

# Business Rates

## Policies for Discretionary Rates Reliefs 2020/21 onwards

*(Applicable from 1<sup>st</sup> April 2019 for new applications)*

- Discretionary Business Rate Relief to Charities and other Not-for-Profit Organisations
- Relief for partially unoccupied properties
- Rural Rate Relief
- Rate Relief for New Business Development
- Rate Relief to Support Business Growth
- Hardship Relief
- General Rate Relief

# Index

		Page Number
Introduction		<a href="#">3</a>
Information Relevant to All Parts		<a href="#">4</a>
Part 1 :	Discretionary Business Rate Relief to Charities and Other Not-for-Profit Organisations	<a href="#">11</a>
Part 2 :	Rate Relief for Properties that are Partially Unoccupied for a Temporary Period	<a href="#">17</a>
Part 3 :	Rural Rate Relief	<a href="#">19</a>
Part 4 :	Rate Relief for New Business Development	<a href="#">23</a>
Part 5 :	Rate Relief to Support Business Growth	<a href="#">25</a>
Part 6 :	Hardship Relief	<a href="#">28</a>
Part 7 :	General Rate Relief	<a href="#">31</a>

# INTRODUCTION

## 1 SCOPE OF THIS POLICY

- 1.1 This policy relates to the rate relief that the Council has a power to award under Section 44a, Section 47 and Section 49 of the Local Government Finance Act 1988.
- 1.2 The law governing the granting of Discretionary Rate Relief is found in Section 47 of the Local Government Finance Act 1988 and subsequent amending legislation and Section 69 of the Localism Act 2011.
- 1.3 The policy relates to the discretionary award of rate relief and the process for the award of mandatory relief for Business Rates for new applications from 1<sup>st</sup> April 2019 and (to enable notice to be given) for existing awards from 2020/21 onwards.

## 2 THE REASONS FOR THIS POLICY

- 2.1 This policy has been agreed by the Council to ensure all ratepayers making applications for this relief are treated in a fair and consistent manner.
- 2.2 Through this policy, Derbyshire Dales District Council is providing a mechanism to reduce or remove the business rate liability from such charities, non-profit making organisations that are providing certain facilities and services to communities within the Derbyshire Dales, and to support sustainable business growth in accordance with the policy criteria.
- 2.3 The policy is intended to provide a transparent process that aligns awards of discretionary rate relief with the council's corporate priorities.
- 2.4 This policy:-
  - a. Sets guidelines for the factors that should be considered when making a decision to award or refuse relief;
  - b. Establishes a framework to ensure applications are dealt with in an efficient manner;
  - c. Sets out the delegated authority to award relief in appropriate circumstances;
  - d. Establishes an appeals procedure for organisations that are dissatisfied with the Council's decision;
  - e. Provides a mechanism to deal with State Aid issues;
  - f. Seeks to safeguard the interest of local taxpayers by ensuring that funds allocated for the award of discretionary rate relief are used in the most fair, effective and economic way.

# INFORMATION RELEVANT TO ALL PARTS

## 1 INTERESTS OF OFFICERS AND MEMBERS

- 1.1 Officers and Members who have an interest in any aspect of an application for relief must not participate in the decision making process and must declare their interest.
- 1.2 Examples of interests include those in the following list. However, the list is not intended to be exhaustive:-
- a. Membership of the organisation making an application;
  - b. A close relative who is a member of the organisation making an application;
  - c. An interest in the property for which the relief is being sought;
  - d. Membership of a similar organisation (e.g. a rival sporting club).
- 1.3 Where an Officer or Member is unsure whether they have an interest they should seek advice from the Council's Monitoring Officer.

## 2 STATE AID REGULATIONS

- 2.1 There are European Union regulations which restrict the award of State Aid and under certain circumstances the award of discretionary relief could be considered to be State Aid.
- 2.2 The circumstances in which the EU regulations need to be considered will be where the organisation engages in commercial activities or competes with commercial bodies because of an activity it carries out. For example, a not for profit training organisation that also provides training services to businesses.
- 2.3 If the organisation undertakes any commercial activity it must be commercially insignificant and localised so that there is no potential impact on intra-community trade, otherwise the regulations governing State Aid will apply.
- 2.4 Guidance on State Aid is available via the [gov.uk](http://gov.uk) web site.
- 2.5 All businesses applying for any Business Rates relief will need to confirm any other State Aid they are receiving.

## 3 COST OF RELIEFS

- 3.1 The apportioned cost of the total amount awarded in relief falling on specified bodies is normally\* as shown below, subject to possible tapers.
- Derbyshire Dales District Council 40%
  - Derbyshire County Council 9%
  - Derbyshire Fire and Rescue Service 1%
  - Central Government 50%

\*The percentages change in years when a business rates pilot is in place.

## 4 THE APPLICATION PROCESS

### ***Information to be Provided to Support Applications***

- 4.1 Before an application can be considered the Council must be satisfied that it has all the information necessary to enable it to make a fair consideration. All applications must be made in writing, using the relevant application form (where available) for the specific Discretionary Rate Relief.
- 4.2 In addition to the information requested on the application form, ratepayers may be required to supply supporting information such as audited accounts and articles of association. In some circumstances, the Council may decide that it is necessary for one or more Officers to visit the rated premises to establish further facts.
- 4.3 In some instances the Council may require the applicant to visit the Council's offices to provide verbal information in support of the application. Where a visit is required the Council will give a minimum of fourteen days' notice of the date the visit is required.
- 4.4 The Council will not consider applications where the ratepayer has failed to provide information that has been requested or where the ratepayer does not co-operate with the Council's request to visit a property.
- 4.5 It is recognised that some smaller organisations may not currently keep records of sufficient detail to provide the information that is normally required to support an application. Where the Council is satisfied that the information is genuinely not available and that the organisation has co-operated to provide all information that is available, the Council will consider the application based on the information provided. Only one application will be considered in this way and future applications must provide all information that is required.
- 4.6 If the process of keeping records to the standard required will incur additional expense for the organisation it will be up to the organisation to decide whether the additional expense is worthwhile in order to apply for relief.

