



**West Devon
Borough
Council**

Discretionary Rate Relief Policy

1. Introduction and scope

- 1.1 West Devon 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 Billing authorities 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 taxpayers of West Devon. We therefore need to be satisfied that money invested this way will be repaid in economic or community benefit.
- 1.3 The primary 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 rate relief to any ratepayer where the authority considers 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 award 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
 - Small rural businesses
 - Hardship relief
 - Temporary relief for partly occupied properties
 - Local discounts and incentives
 - Local newspaper relief
 - Supporting small business scheme
- 1.5 This policy document outlines the various areas of local discretion and the Council's approach to the various reliefs. This has regard to the impact:
 - of granting 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 West Devon if relief is awarded and the economic benefits to the borough.

2. The Discretionary Rate Relief Scheme

- 2.1 Discretionary rate relief (DRR) is awarded 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.
- 2.2 Section 69 of the Localism Act 2011 amended the Local Government Finance Act 1988, to allow billing authorities to award local discounts to any ratepayer as they see fit. These powers can be used to encourage new business and investment as well support local shops or services to the community.
- 2.3 The legislation requires the Council to maintain a Discretionary Rate Relief (DRR) Scheme to award up to 100% rate relief to certain organisations and businesses which operate within specified criteria. This includes:
- charitable bodies already receiving 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;
 - 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;
 - Local newspaper relief;
 - Supporting small business scheme
- 2.4 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 an application for relief.
- 2.5 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.
- 2.6 With effect from 1 April 2024, this restriction is removed, and the Council will be able to consider applications for 2023/24 after 30 September 2024 and backdate any award. Each case will be considered on its own merits, but generally we will only backdate to the start of the financial year.
- 2.7 It is the Council's policy that discretionary rate relief will be only awarded from the date of application or, in the case of hardship relief, where the hardship occurred at that point in time. Only in 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.

2.8 In most cases, discretionary rate relief will be granted for a period of two financial years only.

3. The application process

3.1 Applications for relief must be made using the Council's online application form.

3.2 Applications must 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, memorandum of understanding or membership rules;
- A full set of audited accounts relating to the two years prior to the date of application;
- Details of how the business or organisation meets the relevant criteria detailed in these guidelines.

3.3 Any applications which are made without the supporting evidence 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 for the benefit of the local community.

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

3.6 The Council will aim to make a decision within 20 working days of the application and all supporting evidence being received. Decisions to award all types of discretionary rate relief will be made by the Council's Rate Relief Panel. 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 legal proceedings.

4. Appeals

4.1 There is no statutory right of appeal against a decision other than by way of judicial review. An unsuccessful applicant may ask the Council to review the decision, but only where:

1. Additional information relevant to the application that was not provided at the time of the application becomes available.
 2. There are good grounds the application or supporting information was not interpreted correctly at the time the decision was made.
 3. A request for review must be within 28 days of notification of the decision and must set out the reason for the request and any supporting information.
- 4.2 The decision will be reviewed by the Head of Revenues and Benefits and the Strategic Director for Finance in consultation with the Leader and Deputy Leader of the Council.

5. Subsidy Limits

- 5.1 The Government has confirmed in their guidance that discretionary relief to ratepayers is likely to amount to a subsidy. Any relief provided by local authorities will need to comply with the UK's domestic and international subsidy control obligations. Discretionary rate relief will not be awarded in any circumstances where it appears that an award will result in the ratepayer exceeding the subsidy control thresholds.

6. Financial implications

- 6.1 The cost of awarding discretionary rate relief is apportioned as follows:

Central government – 50%.
West Devon Borough Council – 40%.
Devon County Council – 9%.
Devon and Somerset Fire Authority – 1%

7. Other administrative matters

- 7.1 Any decision regarding discretionary rate relief will be communicated to the applicant in writing. Where the decision is a refusal, the reason will be provided in the letter.
- 7.2 A review of the guidelines will take place in line with the Valuation Office Agency's revaluation cycle, or if NNDR (National Non-Domestic Rates) legislation is amended, or as necessary to ensure it complies with current legislation and West Devon Borough Council's priorities.
- 7.3 The ratepayer must inform the Council immediately of any change in their circumstances which may affect their eligibility for relief.

