



## Appendix 1

### **Discretionary Rate Relief Policy**

#### **1. Introduction and scope**

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.

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.

This policy document outlines the areas of local discretion and Cherwell District Council's (The Council) approach to the various awards. This approach has regard to the impact:

- On the Council's wider financial position and how that affects Council tax payers
- On the organisations and businesses that currently receive or may apply for relief in the future
- On Cherwell's residents if relief is awarded and the regeneration benefits to the district.

The principal consideration when making an award is that any relief granted is in the best interests of the residents and taxpayers of Cherwell and produces a local benefit.

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 – 20% top-up
- Community Amateur Sports Clubs (CASCs)
- Rate relief for not-for-profit organisations.
- Discretionary rural settlement relief
- Hardship Relief
- Temporary relief for partly occupied properties

Details of all other relief not detailed in this policy can be found on our website.

#### **2. The Discretionary Rate Relief Scheme**

Discretionary Rate Relief 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 entirely as it sees fit within the limits of the primary legislation and European rules on state aid. These powers can be used to encourage new business and investment, regeneration projects, as well as to support local shops or community services.

The Non-Domestic Rates Bill 2023 removed the backdating of discretionary rate relief; however, it is unlikely that any backdate will be considered unless the delay was outside of the businesses control. An example would be the delay to a new assessment being rated.

This criteria covers:

- Charitable bodies already in receipt of Mandatory Relief at 80% – the Council has further discretion to ‘top up’ this Relief to 100% of the Rates due.
- Registered community amateur sports clubs (CASCs) already in receipt of Mandatory Relief at 80% – the Council has further discretion to ‘top up’ this Relief to 100% of the Rates due.
- Non-profit making organisations – the Council has discretion to grant Discretionary Rate Relief of between 0-100% of the Rates due.
- Discretionary Rural Rate relief - The Council may also grant up to 100% Discretionary Relief to any rural business with a rateable value that does not exceed £16,500

In making decisions about applications for Discretionary Rate Relief the Council may:

- Grant Relief up to a maximum of 100% of the Rates due
- Grant Relief for a sum less than 100% of the Rates due; or
- Refuse any application for Discretionary Rate Relief

### **3. Charitable bodies (charities)**

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
- 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 purpose of the charity)

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

In cases where a charity is in receipt of Mandatory Rate Relief of 80% the Council has further discretion to ‘top up’ this Relief to 100% of the Rates due.

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

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.

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 primary 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.

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

A Mandatory Rate Relief of 80% is granted to registered CASCs. To qualify as a CASC, the club must fulfil all 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

In cases where a CASC is in receipt of Mandatory Rate Relief of 80%, the Council has discretion to grant up to 20% additional Rate Relief as a Discretionary top up.

The Council will consider applications for a Discretionary Rate Relief top up from CASCs based on their own merits on a case-by-case basis. The principal consideration is that any Relief is granted in the best interests of the residents and taxpayers of Cherwell and produces a local

benefit as the Council must bear a percentage of the cost of any Relief granted. However, in determining the application the following matters will be taken into consideration:

- How the CASC supports and links into the Council's corporate vision and priorities.
- A CASC 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

It should be noted that sports clubs and other organisations which run a bar are unlikely to be awarded Relief if their main income is from 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 if the principal objectives of the organisation meet the eligibility criteria detailed above. 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. Rate Relief for Not-for-profit organisations.**

The Council has the power to grant Discretionary Rate Relief of up to 100% to other non-profit making organisations. The main objectives of the organisation must be related to:

- Relief of poverty
- Philanthropy or religion
- Education
- Social Welfare
- Science
- Literature
- Fine arts
- 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.

The Council will consider applications for Discretionary Rate Relief from non-profit making organisations based on their own merits, on a case-by-case basis. However, the principal consideration is that the Relief is granted in the best interests of the residents and taxpayers of Cherwell and produces a local benefit as the Council must contribute to the cost of each award as shown at Appendix A.

### **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
- Fee reductions are offered for certain groups such as, for example, under eighteens or pensioners
- 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

### **6. Discretionary Rural Settlement Relief**

The Council may also grant up to 100% Discretionary Relief to any rural business if all the following criteria are met:

- The property is in a qualifying Rural Settlement.
- The Rateable Value of the property does not exceed £16,500 (£14,000 prior to 1 April 2010) at the beginning of the rating year concerned.
- The property is occupied by a business that benefits the local community.
- It is reasonable for the Council to grant relief having regard to the interests of persons liable to pay the Council Tax set by it.
- Discretionary Relief is not limited to any particular type of business. Applicants will be expected to demonstrate that their business is important to the maintenance of village life.

### **7. Period of Relief Discretionary Rate Relief**

Discretionary Rate Relief will usually be granted until the end of the following financial year. Successful applicants will be sent a letter confirming that their application for Discretionary Rate Relief has been granted. This letter will specify the date the relief will end.

The granting of Relief will be reviewed annually and those in receipt of Discretionary Rate Relief will be asked to supply or confirm relevant information for the purpose of the review.

If a Ratepayer in receipt of Discretionary Rate Relief ceases to meet the eligibility criteria outlined in this Policy, they will cease to receive Discretionary Rate Relief. The Council will give such Ratepayers a full financial year's written notice prior to the withdrawal of Discretionary Rate Relief.

The ratepayer may request reconsideration against this decision. Time limited reliefs will only be granted for a relevant period.