### ***Persons Who Can Make Application***

- 4.7 Applications must be made in writing by the ratepayer, their agent or someone authorised to act on their behalf.
- 4.8 Where the ratepayer is an organisation the application must be made by a person with the authority to act on behalf of the organisation. The Council may ask for evidence that the person making the application is entitled to act in that capacity.

### ***Re-applications***

- 4.9 Where an application has been refused either initially or following an appeal, further applications will not be considered within the same financial year except where:-
- a. the use of the property changes; or
  - b. the objectives of the organisation change; or
  - c. there have been other changes that may affect the Council's decision (for example where an organisation has taken action to address an issue which had previously precluded an award of relief).

### ***Applications Not Meeting Legal Requirements***

- 4.10 Where an application does not meet the legal requirements, (for example if an organisation is established for profit and applies for a relief that is only for charities and not for profit organisations), the application cannot be considered.
- 4.11 On receipt of each application the Council will assess whether it meets the essential legal requirements. Where the application does not meet those requirements it cannot be considered. The applicant will be advised in writing within four weeks of receipt of the application, giving the reason that the application does not meet the legal requirements.
- 4.12 Where the applicant disputes the initial decision they should make a written submission to the Council's Chief Financial Officer setting out their reasons for believing the legal requirements are met. The decision will be reviewed by the Chief Financial Officer whose decision will be final.
- 4.13 This process does not affect an applicant's right to challenge a decision by way of Judicial Review.

## **5 THE DECISION MAKING PROCESS**

- 5.1 All applications will be considered on an individual basis.
- 5.2 Normally discretionary relief will only be awarded where it is clear that the activities of the applicant are of direct benefit to the local community and assist the Council in achieving its Corporate Plan.
- 5.3 In assessing applications, each case will be considered on its own merits, including the degree to which it demonstrates benefits to the Derbyshire Dales and its residents. Consideration will be given to eligibility for / award of other reliefs and whether the award of such relief could have an anti-competitive effect on other businesses in the district.
- 5.4 Relief will not be awarded to organisations whose activities are contrary to the vision and values of the District Council. This would include any organisation linked with the following:-
- a. Alcohol products where over 25% of those attending or using the services are under 18
  - b. Tobacco products
  - c. Unhealthy food or unhealthy lifestyles
  - d. Weaponry
  - e. Gambling
  - f. Racism
  - g. Messages of a sexual nature
  - h. Political parties
  - i. Any other relationship that would have a negative impact on the Council
- 5.5 Consideration will be given to the financial impact on the Council and the local community in making awards. Relief may be refused or capped if it is considered

that the financial cost to the Council or the local community outweighs the benefits generated through the award of relief.

- 5.6 In order to ensure there is a fair and consistent approach to the award of relief, all applications will be considered within the guidelines of this policy.
- 5.7 The criteria for the award of discretionary relief are set out in the relevant parts of this policy.
- 5.8 All applications will be considered on an individual basis by the Business Rates Team who will provide a report and recommendations with findings and financial implications and initial recommendations to the Council's Chief Financial Officer. Applications relating to Rate Relief for New Business Development and Rate Relief to Support Business Growth will be considered by the Council's Head of Regeneration and Policy before a final recommendation is made to the Chief Financial Officer. The Chief Financial Officer will decide how much relief, if any, will be granted.
- 5.9 A written record will be kept of the decision and of the factors considered in the process. This record will be available to the applicant free of charge on request.
- 5.10 The decision will be notified to the applicant in writing and where less than the maximum amount of relief is granted an explanation of the reasons why full relief was not granted will be given.
- 5.11 Appeals against awards to be determined by the Licensing and Appeals Committee.
- 5.12 Details of the recipients and the amount of awards will be published annually.

## **6 RIGHT OF APPEAL**

- 6.1 There is no statutory right of appeal against a decision regarding discretionary rate relief made by the Council. However, the Council recognises that ratepayers should be entitled to have a decision reviewed objectively if they are dissatisfied with the outcome.
- 6.2 Dissatisfied ratepayers should make an appeal in accordance with the process below.
- 6.3 Ratepayers will be notified of the appeals process at the time that they are notified of the outcome of their request for rates relief.
- 6.4 This appeals process does not affect a ratepayer's legal rights.

## **7 APPEALS PROCESS**

- 7.1 Appeals may only be made by the original applicant. An appellant may appoint an agent to act on their behalf and in such cases the Council will require written authorisation from the appellant before dealing with their agent.

- 7.2 Appeals against decisions will be considered by the Licensing and Appeals Committee.
- 7.3 Applicants may appeal against the decision to award or not award relief, or against the level of relief awarded.
- 7.4 Appeals must be made in writing and must give the reasons why it is believed the decision should be amended. New or additional information may be included but only if it is relevant to the decision making process.
- 7.5 Applicants must make an appeal within four weeks of the issue of the letter notifying them of the Council's decision. They will be notified of the date on which the appeal will be considered, which will be within twelve weeks of receipt of the appeal or as soon as reasonably practicable thereafter.
- 7.6 The appellant does not have a right to appear in person but may make a request to present evidence in person. Such requests will be considered at the discretion of the Committee as appropriate.
- 7.7 The Committee can request a meeting with either the applicant and/or the appropriate Officer(s) to hear evidence in person. The Committee may nominate a representative or representatives to attend such meetings on its behalf.
- 7.8 Each appeal will be considered individually on its merit.
- 7.9 The appeal decision may be adjourned if further information is required from either party.
- 7.10 The appellant will be informed of the final decision and the reasons for the decision within four weeks of the hearing.
- 7.11 Decisions on appeals made by the Licensing and Appeals Committee will be final.
- 7.12 Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process.

