



Discretionary Rate Relief Policy

DRAFT

1. Introduction and scope

- 1.1 Cherwell District 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 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 the district. 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 grant discretionary relief to any ratepayer where the authority feels the granting of such relief would be of benefit to the local community.
- 1.4 This policy is designed to provide guidance to Council Officers and ratepayers on the application of Discretionary Rate Relief. The policy covers the following types of discretionary relief:
 - Charitable rate relief
 - Community Amateur Sports Clubs (CASCs)
 - Rate relief for not-for-profit organisations
 - Discretionary rural settlement relief
 - Hardship Relief
 - Temporary relief for partly occupied properties
 - 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 relief on the Council's wider financial position and council taxpayers;
 - on the organisations and businesses that currently receive or may apply for relief in the future;
 - on the residents of the Cherwell district if relief is awarded and the economic benefits to the district;

2. The Discretionary Rate Relief Scheme

2.1 Discretionary Rate Relief (DRR) is granted 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.

Section 69 of the Localism Act amended Section 47 of the Local Government Finance Act 1988 to allow billing authorities to fund their own local discounts. The Council is able to grant business rates discounts and incentives as it sees fit within the limits of primary legislation and 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.

2.2 The legislation requires the Council to maintain a Discretionary Rate Relief (DRR) scheme to award rate relief of up to 100% to certain organisations which operate within specified criteria. This includes:

- charitable bodies already in receipt of Mandatory Relief of 80%. The Council has the discretion to 'top-up' this relief to 100% of the business rates due;
- registered Community Amateur Sports Clubs (CASCs) already in receipt of Mandatory Relief of 80%. The Council has the discretion to 'top-up' this relief to 100% of business rates due;
- non-profit making organisations – the Council has the discretion to grant relief of up to 100% of the business rates due;
- property that is in a qualifying rural settlement and is a qualifying food shop, general store, post office, sole public house or sole petrol station already in receipt of Mandatory Relief of 50%. The Council has further discretion to 'top-up' this relief 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

2.3 In making decisions about applications the Council may:

- grant relief up to a maximum 100% of the business rates due;

Appendix A

- grant relief for a sum less than 100% of the business rates due; or
 - refuse any application for full or additional relief
- 2.4 Whilst awards for Mandatory Relief can be backdated for 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 prior to the end of September in a relevant year.
- 2.5 It is the Council's policy that Discretionary Relief will only be awarded from the date of the application or, in the case of hardship 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.
- 2.6 In the majority of cases Discretionary Relief will be granted for a period of two financial years only. Successful applicants will be sent a letter confirming the award of Discretionary Relief. This letter will also explain that the relief has been granted for two financial years only.

3. The Application Process

- 3.1 Applications for relief must be made on the Council's application form. Applicants are encouraged to apply online at www.cherwell.gov.uk Businesses and other organisations needing support or advice on making their application can contact the Council's Business Support Unit on businesssupportunit@cherwellandsouthnorthants.gov.uk
- 3.2 Applications should 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, 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 provided instead.
 - details of how the organisation meets the relevant criteria detailed in these guidelines.

Appendix A

- 3.3 Any applications which are made without the supporting information 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 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 to benefit the local community.
- 3.5 In exceptional cases, Discretionary 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 which the district's residents depend on and which they would be unlikely to find elsewhere in the district.
- 3.6 The Council will aim to make a decision within a maximum of 4 weeks of the application and supporting information being received. Decisions on the award of discretionary rate relief will be taken by the Chief Finance Officer in consultation with the Head of Strategic Planning and the Economy, where applicable. 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 Court action.
- 3.7 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 the authority to review a decision, but only where:
1. Additional information relevant to the application that was not made available at the time the decision was made becomes available.
 2. There are good grounds to believe the application or supporting information was not interpreted correctly at the time the decision was made.

A request for review must be within 28 days of notification of the decision and must set out the reasons for the request and any supporting information.

Cases will be reviewed by the Director for Strategy and Commissioning.

- 3.8 All amounts of relief awarded are subject to the state aid limits as defined by European legislation. Relief will not exceed €200,000 in any 3 year financial period.

Appendix A

3.9 The cost of awarding Discretionary Relief is apportioned as follows:

50% will be funded by Central Government

40% will be funded by Cherwell District Council

10% will be funded by Oxfordshire County Council

In view of the additional cost in awarding discretionary relief the Council has determined a Discretionary Rate Relief Policy is introduced to ensure that any award of Discretionary Rate Relief is focused to maximise the benefits to the residents and Council taxpayers of Cherwell District Council.

