

# DISCRETIONARY BUSINESS RATE RELIEF POLICY



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## **Introduction**

Telford and Wrekin Council is committed to making 'doing business' in the Borough as easy as possible and recognises the challenges that businesses face whether at start up, through hardship or during expansion and relocation. These guidelines form part of the Council's wider business support programme. We also recognise the invaluable contribution that is made by voluntary, charitable and not-for-profit organisations in our community.

The Council has discretionary powers to award relief from the payment of Non Domestic rates. This policy is designed to provide guidance for Council Officers and ratepayers on the application of Discretionary Rate Relief. This policy will cover the following types of discretionary relief:

- Properties partly occupied for a temporary period
- Hardship relief
- Charitable rate relief
- Rate relief for not-for-profit organisations
- Relief for Community Amateur Sports Clubs CASC's
- Relief for rural businesses
- Local Newspaper relief
- Any other discretionary discount that may apply

Each application for discretionary relief will be considered on its own merits, whilst having due consideration to this policy and national legislation, whilst ensuring that all applications are treated in a fair way, with no unlawful discrimination on the grounds of race, gender, caring responsibilities, disability, gender re-assignment, age, sexual orientation and religion or belief or gender. In determining the award, consideration in all cases will be given to the interests of the council taxpayers of the Borough. Awards will only be made where the benefits to the Taxpayers outweigh the financial impact of the award, for example the business taking on apprentices or acting as an ambassador for the Borough to promote the area to their supply chain.

### **Format of applications**

Applications for relief must be made on the Council's application form. Applications should be submitted with the supporting information that is requested. 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. Businesses needing support can contact the Council's Business Support Team on 01952 567589.

### **Timescales for the application to be considered**

The Council will aim to make a decision within a maximum 4 weeks of the application and supporting information being received. Ratepayers are required to continue to pay Business

Rates whilst their application or appeal is being considered. Failure to make payments will result in the Council pursuing collection via the usual recovery procedures which could result in Court action or attendance at a Ratepayer's premises by Enforcement Agents.

### **Effective date of relief**

Whilst awards for mandatory relief can be backdated for previous financial years, legislation permits discretionary relief 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.

It is the Council's policy that discretionary relief will only be awarded from the date of the application. 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, and provide evidence to verify that the circumstances of the claim existed for a prior period.

### **Amount of relief**

All amounts of relief awarded are subject to the state aid limits as defined by European legislation. The total amount of 'state aid' received by an organisation including relief will not exceed €200,000 in any 3 year financial period. Questions on the subject of state aid will be included on the Council's application form for discretionary relief.

### **Costs of relief**

The cost of awarding discretionary relief will be apportioned as follows:

- 50% will be funded by the government
- 49% will be funded by the Council
- 1% will be funded by the Fire Service

### **Decisions**

Any decision regarding rate relief will be communicated to the Ratepayer in writing. Where the decision is a refusal of the award, reasons for the refusal will be provided in the letter. Decisions will be made by an Assistant Director, or their nominated representative.

### **Review of the policy**

A review of the policy will be undertaken on a periodic basis.

## **Discretionary relief for partly empty properties**

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 a part empty relief; also known as Section 44a (s.44A of the Local Government Finance Act 1988).

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

### **In what circumstances will relief be awarded?**

Section 44A relief will be awarded in the following circumstances:

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

In all of the above cases, the period of part occupation must be for a temporary period only.

Rate relief will not be awarded where the partial occupation is due to the normal day to day operation of the business; i.e.: a warehouse which has recently had the despatch of a large order and has limited stock.

For the purposes of this policy, a period of up to 6 months will be considered to be temporary. Periods which exceed this time period will be treated as a permanent change and will not attract an award of S44A.

Relief will not be awarded where it appears to the Council that the reason that part of the property is empty for the purposes of applying for rate relief.

No award for a retrospective period will be given.

### **How will a decision be made?**

The following process will be followed:

- A request for S44A must be submitted to the Council in writing.
- 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 if the circumstances of the empty space fulfil the criteria shown above.
- Any additional supporting information may be requested where further evidence is required of the empty status of the property, or to verify that the situation is only temporary.

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

Further applications for part empty relief will be considered in the following circumstances:

- Where there is a change to the area of the property that is unoccupied
- Where the financial year comes to an end.

Part empty property relief will end if one of the following circumstances applies:

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

Relief will only be granted where the award of relief is in the general interests of its local taxpayers.

#### **Amount of award**

The amount of relief awarded will be dependant on the size of the empty space in the property. This will be decided by the Valuation Office Agency.

#### **Period of award**

An award will apply for a 6 month period for industrial premises and 3 months for non industrial properties, unless it is ended by the changes in circumstance as listed above.

## **Hardship relief**

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.

Hardship relief is granted at the discretion of the Council which can reduce 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 tax payers.