## **8 DISCONTINUATION OF APPLICATIONS OR APPEALS**

- 8.1 If the Council has requested further evidence from the ratepayer and this has not been received within four weeks, the application or appeal will be deemed to have been discontinued.
- 8.2 Ratepayers will be notified in writing in these circumstances.
- 8.3 The ratepayer can reapply for Discretionary Rate Relief at a later date but the application will only be assessed from the date of the new application.

## **9 PERIOD OF RATE RELIEF**

- 9.1 Ratepayers receiving relief may be contacted annually and asked to confirm in writing there has been no material change in circumstances.

## **10 AWARDS FOR PREVIOUS FINANCIAL YEARS**

- 10.1 This section applies to all reliefs except hardship relief and partly occupied relief.
- 10.2 The law allows claims determined between 1st April and 30th September in any year to be considered for the previous financial year.
- 10.3 Relief cannot otherwise be backdated beyond 1st April of the year in which it is awarded.

## **11 CANCELLATION OF RELIEF**

- 11.1 Relief will be cancelled if:-
  - a. The applicant ceases to be the ratepayer;
  - b. The property becomes empty or becomes occupied\*;
  - c. The use of the property changes;
  - d. The aims or objectives of the ratepayer change;
  - e. There is an increase in the amount of rates payable.

\* With the exception of New Business Development Relief where relief will not be cancelled if a property becomes occupied.

Other relief specific criteria may apply.

- 11.2 Where relief is cancelled for any of the reasons from (b) to (d) above, a new application may be made straight away.
- 11.3 Where relief is cancelled for reason (e) above the decision will immediately be reconsidered and a new decision made based on the new amount of rates payable.
- 11.4 Relief may be cancelled if the ratepayer's financial circumstances change (the ratepayer must inform the Council if their circumstances change).

## **12 NOTIFICATION OF AWARDS**

- 12.1 The Council will normally consider applications within six weeks of the application and all supporting information being received, or as soon as practicable thereafter.
- 12.2 Notification of the outcome of the decision will be made in writing within fourteen days of the decision being considered.

## **13 ACTION TO RECOVER UNPAID RATES WHILST A DECISION IS PENDING**

- 13.1 Unless otherwise agreed or the application relates to hardship relief (see part 6), ratepayers are required to continue to pay, in accordance with the latest demand notice, pending the outcome of an application

## **14 PROMOTION OF THE AVAILABILITY OF RELIEF**

- 14.1 The Council will proactively promote the availability of discretionary relief, and this policy, in the following ways:-
- a. The policy will be published on the Council's website;
  - b. Employees who deal with enquiries from ratepayers will be trained in all aspects of this policy;
  - c. The Council will work with other appropriate organisations to promote the policy.

## **15 REVIEW OF POLICY**

- 15.1 The policy, if reviewed, will be presented to Members when a material change is required, either because of legislative changes or another reason.

<b>Part 1</b>	<b>Discretionary Business Rate Relief to Charities and Other Not-for-Profit Organisations</b>
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## **1 LEGAL BACKGROUND**

- 1.1 Section 47 of the Local Government Act 1998 and subsequent amending legislation and Section 69 of the Localism Act 2011, gives billing authorities the discretion to award Discretionary Rate relief in two circumstances:-
- a. Where the ratepayer is a registered charity or certain other charitable organisation and the property is wholly or mainly used for charitable purposes
  - b. Where the ratepayer is an organisation which is not established or conducted for profit and whose main objects are as set out below (see 1.8).
- 1.2 The Council will consider awarding Discretionary Rate Relief to all organisations that meet the qualifying criteria as specified in this Policy. The amount of any award is at the discretion of the Council.
- 1.3 Discretionary Rate Relief will be awarded after taking into consideration all other reliefs an organisation may qualify for.
- 1.4 It will consider each individual application against set criteria. This process ensures that all applications are considered on a fair and transparent basis.
- 1.5 In the first instance organisations that meet the qualifying criteria for Small Business Rates Relief will be considered for that type of relief.
- 1.6 Registered charities are entitled to a mandatory rate relief of 80% for properties which are occupied for charitable purposes.
- 1.7 The Council has discretionary powers to award further rate relief of up to 20% (this is commonly referred to as 'top up' relief).
- 1.8 The Council has the discretion to award relief of up to 100% to organisations which are not established for profit and which meet the following criteria:-
- a. Either, the organisation's main objects are:-
    - charitable,
    - philanthropic,
    - religious
  - b. Or are concerned with:-
    - education
    - social welfare
    - science
    - literature
    - fine arts

- c. Or, the organisation is a club, society or other organisation not established or conducted for profit and the rateable property is used mainly used for purposes of recreation.

1.9 The Council cannot award discretionary rate relief to itself or any other organisation that has the powers to raise or precept for Council Tax.

1.10 The amount of relief awarded is entirely at the discretion of the Council.

## **2 PERIOD OF RATE RELIEF**

2.1 Rate relief awarded under this policy will be awarded for one financial year except where it is considered between 1st April and 30th September where consideration may be given to awarding relief for the previous financial year.