3.10 Any decision regarding rate relief will be communicated to the applicant in writing. Where the decision is a refusal of the award, reasons for the refusal will be provided in the letter.

3.11 A review of the guidelines will be undertaken every five years in line with the Valuation Office Agency's revaluation cycle, or if Business Rates legislation is amended, or as necessary to ensure it complies with current legislation and Cherwell District Council's priorities.

3.12 The ratepayer must inform the Council immediately of any change in their circumstances which may affect eligibility for relief.

4. Charitable Rate Relief

4.1 Mandatory Rate Relief of 80% 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)

4.2 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.

4.3 In cases where a charity is in receipt of Mandatory Relief of 80% the Council has discretion to grant up to 20% additional Discretionary Relief. This is also known as DRR 'top-up'. 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 the relief is that it is in the best interests of the residents and council taxpayers of the Cherwell district to

Appendix A

do so and it produces a local benefit as the Council must contribute to the cost of each award.

4.4 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 over retirement age, community transport and volunteer organisations;
- Charitable supporting clubs;
- 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 residents of the Cherwell district and whose main office is situated in the district);
- 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 education establishments which receive central or local government support should not be granted unless a special case for hardship can be shown.
- 'Top up' relief for Housing Associations will not be granted.

5. Registered Community Amateur Sports Clubs (CASCs)

- 5.1 Registered Community Amateur Sports Clubs (CASCs) are entitled to 80% Mandatory Relief. The Council will consider applications for Discretionary Rate Relief 'top-up' from CASCs based 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 the Cherwell district;
 - 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 open membership from groups such as young people, disabled persons, women and those over retirement age;
 - schemes of education and training are provided, particularly for young people, disabled persons, women and those over retirement age;
 - evidence that every effort is made by the organisation to encourage open membership from groups such as young people and disabled persons;
 - how the CASC supports and links into the Council's priorities.
- 5.3 The Council will also take into consideration if the building is accessible to disabled people or if reasonable attempts are being made to make it accessible.
- 5.4 Applications will only be considered where the club has an open 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 permitted where such restrictions are a genuine result of a physical restraint (such as changing room facilities) or the requirements 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 Relief if their main purpose is the sale of food and drink. If the sale of food or drink by the organisation aids the overall operation and development of the organisation meaning it achieves its objectives this is

Appendix A

permissible as long as the principal objectives of the organisation meet the eligibility criteria detailed at 5.2. If the bar makes a profit this profit must be reinvested to help the organisation meet its principal objectives. Financial information will be required to evidence any profit and its use.

6. Rate relief for 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 beneficial 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 service for the benefit of Cherwell District Council's residents;
- membership of the organisation is open to all members of the community regardless of ability;
- the facilities of the organisation are be made available, where practicable, to other bodies and groups;
- operates in such a way that it does not discriminate against any section of the community;
- it is not conducted or established for the primary purpose of 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, 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;

Appendix A

- Fee reductions are offered for 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 retirement age and people with disabilities.

6.4 Where the applicant organisation requires membership, at least 50% of members should reside within the Cherwell district. Proof of this will be required.

6.5 The organisation must provide a copy of their constitution and copies of the latest two years of audited annual accounts where available.

7. Discretionary Rural Rate Relief

7.1 Mandatory Rural Rate Relief of 50% is awarded to properties within a defined rural settlement which have a population of less than 3,000; this is the Council's rural settlement list which is published by the Council at the end of December each year.

Further, the rateable value of the property must be:

- For a qualifying sole food shop, general store or post office the rateable value must not exceed £8,500.
- For a qualifying petrol filling station or pub the rateable value must not exceed £12,500.

7.2 Businesses that qualify for Mandatory Rural Rate Relief can also request the Council considers increasing the amount of relief up to 100%.

7.3 Applications for Discretionary Relief can also be made by any business in a designated rural settlement that doesn't qualify for Mandatory Rural Rate Relief. The rateable value of the property must not be more than £16,500. For example where there are two general stores in a rural settlement, neither would be entitled to Mandatory Rural Rate relief, but both could apply for Discretionary Rural Rate Relief depending on the rateable value threshold.