### **In what circumstances will relief be awarded?**

The following factors will be considered:

- In order to establish whether hardship is being experienced, the factors considered need not be confined strictly to financial hardship; all relevant factors affecting the ability of a business to meet its liability for rates will be taken into account.
- The interests of council tax payers in the area may be wider than direct financial interests. For example, where the employment prospects in the area would be severely worsened by a company going out of business, or the amenities of an area might be reduced.
- Where the granting of relief would have an adverse effect on the financial interest of the taxpayers, the case for reduction or remission may still, on balance, outweigh the cost to the taxpayers.
- The ratepayer must provide evidence of hardship e.g.: a severe loss in trade, a marked decline in trade compared to corresponding periods in previous years.
- The business must be viable for the foreseeable future i.e.: a period of 3 years.
- Whether the business provides goods and services which are of great benefit to the borough or the neighbourhood in which it is located, such as the business taking on apprentices or trainees, providing guaranteed interviews to young people of the Borough, or acting as an ambassador for the Borough to promote the area to their supply chain.

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 in comparison to the annual turnover of the business
- Where the drawings / remuneration of the Director(s) or proprietor 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 a similar facility is already being provided within the same locality, or within a reasonable distance. So, for example, would the business in question impact upon the taxpayers of the borough if the business were to cease trading, or is there a similar business which provides the same facilities / service.

Prior to the award being made, the business is expected to have taken appropriate action to mitigate or alleviate their hardship by:

- Speaking to the Council's Business Support Team and/or taking professional business advice
- Reviewing their pricing structure
- Re-negotiating with creditors, including the landlord regarding rent (where appropriate)
- Have a business plan in place to address the hardship

#### **How will a decision be made?**

The following process will be followed:

- An application for relief must be made by completing the Council's hardship rate relief application form. Applications must detail the following;
  - An outline of the reasons why relief should be given
  - The impact on the business of not awarding relief
  - The amount of expenditure attributable to rates
  - A suggestion of the amount of rate relief that is being claimed.
- Supporting information should be included with the application form which includes copies of the last 3 years financial accounts, and a copy of any business plans for the future.

#### **Amount of award**

The award will be for up to 100% of the business rates.

#### **Period of award**

Awards will only be granted for short periods of time; usually up to a maximum of 6 months.

## **Discretionary relief for charitable organisations**

Where the organisation is a registered charity, 80% mandatory relief must be awarded to the organisation when the relevant property is occupied. The Council will consider awarding up to an additional 20% in discretionary top up relief.

The following factors must be met:

- Where the organisation occupies a charity shop, the shop should sell mainly donated goods, and the net proceeds of the sale of goods should be applied to the purpose of the charity, and;
- The property must be wholly or mainly used for the organisations charitable purposes.

### **In what circumstances will relief be awarded?**

Applications will be considered favourably where:

- The organisation has a demonstrable or measureable impact of a beneficial nature on the local community which it serves i.e.; how many residents of the borough benefit from the charitable work of the organisation. The organisation is accessible to members of the community throughout the borough. The extent to which the service is used by the community will also be considered, and;
- The facilities provided by the organisation allow the Council to invest in services elsewhere i.e.: the services that it provides enables the Council to divert resources that would have been used in this area into another service, or;
- Training or education is provided by the organisation to residents or members of the organisation who are mainly residents of the Telford and Wrekin borough.

Where at least one of the above criteria applies, applications will then be considered further based on the nature of the charity and its objectives. The following will be considered favourably where they are specifically mentioned as the main aim and objective of the organisation within its articles of association or memorandum and are clearly aimed specifically at the Telford and Wrekin area:

- Where the aims and objectives are specifically in the interests of children and young people, or those beyond the age of retirement
- Charities concerned with homelessness
- Charities concerned with arts and culture
- Charities that provide independent money advice free of charge
- Charities which provide work experience opportunities or employment training for young people, the long term unemployed or those with disabilities

- Charities that run or maintain public halls / community centres
- Organisations specifically formed to support disadvantaged groups such as people with disabilities, those with a terminal illness or drug or alcohol misuse
- Organisations which support the military covenant and are concerned with the armed forces or those that are ex-armed forces personnel.

Relief will **not** be awarded in the following circumstances:

- Properties which support overseas organisations
- Housing Associations
- Schools and other educational establishments, including Academies and Free Schools
- Religious or faith based groups

#### **How will a decision be made?**

The following process will be followed:

- An application form will need to be completed and returned to the Council.
- The organisation will be expected to provide the following in support of their application:
  - A copy of the articles of association / memorandum which clearly state the objects of the organisation; and
  - A copy of the last 3 years certified financial accounts. The financial position of the organisation may be taken into account.