## **3 CALCULATION OF RELIEF**

3.1 Relief will be calculated as a percentage of the rates bill subject to limits where specified.

3.2 If the rate bill reduces for any reason, the relief will be reduced proportionately.

3.3 If the rates bill increases during the course of a year, for example due to an increase in rateable value, the amount awarded will not automatically be increased. However, in all such cases the Council will reconsider the ratepayer's application and may award additional relief.

## **4 THE SCHEME**

4.1 The scheme consists of Mandatory and Discretionary Charity Relief. Mandatory and Discretionary Rate Relief may be granted under Sections 43, 45, 47 and 48 of the Local Government Finance Act 1988.

### ***Mandatory Rate Relief***

4.2 Mandatory Relief of 80% may be granted to a Charity under Section 43 (occupied rates), provided that the property concerned is occupied and wholly or mainly used for charitable purposes.

#### Definition of a Charity

4.3 The definition of a Charity comes under Section 67 of the Local Government Finance Act 1988 as "*an institution or other organisation established for charitable purposes only, or a person administering a trust established for charitable purposes only*". Registration with the Charity Commission under the Charities Act 1960 is proof of Charity status.

4.4 Absence from the Register does not mean that an organisation has not been established for charitable purposes as certain organisations are exempt from registration. These include Church Commissioners, Boy Scouts or Girl Guides, any registered society within the meaning of the Friendly Societies Acts 1896-1974 and voluntary schools within the meaning of the Education Act 1944 – 1980.

### Established for Charitable Purposes

- 4.5 If none of the above are applicable, and in the absence of any other information, the following will be considered:-

Are the main objectives of the organisation:-

- a. the relief of poverty; or
- b. the advancement of religion; or
- c. the advancement of education; or
- d. other purposes that is beneficial to the local community

### Wholly or Mainly Used for Charitable Purposes

- 4.6 To qualify for mandatory relief the premises must be wholly or mainly used for charitable purposes.

### Charity Shops

- 4.7 In addition Section 64 of the Local Government Finance Act 1988 provides that Charity Shops are only entitled to 80% Mandatory Relief if they use the premises:-
- a. wholly or mainly for the sale of goods DONATED to the Charity; and
  - b. the net proceeds of the sale of goods are applied to the purpose of the Charity.

### Mandatory Relief for Community Amateur Sports Clubs (CASCs)

- 4.8 Registered CASCs can receive 80% mandatory rate relief. To qualify as a CASC, a sports club must be open to the whole community, be run as an amateur club, be a non-profit making organisation and aim to provide facilities for, and encourage people to take part in, eligible sport. For further details please see <https://www.gov.uk/tax-relief-casc>.

### ***Discretionary Rate Relief Top Up***

- 4.9 Discretionary Rate Relief may be granted in addition to Mandatory Rate Relief, i.e. a “top up” of up to the remaining 20%. This may be granted under Section 47 for occupied properties and Section 48 for unoccupied properties.

### Charitable Bodies

- 4.10 A 20% ‘top up’ of discretionary relief may be applied to charities but will only be awarded if the charity is a local one, not a national one. A local charity is defined to be one who operates within the area of Derbyshire Dales District Council and whose charitable objects primarily benefit residents of Derbyshire Dales District Council and is not affiliated to a national charitable organisation.
- 4.11 Each case will be considered on its own merits with priority given to efficient and well managed organisations that:-
- a. primarily benefit Derbyshire Dales District Council residents;
  - b. demonstrate a strong link with council priorities;
  - c. relieve the council of providing certain facilities or services;
  - d. serve the needs of the most deprived and excluded sections of the local community;
  - e. provide facilities and/or services for and in the district’s most remote communities;

- f. maximise the use of their premises for community benefit;
- g. are specifically established to serve particular equalities groups protected under the Equality Act 2010.

4.12 Preference will be given to:-

- a. local organisations that have a governing body whose membership mainly consists of people who live and/or work in Derbyshire Dales;
- b. organisations reliant on volunteers to carry out their activities (if there a number of paid employees which indicate that the organisation is semi-professionally run, relief will be restricted accordingly);
- c. self-help groups with few sources of funding to carry out their activities.

4.13 Other Considerations:-

- a. the financial cost to the council incurred in awarding relief;
- b. the organisation's ability to pay its rates (the level of reserves and other funding sources will be examined and, if substantial, relief will not normally be granted unless it can be satisfactorily demonstrated that these are being accumulated for a specific and legitimate purpose in accordance with the considerations above);
- c. the level of membership fees (there is a presumption against granting relief to an organisation whose joining fees or membership fees are set a such a high level as to exclude the general community);
- d. the amount of central government funding levered-in by a discretionary rate relief award to deliver statutory or other council services.

4.14 Applications for up to 20% discretionary top up relief will be considered from the following categories of charitable organisation:

- a. Village halls and community associations
- b. Youth organisations and pre-school playgroups
- c. Elderly persons' clubs
- d. Sports clubs / associations and charitable organisations that contribute towards healthy lifestyles
- e. Museums and theatres
- f. Religious organisations
- g. Welfare organisations
- h. Other charitable organisations

4.15 The maximum amount of top up relief awarded in any one year to a property that receives mandatory rate relief will be £5,000 per property. New applications will not be considered in relation to:-

- profit making organisations;
- empty properties;
- charity shops;
- private schools, colleges, academies, or schools;
- national charities or associations affiliated to national charities;
- Housing Associations;
- car parking spaces.

### Community Amateur Sports Clubs

- 4.16 If there is any commercial activity the amount of the top up award may be limited to 10% rather than 20%.