8. Charitable Rate Relief

- 8.1 Mandatory rate relief 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).
- 8.2 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.
- 8.3 In cases where a charity is receiving mandatory relief of 80%, the Council has discretion to grant up to 20% discretionary relief. This is also known as discretionary relief 'top-up.'
- 8.4 The Council will consider applications for discretionary relief from charities on their own merits and on a case-by-case basis. The principal consideration in awarding relief is that it is in the best interests of the residents and council taxpayers of West Devon Borough to do so. It must also produce a benefit to the local community as the Council must contribute to the cost of each award.
- 8.5 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 of state pension age, community transport and volunteer organisations;
 - Armed Forces Veterans Associations;
 - Locally based leisure and cultural organisations.
- 8.6 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 West Devon Borough and whose head 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 which receive central or local government support will not be granted unless a special case for hardship can be shown;
 - 'Top-up' relief for registered social landlords will not be granted.
- 9. Registered Community Amateur Sports Clubs (CASCs)**
- 9.1 Registered Community Amateur Sports Clubs (CASCs) are entitled to 80% mandatory relief. The Council will consider applications for 'top-up' discretionary relief from CASCs based on their own merits on a case-by-case basis.

9.2 The Council will consider applications that can demonstrate:

- The contribution the club makes to the West Devon 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 club to encourage open membership from groups such as young people, disabled persons, women and those of state pension age; and
- How the CASC supports and links into the Council's priorities.

9.3 The Council will also take into consideration if any building used is accessible to disabled people or if reasonable attempts have been made to improve its accessibility.

9.4 Applications will only be considered where the club has an unrestricted access policy. If the club only accepts members who have reached a certain standard, rather than seeking to encourage the development of sporting aptitude, it does not fulfil the requirements.

9.5 All clubs should be open to all without discrimination, single sex clubs may be eligible for relief where such restrictions are a genuine result of physical constraints (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.

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

10. Not for profit organisations

10.1 Not for profit organisations which are not classed as charities (registered or otherwise) or CASCs can apply for discretionary 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.

10.2 The Council will consider applications from organisations which can demonstrate:

- Its activities support at least one of the Council's priorities;
- It promotes its service for the benefit of the residents of West Devon;
- Membership of the organisation is regardless to all members of the community regardless of ability;

- The facilities of the organisation are 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.

10.3 **Membership and entry fees**

If the organisation applying for discretionary 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 state pension age and people with disabilities;
- Where the applicant organisation requires membership, at least 50% of members should reside within West Devon. Proof of this will be required.

10.4 The organisation must provide a copy of their constitution and copies of their latest two years of audited annual accounts.

11. **Small Rural Businesses**

11.1 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.

11.2 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; and
- The award of the relief is in the interests of the residents of West Devon and its council taxpayers.

11.3 As a general guide, a ratepayer must not have enough resources available in reserves (excluding those which are being held for a specific purpose which can be evidenced) to continue to operate for more than 12 months, unless it can be shown that these additional reserves are to be used to benefit the local community.

11.4 The following factors will be considered when assessing an application for discretionary rural rate relief:

- The number of staff employed the business who live within 2 miles of the rural settlement where the business is located; and
 - Whether there are any suppliers of the same goods or services which are easily accessible to residents of the rural settlement.
- 11.5 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 against the detrimental effect on the rural settlement should the business cease trading either as a direct or indirect result of not awarding relief.
- 11.6 The amount of discretionary relief awarded will be up to 100% of the total business rates payable.

12. Hardship relief

- 12.1 The Council has discretion under Section 49 of the Local Government Finance Act 1988 to grant relief of up to 100% where hardship can be demonstrated. Hardship relief can only be considered if it would be reasonable to do so in the interests of council taxpayers in general.
- 12.2 Hardship relief will be awarded where the business is suffering from unexpected hardship which is outside the normal risks associated with the business. Reduction or remission of business rates on the grounds of hardship will only be made in exceptional circumstances.
- 12.3 Hardship relief is awarded at the total discretion of the Council, provided it is satisfied that:
1. The ratepayer would sustain hardship if it did not do so; and
 2. It is reasonable to do so having regard to the interests of its council taxpayers.
- 12.4 The following factors will be considered in assessing the application:
- The test of hardship needs not to be confined strictly to financial hardship. All relevant factors affecting the ability of the business to meet its rate liability will be considered.
 - The interests of the 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 marked decline in trade compared to similar periods in previous years.
 - The business must show evidence of its viability for the future which is two years for these purposes.

