

**Appendix 1**

# **Discretionary Rate Relief Policy**

## **Guidelines for the award of Discretionary Relief on National Non-Domestic Rates**

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Document Control

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## **1. Introduction and scope**

- 1.1. The Royal Borough of Windsor and Maidenhead Council are committed to correctly administering the award of Discretionary Rate Relief (DRR) on Non-Domestic Rates (NDR) to qualifying organisations within the Borough.
- 1.2. With the introduction of the Business Rates Retention regime, nationally, from 1<sup>st</sup> April 2013, local authorities share in the gains and losses associated with changes in Business Rates income. The introduction of Business Rates Retention has a major impact on the funding arrangements for Mandatory and Discretionary Rate Relief as follows:
  - Mandatory Relief is now financed 50% by Central Government, 49% by the Council and 1% by the Fire and Rescue Authority
  - Discretionary Relief is also now financed 50% by Central Government, 49% by the Council and 1% by the Fire and Rescue Authority
- 1.3. In view of the additional cost of awarding DRR, the Council has determined that its DRR policy is reviewed to ensure that an award of DRR is focused to maximise benefits to Windsor and Maidenhead businesses and residents.
- 1.4. This policy document outlines the areas of local discretion and the Council's approach to the various awards. This approach has regard to the impact:
  - of granting Discretionary/Hardship Rate Relief on the Council's wider financial position and Council Tax payers;
  - on the organisations and businesses that currently receive or may apply for relief in the future;
  - for the Royal Boroughs residents if relief is awarded and the regeneration benefits to the borough.
- 1.5. The principal consideration when making an award is that any relief granted is in the best interests of the borough's residents and taxpayers and produces a local benefit.
- 1.6. All Officers and elected members involved in the consideration and processing of DRR applications will adhere to this policy.

## 2. The Discretionary Rate Relief Scheme

2.1 DRR is granted in accordance with:

- Section 43 of the Local Government Finance Act (LGFA) 1988; and
- Section 47-49 of the Local Government Finance Act (LGFA) 1988 as amended by the Localism Act 2011;

Clause 69 of the Localism Act amended section 47 of the Local Government Finance Act (LGFA) 1988 to allow local billing authorities to fund their own local discounts. With effect from 1 April 2012, the Council is able to grant business rates discounts entirely as it sees fit within the limits of the primary legislation and the UK subsidy control regime: <https://www.gov.uk/government/collections/subsidy-control-regime>.

2.2 The Legislation requires the Council to maintain a DRR Scheme to award business rates relief to certain organisations which operate within specified criteria. This criteria covers:

- Charitable bodies already in receipt of Mandatory Relief.
- Registered community amateur sports clubs (CASCs) already in receipt of Mandatory Relief at 80%.
- Non-profit making organisations and local child care providers – the Council has discretion to grant ‘standard’ DRR

Further information in relation to each of the specified criteria maybe found below. However, the following limits are common to all.

2.3 From April 2025 the following limits will apply when considering an award of DRR:

- Organisations which do not operate solely within The Royal Borough’s area, referred to as “national” organisations – no top up of DRR irrespective of the value of their unrestricted reserves.
- Local organisations, operating solely within the Royal Borough’s area, the sum of DRR to be awarded will be determined by reference to the value of their unrestricted reserves:
  - unrestricted reserves of less than £100 k – 20% top up
  - unrestricted reserves of over £100 k which, prior to 01.04.25, previously received 20% top-up – this will be reduced to 0%
  - unrestricted reserves of over £100 k which, prior to 01.04.25, received 10% top-up – this will be reduced to 10%
  - unrestricted reserves of over £100 k which, prior to 01.04.25, received 100% as “standard” DRR, this will be reduced to 80%
- Local organisations, operating solely within the Royal Borough’s area, which make an application for DRR for the first time after 01.04.25, or re-apply following a break in entitlement, will be subject to the following limits:
  - Unrestricted reserves of over £100 k – 0%
  - Unrestricted reserves of less than £100 k – up to a maximum 20% top-up.

### **3. Charitable Bodies (Charities)**

3.1 A Mandatory Rate Relief of 80% is granted to charities in the following circumstances where the:

- ratepayer of a property is a charity or the trustees of a charity; and
- 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 purpose of the charity).

3.2 Registration under the Charities Act 1993 is conclusive evidence of charitable status. Bodies which, under the 1993 Act, are excepted from registration or are exempt charities are also eligible for Mandatory Rate Relief. Providing the above criteria are met, 80% Mandatory Rate Relief is granted.