7.4 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 are of benefit to the local community;

Appendix A

- the award of the relief is in the interests of Cherwell district residents and its Council taxpayers.
- 7.5 As a general guide, a ratepayer must have 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.
- 7.6 The following will also 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 goods or services which are easily accessible to residents in the rural settlement.
- 7.7 Every application must be accompanied by the latest trading accounts or equivalent/relevant documentation and evidence as to the proportion of expenditure attributable to rates. In determining the application the Council will give consideration to the financial viability of the business concerned, thereby having regard to the interests of the council taxpayers in general. This will be balanced by the detrimental effect on the rural community should the business have to cease trading either as a direct or indirect result of not awarding relief.
- 7.8 The amount awarded will be up to 50% of the total business rates payable for those businesses already receiving Mandatory Rural Rate Relief. For 'other rural businesses' the amount awarded will be up to 100% of the total business rates payable.

8. Hardship Relief

- 8.1 The Council has discretion under Section 49 of the Local Government Finance Act 1988 to grant relief of up to 100% where hardship is experienced. Hardship Relief can only be considered if it would be reasonable to do so in the interests of council taxpayers in general.
- 8.2 Hardship Relief will be awarded where the business is suffering from unexpected hardship which is outside of normal risks associated with the business. Reduction or remission of business rates on the grounds of hardship will only be awarded in exceptional circumstances.

Appendix A

8.3 Hardship Relief is granted at the discretion of the Council which can reduce or remit the amount of business rates due, provided it is satisfied that:

- the ratepayer would sustain hardship if it did not do so; and
- it is reasonable for the Council to do so having regard to the interests of its council taxpayers

8.4 The following factors will be considered in assessing the application:

- the test of hardship needs 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 marked decline in trade compared to similar periods in previous years.
- the business must be able to show evidence of its viability for the foreseeable future which is considered to be three years for these purposes.

8.5 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/remunerations of directors, partnerships or sole traders are above a 'reasonable' amount;
- 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 same locality or within a reasonable distance.

Appendix A

8.6 Prior to any award being made the business is expected to take action to mitigate or alleviate their hardship by:

- contacting the Council's Economic Growth Team;
- considering other options such as renegotiating with its creditors;
- having in place a business plan to address the hardship

8.7 Applications for Hardship Relief shall be regarded as a last resort and will only be considered after consideration of any other forms of rate relief for which the applicant may be eligible.

8.8 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.

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

9. Properties partly occupied for a temporary period

9.1 There may be occasions where a property is only partly occupied for a short period of time. This may be due to a business moving in or relocating to a new property. In certain circumstances, the Council may use its discretion to award part occupied relief which is also known as Section 44a relief (Section 44A of the Local Government Finance Act 1988).

9.2 In these circumstances the Council may request that the Valuation Officer apportions the rateable value of the property between the occupied and unoccupied elements.

9.3 Section 44a relief may be awarded in the following circumstances:

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

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

9.5 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 and despatched a large order and no longer needs to store stock.

Appendix A

- 9.6 For the purposes of this policy a period of up to 6 months will be considered to be temporary. Periods of time exceeding 6 months will be treated as a permanent change and will not be eligible for partly occupied relief.
- 9.7 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.
- 9.8 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 empty and occupied parts. This plan will be given to the Valuation Officer to apportion the rateable value.
- 9.9 Further visits may be made to the property throughout the duration of the relief to establish that the property is still partly empty.
- 9.10 Further applications for part empty relief may be considered where there is a change to the area of the property that is unoccupied.
- 9.11 Part occupied relief will end if one of the following applies:
- the financial year comes to an end;
 - the end of the award;
 - where part or all of the unoccupied parts become occupied;
 - where the whole of the property becomes unoccupied;
 - where the liability for the property changes.

10. Local discounts and incentives

- 10.1 The Council is able to grant business rates discounts entirely as it sees fit within the limits of the primary legislation and European Rules on state aid. These powers will generally be used as appropriate to support local shops and other key businesses, but also to complement the strategic priorities and key objectives of the Council including increasing employment at strategic employment sites, investing in town centres and encouraging new business and investment to the district.
- 10.2 Using the general exception from the State Aid rule where the aid is below the 'de minimis' level, the Council will limit awards to a maximum of €200,000 to any one business over any three year period.

Appendix A

- 10.3 Applications will be considered in accordance with section 10.1 and where applicants seeking rate relief in respect of Localism Act powers the application should include information about how the business complements the strategic priorities and key objectives of the Council.

DRAFT