#### **Amount of award**

The award will be for a maximum of 20%.,

#### **Period of award**

Any award will last a maximum of 3 years before being subject to review. However, if any material change in circumstances occurs during the period of the relief the occupant of the property must inform the Council.

## **Discretionary relief for non profit organisations**

A not-for-profit organisation is one that is not established or conducted for profit, whose objectives are charitable, but the organisation is not registered as a charity.

Whilst a registered charity can apply for an additional 20% discretionary relief, voluntary organisations can apply for up to 100% discretionary relief.

### **In what circumstances will relief be awarded?**

The following criteria will apply:

- The organisation has a demonstrable or measureable impact of a beneficial nature on the local community which it serves i.e.; how many residents of the borough benefit from the not for profit work of the organisation, and;
- The facilities provided by the organisation allow the Council to invest in services elsewhere i.e.: the services that it provides enables the Council to divert resources that would have been used in this area into another service, or
- The organisation is accessible to members of the community throughout the district. The extent to which the service is used by the community will also be considered, or
- Training or education is provided by the organisation to residents or members of the organisation who are mainly resident in the Telford and Wrekin borough.

Where at least one of the above criteria applies, applications will then be considered further based on the nature of the charity and its objectives. The following will be considered favourably where they are specifically mentioned as the main aims and objectives of the organisation within its articles of association or memorandum:

- Where the aims and objectives are specifically in the interests of children and young people, or those beyond the age of retirement
- Organisations concerned with homelessness
- Organisations concerned with the arts and culture of the Borough
- Organisations that provide independent money advice free of charge
- Organisations which provide work experience opportunities or employment training for young people, the long term unemployed or those with disabilities.
- Organisations that run or maintain public halls / community centres.

The following criteria will be used:

1. **Membership** – is membership open to all sections of the community within the borough? Membership fees must not be at a level where they exclude the general community and not unlawfully discriminate. Membership of the organisation should be mainly resident in the borough.

2. **Education** – the organisation will provide training, education or learning to its members. The organisation will be treated favourably where the training delivered supports and reduces the Council's need to do so.
3. **Direct benefit to local residents** – the organisation should directly benefit the needs of the local citizens within the Borough. The organisation must show how it benefits the residents of the area. Examples could include the creation of job opportunities within the area.
4. **Provision of facilities** – does the organisation provide facilities which would not otherwise be available in the local community?

Relief will not be awarded in the following circumstances:

- Properties which are used solely or mainly for storage
- Properties which solely or mainly support overseas organisations
- Housing Associations
- Schools and other educational establishments
- Religious or faith based groups

### **How will a decision be made?**

The following process will be followed:

- An application form will need to be completed and returned to the Council.
- The organisation will be expected to provide the following in support of their application:
  - A copy of the articles of association / memorandum which clearly state the objects of the organisation; and
  - A copy of the last 3 years certified financial accounts. The financial position of the organisation may be taken into account. The income of the business will be considered, and the proportion of business rates on total expenditure.

### **Amount of award**

Relief will be granted at a maximum rate of 100% for these organisations.

### **Period of award**

Any award will last up to a maximum of 3 years before being subject to review. However, if any material change in circumstances occurs during the period of the relief the occupant of the property must inform the Council.

## **Community Amateur Sports Clubs (CASC's)**

CASC's are entitled to 80% mandatory relief. The Council will consider awarding up to an additional 20% in discretionary top up relief.

### **In what circumstances will relief be awarded?**

Consideration will be given to the following factors:

- Whether membership to the organisation is open to all citizens of the Borough, including concessions for vulnerable groups such as young people or pensioners.
- The number of members, including the percentage that are residents of the Borough
- What benefit the organisation brings to the residents of the Telford & Wrekin Borough

The following criteria will be used:

1. **Membership** – is membership open to all sections of the community within the borough? Membership fees must not be at a level where they exclude the general community. Membership of the organisation should be mainly resident in the borough.
2. **Education** – the organisation will provide training, education or learning to its members. The organisation will be treated favourably where the training delivered supports and enhances the Council's need to do so.
3. **Direct benefit to local residents** – the organisation should directly benefit the needs of the local citizens within the borough. The organisation must show how it benefits the residents of the area. Examples could include the creation of job opportunities within the area.
4. **Provision of facilities** – does the organisation provide facilities which would not otherwise be available in the local community?

Where an amateur sports club is neither a registered charity, nor a CASC, the organisation will be encouraged by the Council to submit an application for either HMRC for CASC status or to the Charity Commission for charitable status. Absence of this either status will not automatically prevent an award from being granted. The above criteria will be considered, along with the reasons why CASC status or charitable status has not been awarded.

### **How will a decision be made?**

The following process will be followed:

- An application will need to be submitted to the Council.
- Information will need to be provided which details the financial circumstances of the Club. This will include:
  - Financial accounts for the last 3 years; and

- Where the premises is a bar and the sale of drink or food is conducted in the Club, the percentage of takings attributable to this in the overall income of the Club
- Funding streams which the club has received or is due to receive.