3.3 A top up will be awarded to only the following type of registered charities:

- Scouts, guides, cadets and other clubs/associations for young people;
- Community schemes encompassing organisations providing support for those over the age of retirement, community transport, those based on volunteering and residents associations;
- Organisations providing support in the form of advice, training for employment, counselling;
- Organisations that provide services that address the consequences of ill health and disability;
- Charitable sporting clubs (also see CASCs);
- Locally based leisure and cultural organisations;
- Armed forces veterans associations;
- Locally based charities;
- Charity shops (operated by locally based charities);
- Local Child Care providers registered as charities.

### **4. Registered Community Amateur Sports Clubs (CASCs)**

4.1 A Mandatory Rate Relief of 80% is granted to registered community amateur sports Clubs (CASCs). To qualify as a CASC, a sports club must fulfil all of the following criteria. It must be:

- Open to the whole community;
- Run as an amateur club;
- A non-profit making organisation; and
- Aiming to provide facilities for, and encourage people to take part in, eligible sport.

4.2 In cases where a CASC is in receipt of Mandatory Rate Relief of 80%, the Council has discretion to grant additional rate relief as a discretionary top up.

4.3 In determining the application the following must be taken into consideration:

- How the CASC supports and links into the Council's corporate vision and priorities;
- A club should have an open access policy. If a club effectively discriminates by only accepting members who have reached a particular standard, rather than seeking to promote the attainment of excellence by enhancing access and the development of sporting aptitude, then it does not fulfil the requirements;
- Although clubs should be open to all without discrimination, single sex clubs may be permitted where such restrictions are not discriminatory in intent but a genuine result of physical restraints (such as changing room facilities) or the requirements of the sport. In such cases, the organisation will be required to provide proof of such limiting factors;
- Membership and fee structure – see section 7

4.4 It should be noted that sports clubs and other organisations which run a bar are unlikely to be awarded relief if their main purpose is the sale of food or drink. However, if the sale of food or drink by the organisation aids the overall operation and development of the organisation in achieving its objectives, this would be permissible as long as the principal objectives of the organisation meet the eligibility criteria detailed at 4.1. If the bar makes a profit, this profit must be reinvested to support the organisation in achieving its principal objectives. Financial information will be required to evidence any profit and its use.

## **5. Local Child Care Providers**

5.1 A nursery can be in receipt of Mandatory Rate Relief of 80% if it is registered as a charity, in these cases the Council has the discretion to grant a top up of DRR. .

5.2 In cases where a nursery is not in receipt of Mandatory Rate Relief the council has the discretion to consider granting an award of “standard” DRR.

5.3 It is necessary to highlight that if a nursery charges unreasonable fees or if they make significant profits that are not reinvested into the business that they are unlikely to be awarded rate relief.

5.4 In reviewing an application from a childcare provider attempts should be made to consult with the Early Intervention and Families team to determine if providing relief would meet the aim of supporting local childcare provision.

## **6. Non Profit Making Organisations**

6.1 The Council has the power to grant Discretionary Rate Relief for the rates due to other non-profit making organisations. The main objectives of the organisation must be related to:

- Relief of poverty;
- Advancement of religion;
- Advancement of education; this will not extend to private schools who are no longer entitled to 80% Mandatory Relief
- Social Welfare;
- Science;
- Literature;
- Fine arts; or
- Recreation
- or be otherwise beneficial to the community

An organisation must be able to demonstrate how it:

- meets local needs and benefits local people; and
- provides a valuable service to the community; and
- is open to all sections of the community
- operates in such a way that it does not discriminate against any section of the community; and
- is not conducted or established for the primary purpose of accruing profit.

## **7. Membership and Entry Fees**

7.1 If the organisation applying for DRR requires membership or an entry fee, the Council will consider whether:

- membership must be open to everyone, regardless of race, ethnic origin, 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 considered to be affordable by most sections of the community;
- Fee reductions are offered for certain groups such as, for example, under 18s or over 60s;
- Membership is encouraged from groups who face social barriers, such as, for example, young people not in employment, education or training; people above working age; or people with disabilities;
- Facilities are made available to people other than members.

7.2 Where the applicant organisation requires membership, at least 50% of the members should reside within the boundaries of the Royal Borough (proof of this will be required).

7.3 If a childcare provider applies for relief they must not charge fees that would be considered unaffordable by most of the boroughs residents. The provider must also not restrict attenders with admittance policies that are deemed unfair.

