



DISCRETIONARY RATE RELIEF POLICY

Date: May 2023
Version: 03
Review Date: September 2023

1. Introduction

- 1.1 The Council understands the importance support to local businesses and organisations plays in achieving its priorities and ensuring that its communities and businesses are able to develop and thrive within the district.
- 1.2 Section 47 of the Local Government Finance Act 1988 (LGFA 1988) gives powers to Local Councils to grant discretionary business rate relief. Subsequent legislation in the Localism Act 2011 has extended these powers to allow wider granting of local discretionary relief.
- 1.3 Although some reliefs are awarded through central government initiatives and are reclaimed under section 31 Government grants, the remaining support is met by the Local Authority. Therefore there must be clear and transparent guidance in place to ensure relief is awarded fairly and consistently across the district to support its priorities.
- 1.4 To be eligible for discretionary rate relief a charity/organisation must not have enough unrestricted funds/reserves 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.
- 1.5 In exceptional cases, discretionary rate 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 application must be able to demonstrate it offers a service which the local residents depend on and which they would be unlikely to find elsewhere in the District.
- 1.6 The Council will only grant discretionary relief if it is satisfied that it is reasonable having regard to the interests of the council tax payers in the district.

2. General Criteria

- 2.1 Discretionary rate relief is not a matter of right; the Council is entitled through this policy to determine different levels of discretionary relief according to the nature and circumstances of individual organisations.
- 2.2 The Council will consider each case in accordance with the eligibility criteria set out for each of the four areas below. These criteria are not restrictive and nothing in them shall be taken as restricting the Council's ability to depart from granting of relief if it sees fit to do so.
- 2.3 All awards will be for a period of one year and one year's notice must be given by the Council for the withdrawal of relief.
- 2.4 Recipients are required to notify the Council of any change of circumstances which may have an impact on their award of discretionary rate relief.
- 2.5 Relief will not be granted where organisations do not provide the relevant information to allow the application to be fully considered.

Type of organisation	Discretionary relief to be granted
Registered charitable organisations already entitled to 80% mandatory relief.	Discretionary relief will not be routinely awarded.
Registered community amateur sports clubs entitled to 80% mandatory relief.	Discretionary relief will not be routinely awarded.
“Not for profit” institutions or organisations whose main objectives are charitable, philanthropic, religious, concerned with education, social welfare, science, literature or the fine arts.	Maximum 80% discretionary relief may be awarded.
Clubs, societies and other organisations set up for the purpose of recreation.	Maximum 50% discretionary relief will be awarded.

Criteria to be used when considering applications:

3. Charitable Organisations

3.1 The Council will not award discretionary relief to:

- Charity shops operated by trading arms of charities;
- Housing Associations;
- Bodies operating a restrictive membership policy;
- Empty properties.

3.2 The Council will not routinely grant top-up discretionary relief, but will consider more favourably applications from organisations providing advice and support of a social welfare nature to vulnerable people. The facilities must be available to all residents of the Forest of Dean should they be in need of the advice and support being provided.

3.3 To justify any discretionary award the organisation must be able to demonstrate that the activities it provides are for the benefit of and are being used by the local community. The extent to which the local community benefits from the facilities will be considered.

3.4 Other factors that would help justify an award include:

- The facilities meet local needs and are providing a benefit to local people;
- Education and training are being provided to develop the skills or understanding of members or non-members and especially disadvantaged groups;
- The organisation provides facilities which indirectly relieve the Council of the need to do so or in a part of the district where the Council does not provide the service.

4. Registered Community Amateur Sports Clubs

4.1 The Council will not consider an application for discretionary relief unless the organisation can demonstrate that:

- The facilities are made available to non-members and are being used by schools, casual public sessions, under-represented or disadvantaged groups in the district.
- Membership is actively being encouraged and facilities are being provided to under-represented or disadvantaged groups.