**Amount of award**

The award will be up to a maximum of 20%.

**Period of award**

Any award will last for up to a maximum of 3 years before being subject to review. However, if any material change in circumstances occurs during the period of the relief the ratepayer must inform the Council.

## **Rural rate relief**

Mandatory rural rate relief at a rate of 50% is awarded to properties within a defined rural settlement which has a population of less than 3000; this is the Council's rural settlement list which is published by the Council at the end of December each year. The rateable value (RV) of the property will be:

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

*From April 2017, rural rate relief can be awarded up to 100%. 50% of this award will be claimed back from the Government under S31 grant.*

### **In what circumstances will relief be awarded?**

Discretionary relief will be considered where;

- The RV of the property is below the limits as outlined above
- The property is used for the benefit of the local community
- The award of the relief is in the interests of the Council's taxpayers.

*Where mandatory charitable relief applies, rural rate relief does not apply.*

### **How will a decision be made?**

The following process will be followed:

- An application form will need to be submitted to the Council.
- Information will need to be provided on the nature of the business and it's benefit to the community in which it is based.

Applications will be determined no later than 30<sup>th</sup> September of the following financial year for which the relief is sought.

### **Amount of award**

The amount awarded will be up to 50%.

### **Period of award**

An award will be made for up to a maximum period of 3 years before being subject to review.

## **Re-occupation relief**

### **In what circumstances will relief be awarded?**

Discretionary relief will be considered where;

- The property has been unoccupied for a period of at least 12 months. The property is a retail unit and the property becomes occupied.

### **How will a decision be made?**

The following process will be followed:

- Applications can be made in writing to the Council. Each application will be considered on its own merits.
- The Council must be satisfied that the property has been empty for over 12 months and will be used as a retail unit, and evidence of this may need to be submitted to support the application.

### **Amount of award**

The amount awarded will be up to 50%.

### **Period of award**

An award will be made for up to a maximum period of 18 months. However this will only apply for the 2014/15 and 2015/16 financial years as per Government funding. All applications and current awards will end on 30<sup>th</sup> September 2017.

## **New build empty property relief**

### **In what circumstances will relief be awarded?**

Discretionary relief will be considered where;

- all newly built commercial property that was completed between 1 October 2013 and 30 September 2016. These properties will be exempt from empty property rates for the first 18 months, up to the state aids limits.

Properties that will benefit from the relief will be all unoccupied business properties which are wholly or mainly comprised of qualifying new structures.

### **How will a decision be made?**

The following process will be followed:

- Applications must be made in writing to the Council.
- All applications will be considered on an individual basis.

### **Amount of award**

An award up to 100% will be made.

### **Period of award**

The award will be made for properties completed between 1 October 2013 and 30 September 2016 for the first 18 months following completion, in line with Government funding. All applications and current awards will end on 30<sup>th</sup> September 2017.

## **Local Newspaper Relief**

### **In what circumstances will relief be awarded?**

Discretionary relief will be considered where;

- a local newspaper occupies office space by journalists and reporters, and
- only one discount per local newspaper and per property

There is no maximum or minimum circulation threshold and will include both chargeable and free publications.

The following will not be eligible:

- on line publications
- local magazines

### **How will a decision be made?**

The following process will be followed:

- Applications must be submitted in writing to the Council.
- All applications will be considered on an individual basis.
- Evidence may be required to support the use of the premises, and the Council may need to inspect the premises prior to an award.

### **Amount of award**

£1,500 will be awarded per financial year.

### **Period of award**

The award will last for 2 years from 1<sup>st</sup> April 2017. Awards will end on 31<sup>st</sup> March 2019.



## Appeals

All unsuccessful applicants will receive a letter detailing the reasons why their application has not been successful. If the ratepayer is dissatisfied with this decision, they can appeal in writing to:

Revenues Service  
PO Box 249  
Addenbrooke House  
Telford  
TF3 4LP

An appeal should be received in writing within 4 weeks of the date of the decision regarding the award or refusal of a discretionary relief. The appeal letter should detail the reasons for the appeal and also provide any additional supporting information which may assist the decision maker in support of the appeal.

Requests for appeals will be considered against unsuccessful applications or against the level of discretionary rate relief awarded where a partial awarded has been granted.

Appeals will be dealt with by an Assistant Director, and the decision will be notified within 14 days of a decision being made. The Assistant Director will consider all information which is available including the original request for relief, and appeal and any supporting information. Precedents which have been set elsewhere may also be considered.

Where the taxpayer remains dissatisfied with the decision, the appeal route is by way of judicial review.

Business rates remain payable as demanded whilst applications for relief are being considered.