## **8. Discretionary Rural Rate Relief**

8.1 Organisations or businesses which reside within a designated rural settlement (with a population of 3,000 or less) may be eligible for Discretionary Rural Rate Relief. Eligible organisations/businesses must be located in one of the settlements identified in the Council's rural settlement list, which is reviewed periodically.

8.2 The Council uses polling districts to define its rural settlements. From 1<sup>st</sup> April 2016 areas designated as rural settlements are:

Ascot East  
Bisham  
Cheapside  
Cookham  
Cookham West  
Eton  
Eton Wick  
Great Park  
Horton  
Hurley North  
Hurley South  
Littlewick Green  
Oakley Green & Fifield  
Park West  
Shottesbrooke  
Waltham St Lawrence  
White Waltham & Paley Street  
Woodlands Park

8.3 Discretionary Rural Rate Relief is open to any type of business within a classified rural settlement that satisfies the following criteria:

- It is within the boundaries of a qualifying rural settlement;
- It has a rateable value of less than £16,500;
- The property is used for purposes which are of benefit to the local community;
- It is reasonable for the Council to grant relief, with regard to the interests of residents and Council Tax payers



8.4 As a guide, to be eligible for Discretionary Rural Rate Relief, an organisation must not have enough financial resources available in unrestricted funds (i.e. resources which are not being held for specific purposes) to continue to operate for more than 12 months, nor should it have sufficient financial resources in unrestricted reserves to continue to operate for more than 12 months, unless a business plan exists detailing how these additional reserves are to be used to benefit the local community.

## **9. Discretionary 'Hardship' Relief (DHR)**

9.1 The Council also has the power to reduce or remit the business rates charged in certain circumstances where the applicant organisation is enduring temporary financial difficulties. This is known as Discretionary 'Hardship' Relief (DHR).

9.2 The Council may grant DHR if it is satisfied that:

- The ratepayer would sustain financial hardship if the Council did not do so; and,
- It is reasonable for the Council to grant relief, with regard to the interests of its residents and Council Tax payers.

9.3 DHR is a temporary measure which should not be used to artificially sustain a failing business. DHR will be awarded where the applicant organisation is facing temporary financial difficulties and where the community would be significantly disadvantaged if the business were to close due to these temporary financial constraints.

9.4 As DHR is only a temporary measure, it will not be awarded beyond the financial year in which the application is made. It may be backdated, if an application is received after the start of the financial year, but will only be considered for backdating to the start of the financial year in which the application was made.

## **10. Re-occupation Relief.**

10.1 Businesses that move into retail premises that have been empty for a year or more, may receive up to 100% Discretionary business rates relief for up to 6 months, subject to Subsidy limits. The relief will operate from 01 April 2016 until 31 March 2026.

### **10.2 Properties that benefit from this Relief**

Properties that will benefit from the relief will be occupied hereditaments that:

- When previously in use, were wholly or mainly used for retail as set out below
- Where empty for 12 months or more immediately before their reoccupation (except for occupation by a pop up shop (6-weeks or less) or by a charity or community interest company providing work that is valued by the local community as assessed by the Section 151 Officer)
- Become reoccupied between 1 April 2016 and 31 March 2026
- Are being used for any use (i.e. not just retail use) except as set out below.

Subsidy limits may limit the amount of relief given.

The new use of the reoccupied premises can be for any use (i.e. not just retail uses) except for hereditaments wholly or mainly being used as betting shops, payday loan shops, and pawn brokers.

### **10.3 How much relief will be available?**

Relief will be available for 6 months from the first day the hereditament becomes occupied as long as the first day falls between 1 April 2016 and 31 March 2026, subject to the hereditament remaining continuously occupied.

The relief available for each property is up to 100% of the business rates liability after any mandatory or other discretionary reliefs have been applied, up to Subsidy limits. The relief should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

### **10.4 What is retail use?**

In relation to a premises' previous use for the purposes of Retail Reoccupation Relief we consider retail to mean hereditaments that were being used for the sale of goods or services to visiting members of the public:

### **10.5 Change of ratepayer**

The relief will run with the property rather than the ratepayer. So if a hereditament is in receipt of Reoccupation Relief and a new ratepayer becomes liable for the property they will benefit from the remaining term of the relief, subject to the new ratepayer's Subsidy limits.

## **10.6 BUSINESS RATES COMMERCIAL AND INDUSTRIAL REOCCUPATION RELIEF**

From 1<sup>st</sup> April 2017, the relief available for Retail Reoccupation has been expanded to include re-occupation of Commercial or Industrial properties.