## **8. Applications Discretionary Rate Relief**

Applications for Discretionary Rate Relief must be made on the Council's application form and supported by, and include:

- The main purposes and objectives of the Business, as set out in, for example, a written constitution, a memorandum and/or articles of association, or a 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 certified as being a 'true and fair view' by the company secretary or company accountants may be used.
- Details of how the Business meets the criteria outlined in the guidelines below:

As a guide, to be eligible for Discretionary Rate Relief, a charity/organisation must not normally have enough financial resources available in unrestricted funds 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.

In such cases, the applicant must be able to prove that it offers a service which the district's residents depend on, and which they would be unlikely to find elsewhere in the district.

Application forms will be available on our website at:

<https://www.cherwell.gov.uk/info/191/business-rates/363/business-rates-reductions-and-relief/5>

All completed application forms should be returned to the Revenue Services Team at Cherwell District Council. By email: [business.rates@cherwell-dc.gov.uk](mailto:business.rates@cherwell-dc.gov.uk)

## **9. Applications for other Reliefs**

### **Hardship Relief**

The Council has the power to reduce or remit the Business Rates charged in certain circumstances where the Ratepayer is enduring temporary financial difficulties. This is known as Hardship Relief. The Council may grant Hardship Relief 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, regarding the interests of its residents and Council Tax payers

Hardship Relief is a temporary measure which should not be used to artificially sustain a failing business. Hardship Relief may be awarded where the ratepayer is facing temporary financial difficulties and where the community would be significantly disadvantaged if the business were to close.

Successful applicants will be notified in writing of the outcome of their application for Hardship Relief and if approved, will be notified of the amount of relief awarded and the period in which the award relates.

Application forms for Hardship Relief must be accompanied by a 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 certified as being a 'true and fair view' by the company secretary or company accountants may be used. It is recommended that applicants submit audited accounts dating back further than two years if such information is available.

### **Temporary Relief for Partly Occupied Properties - Section 44a Relief**

The Council has discretion under section 44a of the Local Government Finance Act to award Rate Relief where part of a property is unoccupied for a temporary period. The definition of 'temporary period' is not prescribed with the law and therefore Cherwell District Council has the discretion to decide the period of Relief should be awarded. The amount of Rate Relief that is awarded is determined by statute and is calculated by reference to the Rateable Value attributed to the unoccupied area by the Valuation Office Agency, part of Her Majesty's Revenue and Customs (HMRC).

The situation must be happening at the present time, so retrospective claims cannot be considered.

Applications will only be considered in respect of unoccupied parts of a property that can be clearly defined and are reasonably segregated from the occupied part of the property.

No award shall be made where it appears to the Council that the reason that part of the property is unoccupied is wholly or mainly for the purposes of applying for Rate Relief.

Rate Relief under this section will not be awarded in respect of partly occupied property where the partial occupation of the property may arise due to the ordinary day to day nature of the business (for example the operation of a warehouse).

The period of Relief will not exceed either 3 or 6 months depending on the type of property the claim has been made for, in line with the current legislation for part occupied properties.

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.

Further visits may be made to the property throughout the duration of the relief to establish that the property is still partly empty.

Further applications for part empty relief may be considered where there is a change to the area of the property that is unoccupied.

Part occupied relief will end if one of the following applies:

- the financial year ends.
- the end of the award.
- where part or all the unoccupied parts become occupied.
- where the whole of the property becomes unoccupied.
- where the liability for the property changes.

A Ratepayer making an application under section 44a should do so in writing and should include:

- A plan of the property showing the dimensions of the occupied and unoccupied area of suitable quality to enable the Valuation Office Agency to apportion the Rateable value of the property between the occupied and unoccupied areas. Applications will not be considered until such time as the plan is provided.
- The period to which the application relates.

- Contact details to inspect the site where necessary.
- A plan of the property (rating assessment) which clearly shows the occupied and unoccupied areas and the size of those areas.
- A statement clarifying the likely timescales to fully occupy or vacate the property and the reason part of it is unoccupied.
- A signed declaration setting out any amount of State Aid received within the preceding three years.

## **10. Approval**

The initial assessment to award or refuse Relief will be made by a Revenues Services Manager.

Any award of a discretionary rate relief detailed in this policy in which the Revenues Services Manager is seeking approval, a report will be passed to Assistant Director for Finance for recommendation.

Applicants will be notified in writing of any decision within 28 days. A revised Business Rates bill will be sent where appropriate.

Unsuccessful applicants will be notified that they can request a reconsideration of the decision.

These reconsiderations will be reviewed by the Revenues Manager and signed off by the Assistant Director for Finance.

## **11. Policy Review**

The Council reserves the right to review and revise this Policy at any time.

## **12. Funding of Reliefs**

With the introduction of the Business Rates Retention Scheme from 1st April 2013, local authorities now share in the gains and losses associated with changes in Business Rates income. The Government hopes that localising Business Rates in this way will incentivise Local Authorities to adopt strategies to promote businesses and generate additional Business Rates income. The introduction of Business Rates Retention has a major impact on the funding arrangements for all Reliefs available which are now financed as follows:

Fifty percent by Central Government

Forty percent by Cherwell District Council

Ten percent by Oxfordshire County Council

This excludes certain reliefs that Local Authorities may be required to award which may be funded separately by Central Government.