- 12.5 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.
- 12.6 Prior to any award being made, the applicant is expected to act to mitigate or alleviate their hardship by:
- Contacting the Council's Economic Development Team for general business advice and support;
 - Considering other options such as renegotiating with its creditors;
 - Having a business plan in place to address the hardship.
- 12.7 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.
- 12.8 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.
- 12.9 Hardship relief will only be granted for short periods of time and usually up to a maximum of 6 months.

13. Hereditaments partly occupied for a temporary period

- 13.1 There may be a period of time 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, also known as Section 44A relief as provided for by Section 44A of the Local Government Finance Act 1988.
- 13.2 In these circumstances the Council may request the Valuation Office Agency apportion the rateable value of the property between occupied and unoccupied parts.
- 13.3 Section 44A relief may be awarded in the following circumstances:
- Where the occupied and unoccupied parts of the hereditament can be easily separately assessed; or
 - Where there are short term practical or financial difficulties in either occupying or vacating the premises.
- 13.4 The part occupation must be for a temporary period only.

- 13.5 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.
- 13.6 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.
- 13.7 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.
- 13.8 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.
- 13.9 Further visits may be made to the property throughout the duration of the relief award to confirm the property is still partly occupied.
- 13.10 Further applications for part occupied relief may be considered where there is a change to the area which is unoccupied.
- 13.11 Part occupied relief will end if one of the following applies:
- The financial year comes to an end; or
 - The end of the award; or
 - Where part or all the unoccupied parts become occupied; or
 - Where the whole of the property becomes unoccupied; or
 - Where the liability for the property changes.

14. Local discounts and incentives

- 14.1 The Council can grant business rates discounts and incentives entirely as it sees fit within the limits of primary legislation and the UK's domestic and international subsidy control obligations. These powers may be used to complement the strategic priorities and key objectives of the Council increasing employment at strategic employment sites, investing in town centres and encouraging new business and investment to the borough.
- 14.2 In considering applications, the Council will take into account how the award of rate relief will support opportunities for new business growth, expansion, employment and the safeguarding of jobs in the borough. We will also consider the effect the award of relief will have on competing local businesses.
- 14.3 Where applicants seek rate relief under Localism Act powers, they should include information about how the business complements the strategic priorities and key objectives of the Council.
- 14.4 Each application will be considered on its own merits, however the following factors will be considered by the Council when assessing an application:

- Will the relief incentivise the creation of new permanent contract jobs (not zero hours contracts) for local people and paying the living wage as a minimum;
- Will the relief provide a return on investment from higher business rates income;
- Are there are social or economic implications for the area if discretionary relief is not awarded e.g. the loss of a substantial number of jobs or skills from the area;
- Is the request for temporary relief only and will not be repeated year after year.

14.5 To be considered for an award under this policy, the applicant must be either:

- A new business starting up in the area;
- A business relocating to the area; or
- An existing business expanding within the area and creating additional or safeguarding existing jobs.

14.6 Relief will not normally be considered until the applicant has all required permissions, licences, leases and other provisions in place in order to begin lawfully trading from the premises at which the rate relief will be applied.

14.7 The applicant must sign a statement of intent to operate the business in the borough for a minimum of five years.

15. Local newspaper relief

15.1 From 1 April 2017, the Government has provided funding to billing authorities to provide a discount of £1,500 per year to office space occupied by local newspapers. This relief is specifically available for local newspapers and is not available to magazines.

15.2 To qualify, the property must be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters. The amount of relief is limited to a maximum discount of one discount per newspaper title and per property.

15.3 This relief is fully funded by central Government and will end on 31 March 2025 unless extended by legislation.

16. Supporting Small Business Scheme

16.1 At the Autumn Statement 2022, the Chancellor announced that a new Supporting Small Business (SSB) relief scheme which caps bill increases at £600 per year for any business losing eligibility for Small Business Rate Relief or Rural Rate Relief following the 2023 Revaluation.

16.2 The Council will award automatically without the completion of an application form.

16.3 Full details of the Local Authority Guidance can be found at <https://www.gov.uk/government/publications/business-rates-relief-2023-supporting-small-business-relief-local-authority-guidance>

16.4 The Supporting Small Business Relief scheme will be awarded under Section 47 of the Local Government Finance Act 1988. The Council is fully reimbursed for the costs of granting this relief through Section 31 grant.