### ***Rate Relief for Not-For-Profit Organisations***

- 4.17 Discretionary Rate Relief may be granted under Sections 43, 45, 47 and 48 of the Local Government Finance Act 1988.
- 4.18 Discretionary Relief of up to 100% may be granted for occupied properties under Section 47. Each case will be considered on its own merits with priority given to efficient and well managed organisations that:-
- a. primarily benefit Derbyshire Dales District Council residents;
  - b. demonstrate a strong link with council priorities;
  - c. relieve the council of providing certain facilities or services;
  - d. serve the needs of the most deprived and excluded sections of the local community;
  - e. provide services and / or facilities for and in the district's most remote communities;
  - f. maximise the use of their premises for community benefit;
  - g. are specifically established to serve particular equalities groups protected under the Equality Act 2010.
- 4.19 Preference will be given to:-
- a. local organisations that have a governing body whose membership mainly consists of people who live and/or work in Derbyshire Dales;
  - b. organisations reliant on volunteers to carry out their activities (if there a number of paid employees which indicate that the organisation is semi-professionally run, relief will be restricted accordingly);
  - c. self-help groups with few sources of funding to carry out their activities.
- 4.20 Other Considerations:-
- a. the financial cost to the council incurred in awarding relief;
  - b. the organisation's ability to pay its rates (the level of reserves and other funding sources will be examined and, if substantial, relief will not normally be granted unless it can be satisfactorily demonstrated that these are being accumulated for a specific and legitimate purpose in accordance with the considerations above);
  - c. the level of membership fees (there is a presumption against granting relief to an organisation whose joining fees or membership fees are set a such a high level as to exclude the general community)
  - d. the amount of central government funding levered-in by a discretionary rate relief award to deliver statutory or other council services
- 4.21 Applications for up to 100% discretionary top up relief will be considered from the following categories of charitable organisation:
- a. Village halls and community associations
  - b. Youth organisations and pre-school playgroups

- c. Elderly persons' clubs
- d. Sports clubs / associations and not-for-profit organisations that contribute towards healthy lifestyles
- e. Museums and theatres
- f. Religious organisations
- g. Welfare organisations
- h. Other charitable organisations

4.22 The maximum amount of discretionary relief for not-for-profit organisations awarded in any one year will be £12,000 per property. New applications will not be considered in relation to:-

- a. empty properties;
- b. charity shops;
- c. private schools, colleges, academies, or schools;
- d. national charities or associations affiliated to national charities;
- e. Housing Associations
- f. car parking spaces.

## **5 APPLICATIONS**

5.1 To qualify for relief the ratepayer is required to make a written application using the standard application form for Discretionary Business Rate Relief to Charities and Other Not-for-Profit Organisations.

Further information relating to the application, decision-making and appeals processes, state aid, action to recover unpaid rates whilst a decision is pending, and other issues, please refer to the "Information Relevant to All Parts" set out on pages 4 to 10 of this policy.

<b>Part 2</b>	<b>Rate Relief for Properties that are Partially Unoccupied for a Temporary Period</b>
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## **1 LEGAL BACKGROUND**

- 1.1 Occupation of part of a property is occupation of the whole in rating law. 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).

## **2 CALCULATION OF RATE RELIEF**

- 2.1 The amount of relief is calculated on a statutory basis based on the rateable value of the empty portion of the property. The appropriate rateable value is provided by the Valuation Office Agency.

## **3 THE SCHEME**

- 3.1 A ratepayer is liable for the full business rate whether a property is wholly occupied or only partly occupied. Where a property is partly occupied for a short time, the Local Authority has discretion to award relief on the unoccupied part
- 3.2 Relief can only be awarded where the partial occupation is of a temporary nature. Where the same area, or part of the same area, is, or is expected to be, unoccupied for a period in excess of one year the Council will not consider this to be of a temporary nature. Periods which exceed this time period will be treated as a permanent change and will not attract an award of section 44A relief. A period of less than 6 weeks will not be considered for Section 44A relief unless there are exceptional circumstances.
- 3.3 The empty part will receive a complete exemption from business rates for the first 3 months it is empty (or, if it is an industrial property, for the first 6 months). After the initial rate-free period expires, in most cases the apportionment will cease to have effect and the occupied business rate will apply to the whole property. See New Business Development Relief Policy for additional information.
- 3.4 The granting of this relief is entirely under the discretion of Derbyshire Dales District Council and each case will be considered on its merits and be referenced to the interests of Derbyshire Dales Council Taxpayers.
- 3.5 Section 44A relief may be applicable in the following circumstances: and where the occupied and unoccupied parts of the property can be easily segregated:-
- a. Short term practical or financial difficulties in occupying.
  - b. Phased vacations may be considered when moving within the DDDC area.
  - c. Where the business is relocating machinery within the DDDC area.
  - d. Temporary occupation due to remedial building or refurbishment works.
  - e. Where Fire/Flood has rendered a part of the assessment unoccupied for a short period.

- 3.6 In all of the above cases, the period of part occupation must be for a temporary period only and relief will not be awarded where it appears to the Council that the reason that part of the property is empty is for the purpose of applying for partial empty rate relief.
- 3.7 The granting of relief must be in the interests of the Derbyshire Dales Council Tax payers. The ratepayer must state in writing why it is in the interest of the Council Tax payers to provide the relief and the Council will take this into consideration when making a decision.
- 3.8 Rate relief will not be awarded where the partial occupation is due to the normal day-to-day operation of the business, e.g. a warehouse which has recently dispatched a large order and has limited stock or a business experiencing trading difficulties. Nor will relief normally be considered where the property is due for demolition.

