- The ratepayer must not be entitled to mandatory rate relief;
- The ratepayer must not be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar;
- The ratepayer must occupy the premises (no relief will be granted for unoccupied premises);
- The premises and organisation must be of significant benefit to the residents of the borough and/or relieve the council of providing similar facilities;

The ratepayer must also;

- Provide facilities to certain priority groups such as the elderly, disabled, minority groups and early years child care; or
 - Have premises where new employment opportunities will be created; or
 - Must bring social, environmental or economic benefit to the community; or
 - Contribute to the sustainable development of the borough.
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- Provide residents of the borough with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation; and
- Must demonstrate that assistance (provided by the discretionary rate relief) will be for a short time only and that any business/operation is financially in the medium and long term; and
- Must show that the activities of the organisation are consistent with the council's plan.

Where a ratepayer can demonstrate that all the criteria are met, the period and value of relief granted will be solely at our discretion.

A formal application from the ratepayer will be required in each case and any relief will be granted in line with state aid requirements.

6 Financial matters

Cost of awarding relief

- 6.1 The cost of relief awarded will be borne in accordance with the Business Rates Retention Scheme share - namely 50% borne by central government, 40% by the council, 9% by Hampshire County Council and 1% by Hampshire Fire and Rescue Service.

State aid

- 6.2 The award of Discretionary Rate Relief will be state aid compliant
- 6.3 The issue of rate reliefs being considered as qualifying as state aid is now of some significance and is briefly explained in the "Rate Relief for Charities and other Non-Profit Making Organisations" guidance note issued by the ODPM in December 2002.
- 6.4 Broadly, any award of discretionary rate relief is subject to state aid de minimis limits. The regulations allow an undertaking to receive up to €200,000 of de minimis aid in a three-year period (consisting of the current financial year and the two previous financial years).
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