5. Not for Profit Organisations

- 5.1 The Council will consider applications from organisations whose main objectives are charitable, philanthropic, religious, concerned with education, social welfare, science, literature or the fine arts.
- 5.2 To justify any discretionary award the organisation must be able to demonstrate that the activities it provides are for the benefit of and are being used by the local community. The extent to which the local community benefits from the facilities will be considered. Organisations must demonstrate the following:
- They are open to all sections of the community. In general, membership should not be exclusive or restrictive. If access is restricted it must be for justifiable reasons such as the need to provide a facility to a specific sector of the community;
 - Any membership or entry fees charged are set at such a level so as not to exclude the general community;
 - They are non-profit making. If surpluses are made it must be shown that they are used for the further benefit of the organisation.

6. Sports/Recreational Clubs

- 6.1 The Council will consider granting discretionary relief to non-registered sports clubs but the Council will consider the following factors:
- Whether membership of the organisation is to be open to all sections of the community. In general membership should neither be exclusive nor restrictive. If access is restricted it must be for justifiable reasons such as the need to provide a facility to a specific sector of the community.
 - If the organisation charges a membership or entry fee they must not be set at such a level as to exclude the general community. Fees may be set at different rates for different classes of membership such as juniors, students, etc.
 - Where the organisation runs a bar consideration will be given to the extent to which this supports the overall operation and to the income generated.
- 6.2 The Council would encourage all sports clubs to register as a community amateur sports club (CASC) with Her Majesty's Revenues and Customs. All registered CASCs receive 80% mandatory relief.
- 6.3 To register as a CASC, the club must be set up with a formal constitution (for example, its rules or memorandum and articles of association). The club's written constitution must require the club to meet certain conditions, and the club must also be able to show that it actually meets these conditions in practice.
- 6.4 The conditions are that:
- The club must be open to the whole community;
 - The club's main purpose must be to provide facilities for eligible sports, and to encourage people to take part in them;
 - The club must be organised on an amateur basis.

7. Applications, Determinations and Appeals

- 7.1 Applications must be in writing and on the appropriate forms.
- 7.2 Applications will be referred to the S151 officer for determination.
- 7.3 Where an application is received and determined before 1 October in any year consideration can be given to award relief for the current financial year and the preceding financial year.
- 7.4 Where a determination is made after 1 October the award can only be made for the current financial year.
- 7.5 Where a determination is made, either awarding or refusing relief, the ratepayer will be notified in writing. Ratepayers will be given at least one financial year's notice of a discretionary award being varied or revoked
- 7.6 Where relief is refused, the ratepayer will be notified in writing with details as to why their application has been unsuccessful.
- 7.7 A reconsideration of a decision can be requested within 4 weeks of a rate payer being advised that their application was unsuccessful. Reconsiderations will only be considered where additional information is submitted that was missed from the initial application. A reconsideration will be considered by the Chief Finance Officer
- 7.8 If the ratepayer remains dissatisfied with a decision following a reconsideration they may appeal against the decision. The ratepayer should do so in writing and provide further supporting evidence. The appeal will be considered by Cabinet and should be received by the Council within four weeks of the notification of the award or refusal of an award.

8. State Aid

- 8.1 Prior to 1 January 2021, the award of discretionary rate relief was considered likely to amount to State Aid as defined by the EU. The EU required that all State Aid (including discretionary rate relief) complied with the De Minimis Regulations EC 1407/2013. The De Minimis Regulations allow an undertaking to receive up to €200,000 aid over a rolling three year period.
- 8.2 From 1 January 2021, the United Kingdom left the EU Single Market and Customs Union and is no longer subject to the De Minimis Regulations.
- 8.3 The Government has introduced its own rules regarding state subsidies. Discretionary rate relief is considered a subsidy under the rules, but the matters that must be considered all relate to the effect of the subsidy on international trade. In making an award the public body making it must consider:
 - effects on international trade;
 - the subsidy is prohibited under the World Trading organisation (WTO) rules;
 - are in line with those agreed by the UK –EU Cooperation and Trade Agreement;
 - are unlikely to trigger a dispute under WTO trade rules.

8.4 It is unlikely that an award of discretionary rate relief would fall counter to these rules.

9. Fraud

9.1 The Council is committed to the prevention and detection of fraud and the protection of public funds. Cases of suspected fraud will be referred to the Counter Fraud Unit (CFU) for investigations which may result in clawback of payments made and/or further action being taken against an individual.