#### **4 APPLICATIONS**

- 4.1 To qualify for relief the ratepayer is required to make a written application and must supply a plan of the property with the unoccupied portions clearly identified.

#### **5 VERIFICATION OF CLAIM**

- 5.1 The Council will require access to the property during normal working hours within four weeks of receiving the application, to verify the claim.
- 5.2 Further access may be required on at least one occasion each month, during normal office hours, during the period for which relief is being awarded.
- 5.3 Relief will not be awarded under any circumstance where it is not possible to verify the claim.
- 5.4 There will be no retrospective granting of relief where a request is made after the premises become fully operational or fully vacated.

Further information relating to the application, decision-making and appeals processes, state aid, action to recover unpaid rates whilst a decision is pending, and other issues, please refer to the "Information Relevant to All Parts" set out on pages 4 to 10 of this policy.

**1 BACKGROUND**

- 1.1 Rural Rate Relief was introduced in 1998 and applies to certain non-domestic properties that lie within a rural settlement. To qualify, a rural settlement must have a population of no more than 3,000 residents. A list of designated rural settlements within the area of Derbyshire Dales District Council is included in this document. Mandatory relief and discretionary relief are both available under the scheme.
- 1.2 In considering applications for relief the Council must have regard for the interests of the community as a whole. This includes the cost to the community and the benefits or disadvantages of awarding relief.

**2 COST OF RELIEF**

- 2.1 The apportioned cost of the total amount awarded in relief falling on specified bodies is normally as shown below, subject to possible tapers

**3 MANDATORY RURAL RATE RELIEF**

- 3.1 Mandatory relief of 50% may be granted to all of the following classes of business provided that they are situated within a designated rural settlement **and** meet the following criteria:-
- a. **Post Office** – the only such business in the rural settlement and with a rateable value of £8,500 or less.
  - b. **General Store** – the only such business in the rural settlement and with a rateable value of £8,500 or less. General Stores are defined as a business whose trade is wholly or mainly the retail sale of food for human consumption (excluding confectionery) and household goods.
  - c. **Public House** – the only such business in the rural settlement and with a rateable value of £12,500 or less.
  - d. **Petrol Filling Station** – the only such business in the rural settlement and with a rateable value of £12,500 or less.
  - e. **Rural Food Shop** – a business consisting wholly or mainly of the sale by retail of food for human consumption (**excluding** confectionery and the supply of food for consumption on the premises, or hot food for consumption off the premises) with a rateable value of £8,500 or less.

**4 DISCRETIONARY RURAL RATE RELIEF**

- 4.1 Local Authorities have discretion to remit all or part of the rate bill of other businesses in a rural settlement where the rateable value of a property is £16,500 or less if it is satisfied that the property is used for a purpose which benefits the local community.

- 4.2 Discretionary relief can only be backdated to the beginning of the previous financial year (where the application is made by 30th September) or the beginning of the current financial year (where the application is made after 30<sup>th</sup> September).
- 4.3 This Council has resolved to grant 50% discretionary relief to those Post Offices, General Stores, Public Houses, Petrol Filling Stations and Rural Food Shops that qualify for mandatory rural rate relief, so those businesses are granted full relief from rates, i.e. 50% mandatory relief and 50% discretionary relief.
- 4.4 Derbyshire Dales District Council has also resolved to grant up to 25% discretionary rate relief to businesses that do not qualify for mandatory rural rate relief under the scheme.
- 4.5 Whenever discretionary relief is granted there is a cost to the Council Tax payers of Derbyshire Dales District Council. The Council must balance the benefit of the business to the local community against the cost to the community of granting relief. The Council believes that the scheme should be used to assist businesses and amenities which contribute to the quality of life of the residents of the local community.

## 5 **GUIDELINES FOR RATEPAYERS APPLYING FOR DISCRETIONARY RURAL RATE RELIEF (WHERE THEY DO NOT QUALIFY FOR MANDATORY RELIEF)**

- 5.1 Every application is considered on its merits but the Council will take the following factors into account in the decision making process:-
- a. Does the business supply goods or services which are **essential** for the **day to day** needs of the local community, e.g. food or fuel, or provision of social or welfare facilities?
  - b. What would be the effect on the local community if the business were to close, e.g. would its loss involve significant travel for an alternative supply or are there other such businesses locally?
  - c. Does the business employ a number of employees from the local community and what are the alternative employment prospects?
  - d. Is access to free-to-use cash machines provided? We will consider applications to provide relief to premises with cash machines where there is a clear community benefit, such as where cash machine providers commit to introduce extra cash machines or remove charges on existing machines.
- 5.2 When applying for discretionary relief, applicants will need to supply such information as the Council requires in order for it to make a decision on granting relief. This will include:-
- a. A full description of the business and the goods or services supplied.
  - b. Whether the business is the only such business in the settlement.
  - c. Details of the number of employees and whether they are local, and other employment prospects in the locality.
  - d. How the business benefits the local community and what would be the effects if it were to close.
  - e. Financial details of the business for the last two years (profit & loss accounts and balance sheets).
  - f. Any other information regarding the application which supports why the business should be granted discretionary relief.