Businesses that move into Commercial premises, that have been empty for a year or more, may receive up to 100% Discretionary business rates relief for up to 3 months, subject to Subsidy limits. The relief will operate between 1 April 2017 and 31 March 2026.

Businesses that move into Industrial premises, that have been empty for a year or more, may receive up to 100% Discretionary business rates relief for up to 6 months, subject to Subsidy limits. The relief will operate between 1 April 2017 and 31 March 2026.

Subsidy limits may limit the amount of relief given.

The new use of the reoccupied premises can be for any use (i.e. not just commercial or industrial) except for hereditaments wholly or mainly being used as betting shops, payday loan shops, and pawn brokers.

## **10.7 Change of ratepayer**

The relief will run with the property rather than the ratepayer.



## **11. Applications**

### **11.1 Discretionary Rate Relief**

Applications for DRR must be supported by, and include:

- The applicant organisation's main purposes and objectives, as set out in, for example, a written constitution, a memorandum of association, or set of membership rules;
- A full set of audited accounts relating to the two years preceding the date of application. Where audited accounts are not available, projected figures should be provided instead;
- Details of how the organisation meets the criteria outlined in these guidelines.

Applicants will be encouraged to submit their applications electronically through the Business Rates mailbox: [business.rates@rbwm.gov.uk](mailto:business.rates@rbwm.gov.uk)

### **11.2 Discretionary Hardship Relief**

Applications for DHR must be accompanied by full set of audited accounts relating to the two years preceding the date of application. Where audited accounts are not available for the current financial year, projected figures should be provided instead. It is recommended that applicant organisations submit audited accounts dating back further than two years, if such information is available.

### **11.3 Applications for Excepted Businesses/Organisations**

Excepted businesses and/or organisations are properties which are occupied by a billing or precepting authority, such as the Council. Applications from excepted businesses and/or organisations cannot be considered.

### **11.4 General Advice**

The Council will encourage:

- not for profit organisations to seek CASC or charitable status so that they may qualify for Mandatory Relief;
- shared occupation of property for similar types of organisation and those wishing to reduce their rating liability;
- organisations using properties for religious purposes to seek certification as a Place of Worship so that the property may be removed from the rating list.



## **12. Period of Relief**

- 12.1 DRR will usually be granted for the period of one financial year at a time. Successful applicants will be sent a letter confirming that their application DRR has been granted. This letter will also explain that relief has been granted for twelve months only.
- 12.2 Backdating requests where an application has been successful may be considered and will be decided on a case by case basis based on the reasons for the delay in the application being made.
- 12.3 The granting of relief may be reviewed annually and those in receipt of DRR will be asked to supply or confirm relevant information for the purpose of the review.
- 12.4 If an organisation in receipt of DRR ceases to meet the eligibility criteria outlined in this policy, it will cease to receive DRR. The Council will give such organisations twelve months written notice prior to the withdrawal of DRR. Such organisations may appeal against this decision, as outlined in Section 14 of this policy.
- 12.5 DHR is awarded as a temporary measure in accordance with the applicant Organisation's circumstances and the anticipated length of the financial difficulties. Successful applicants will be sent a letter confirming that their application for DHR has been granted and including the appropriate timeframe for relief.

## **13. Approval**

- 13.1 The Council delegates the decision making power for DRR awards and DHR to the Section 151 Officer following a recommendation from the Business Rates staff.
- 13.2 All recommended awards will be justified by an explanation supporting the proposed decision.
- 13.4 Any officer or member involved in the decision-making process for DRR or DHR must declare if they have an interest in or association with any organisation which is applying for DRR.
- 13.5 The business rates team inform applicants in writing of any decision as soon as possible. A revised NDR bill will be sent where appropriate. Unsuccessful applicants will be notified in writing.



## **14. Appeals against decisions**

- 14.1 Any organisation requiring a review of the decision may submit a request by email to [business.rates@rbwm.gov.uk](mailto:business.rates@rbwm.gov.uk)
- 14.2 Windsor and Maidenhead Council can review a DDR or Discretionary Hardship Relief decision in the event of a dispute or in light of any new information. Final decisions on appeals will be made by the Section 151 Officer.

## **15. Policy Review**

- 15.1 The Council reserves the right to review and revise the policy at any time as a result of information gained as a result of operating the policy.
- 15.2 The Cabinet Member for Finance in conjunction with the Section 151 Officer are authorised by Cabinet to agree any revisions to the policy.