## **DESIGNATED RURAL SETTLEMENTS**

Abney & Abney Grange	Grindleford Grindlow	Nether Padley Newton Grange
Aldwark	Harthill	Norbury & Roston
Alkmonton	Hartington Middle Quarter	Northwood & Tinkersley
Ashford in the Water	Hartington Nether Quarter	Offcote & Underwood
Atlow	Hartington Town	Offerton
Ballidon	Quarter	Osmaston
Baslow & Bubnell	Hassop	Outseats
Beeley	Hathersage	Over Haddon
Biggin	Hazelbadge	Parwich
Birchover	Highlow	Pilsley
Blackwell in the Peak	Hognaston	Pomeroy
Bonsall	Hollington	Priestcliffe
Boylestone	Homesford	Rodsley
Bradbourne	Hopton	Rowland
Bradley	Hulland	Rowsley
Bradwell	Hulland Ward	Sheldon
Brailsford	Hungry Bentley	Shirley
Brassington	Hurdlow	Snelston
Brushfield	Ible	Somersal Herbert
Callow	Ivonbrook Grange	South Darley
Calver	Kirk Ireton	Stanton
Carsington	Kniveton	Stoney Middleton
Chatsworth	Knockerdown	Sudbury
Chelmorton	Lea Hall	Taddington
Clifton & Compton	Little Hucklow	Tansley
Cromford	Little Longstone	Thorpe
Crowdecote	Litton	Tideswell
Cubley	Longford	Tissington
Curbar	Longshaw	Wardlow
Doveridge	Longway Bank	Wardlow Miers
Earl Sterndale	Mapleton	Wheston
Eaton & Alsop	Marston Montgomery	Winster
Edensor	Matlock Bath	Yeaveley
Edlaston & Wyaston	Mercaston	Yeldersley
Elton	Middleton	Youlgreave
Eyam	Middleton & Smerrill	
Fenny Bentley	Millers Dale	
Flagg	Monsal Head	
Foolow	Monyash	
Froggatt	Nether Haddon	
Gratton		
Great Hucklow		
Great Longstone		

## **6 APPLICATIONS**

- 6.1 In addition to the standard application form for rural rate relief, ratepayers will be required to supply supporting information such as:
- a. The reason for the application
  - b. Articles of association
  - c. A set of the most recent accounts
  - d. A set of the last audited accounts
  - e. An up to date trading statement showing the current financial situation of the business
  - f. Details of the amount of relief requested and the period it is intended to cover
  - g. An explanation of the benefits to the community arising from an award of relief
  - h. A full description of the business and the goods or services supplied
  - i. Whether the business is the only such business in the settlement
  - j. Details of the number of employees and whether they are local, and other employment prospects in the locality
  - k. How the business benefits the local community and what would be the effects if it were to close
  - l. Any other information regarding the application which supports why the business should be granted discretionary relief.

## **7 AMOUNT OF RELIEF**

- 7.1 Relief may be awarded as a fixed sum or as a percentage of the rates bill.

Further information relating to the application, decision-making and appeals processes, state aid, action to recover unpaid rates whilst a decision is pending, and other issues, please refer to the "Information Relevant to All Parts" set out on pages 4 to 10 of this policy.

**1 THE SCHEME**

- 1.1 The District Council wishes to support new tenants or occupiers of new business premises where the tenant or occupier is unable to occupy the property straight away.
- 1.2 Currently, when an unoccupied property is completed, under existing mandatory relief it is exempt from business rates for the first three months (or six months in the case of industrial premises). This means that if a developer completes a property and a new tenant is unable to move in straight away - for example due to adaptations required to accommodate bespoke needs – and takes it over after the rate-free period has expired, the tenant will still be liable to pay the full rates from when they took over the property.
- 1.3 Under this policy, the District Council would have discretion to allow the new tenant to receive up to a further three month rate-free period (ended once the tenant takes up occupation if sooner). To facilitate this, the District Council will consider an application for discretionary relief of up to three months of the full charge from any first new tenant (or first new owner) from the date they become the first new tenant (or owner) if mandatory relief has expired, provided there is sufficient justification for the property to remain unoccupied. Where the first new tenant (or owner) is entitled to all, or part of the mandatory exemption from rates for unoccupied properties, discretionary relief will only be considered so as to ensure they get at least a three months exemption from when they took over the property. As an example, if a new tenant took over an industrial property at the start of month five (following completion) they would be entitled to 1 month mandatory relief and up to a further 2 months discretionary relief under the policy. If the tenant took over the property at the start of month 3 (following completion) they would be entitled to no additional discretionary relief.
- 1.4 A first new tenant (or first new owner) is the first person or body to whom the property is let or sold, after the completion of the property, provided that they have no connection to the original owner or developer.

**2 INFORMATION TO SUPPORT APPLICATIONS**

- 2.1 In addition to the standard application form for New Business Development Relief, ratepayers will be required to supply supporting information such as:
- a. The reason for the application
  - b. A set of the most recent accounts
  - c. A set of the last audited accounts
  - d. An up to date trading statement showing the current financial situation of the business
  - e. Details of the amount of relief requested and the period it is intended to cover
  - f. An explanation of the benefits to the community arising from an award of relief
  - g. A full description of the business and the goods or services supplied

- h. Details of the number of employees and whether they are local
- i. Any other information regarding the application which supports why the business should be granted discretionary relief

### 3 **AMOUNT OF RELIEF**

- 3.1 Relief may be awarded as a fixed sum or as a percentage of the rates bill.

Further information relating to the application, decision-making and appeals processes, state aid, action to recover unpaid rates whilst a decision is pending, and other issues, please refer to the “Information Relevant to All Parts” set out on pages 4 to 10 of this policy.

**1 INTRODUCTION**

- 1.1 Section 69 of the Localism Act 2011 amends section 47 of the Local Government Finance Act 1988 to allow local authorities to grant discounts, in relation to business rates as it thinks fit
- 1.2 It is subject to the condition that, except in the limited circumstances specified the local authority may only grant relief if it would be reasonable to do so having regard to the interests of council tax payers in its area (not business rate payers).
- 1.3 The amendments also require a local authority to have regard to any relevant guidance issued by the Secretary of State when deciding whether to grant relief under section 47 of the 1988 Act. No guidance has yet been issued, but it may be at any time.
- 1.4 This relief is designed to support sustainable higher quality employment growth.
- 1.5 The granting of this relief is entirely under the discretion of Derbyshire Dales District Council and each case will be considered on its merits and be referenced to the interests of Derbyshire Dales Council Tax payers.

**2 THE SCHEME**

- 2.1 The District Council will consider granting discretionary relief – Business Growth Discount – in support of its [Economic Plan](#) and strategic priority for higher-value jobs growth. The relief seeks to support the following economic objectives:
- Improve the supply of good quality employment floor-space within the district
  - More higher value, sustainable employment opportunities and higher average workplace wages
  - Growth in productivity
- 2.2 In assessing applications, each case will be considered on its own merits, including the degree to which it demonstrates benefits to the Derbyshire Dales and its residents. Consideration will be given to eligibility for / award of other reliefs and whether the award of such relief could have an anti-competitive effect on other businesses in the district.
- 2.3 Applications for Business Growth Discount will be considered from:
- small or medium sized businesses (SMEs) already located in the Derbyshire Dales which need to enlarge existing premises, move to larger premises or increase their floor space within the district to enable expansion;
  - small or medium sized businesses re-locating into larger premises in the Derbyshire Dales from outside the district.
- 2.4 Applications are encouraged from SMEs engaged in advanced manufacturing and engineering, creative & digital, and knowledge-based activities. Applications from SMEs in other sectors which align with the Council's economic objectives will also be considered.

2.5 The following criteria will apply:

- The expansion or re-location supports the Council's economic objectives
- The expansion or relocation (as defined in paragraph 2.3) is to B1 Business or B2 General Industrial premises;
- the applicant business should have minimum 18 months trading history (or submission of a financially robust business plan where the applicant business does not fulfil this criteria)
- The subject premises has a rateable value over £15,000 (unless otherwise agreed by the District Council);
- The applicant business commits to remaining in the Derbyshire Dales for a minimum of four years following the granting of relief (otherwise clawback provisions will apply).

2.6 Applications must be in writing using the standard application form for Rate Relief to Support Business Growth and should describe the nature of the business and provide information on / evidence the following:

- How the proposed expansion or re-location will support the Council's economic objectives including the creation of higher skilled jobs, projected turnover growth, wider economic benefits e.g. to the local supply chain;
- Why Business Growth Discount is needed;
- A copy of the first year's trading accounts (subject to paragraph 2.5);
- Information regarding other reliefs / financial assistance received and/or applied for from the public sector over the previous three years;
- Minimum three year lease or freehold ownership of the subject premises;
- That vacancies will be advertised locally and new employment opportunities may be applied for by Derbyshire Dales residents

2.7 Assistance will be in the form of a short term reduction in rates payable based upon occupation of a premises and will be limited to the difference between the old/current business rates payable and the new business rates payable i.e. business rates growth.

2.8 Up to 100% of business rates growth in the first year and, where appropriate, up to 50% of business rates growth in the second year will be considered. In exceptional circumstances a higher rate of relief may be considered in the second year. Assistance will be provided under the De Minimis aid regulation.

2.9 Consideration will be given to any previous public sector financial assistance received by the applicant and eligibility for other business rate reliefs. All businesses will be required to complete a declaration to confirm that they have not received more than the De Minimis amount of State Aid (including the relief requested). Subject to State Aid limits, the maximum discount available to any applicant business will be £20,000. In exceptional circumstances a higher discount may be considered.

2.8 The award of Business Growth Discount, including the amount of award will be determined against the criteria outlined above and information contained within the application. Awards of this relief will be at the discretion of the District Council and subject to budget availability. Should applications for relief exceed the amount

available, awards will be prioritised according to an assessment of the economic need and benefit.

### **3 AMOUNT OF RELIEF**

3.1 Relief may be awarded as a fixed sum or as a percentage of the rates bill.

Further information relating to the application, decision-making and appeals processes, state aid, action to recover unpaid rates whilst a decision is pending, and other issues, please refer to the “Information Relevant to All Parts” set out on pages 4 to 10 of this policy.

<b>Part 6</b>	<b>Business Rate Relief On The Grounds of Hardship</b>
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## **1 LEGAL BACKGROUND**

- 1.1 Under section 49 of the Local Government Finance Act 1988, the Council has a discretionary power to allow Business Rates relief to relieve hardship. The hardship does not necessarily need to be financial in nature.
- 1.2 In considering applications for hardship relief the Council must have regard for the interest of the community as a whole. This includes the cost to the community and the benefits, or disadvantages of awarding hardship relief.

## **2 THE SCHEME**

- 2.1 There is no definition in the legislation for 'hardship', and as the scheme is aimed at covering unforeseen events it is not possible to list precise criteria.
- 2.2 However, a 'crisis' would have to result in a serious loss of income or trade, or have a major effect on the services that can be provided.
- 2.3 'Exceptional circumstances' will usually be circumstances that are outside the control of the business or organisation and are beyond the normal risks faced by businesses. The effect of strikes within a business or organisation, increased running costs or increased competition would not be considered as 'exceptional circumstances' as they are normal business risks.
- 2.4 As a general rule, circumstances that would be covered by a commercial insurance policy or by compensation would not be considered.
- 2.5 The Council recognises that there may be occasional circumstances in which the award of hardship relief is beneficial to ratepayers or the community. However, in accordance with Government guidelines hardship relief will be used sparingly and only in the most exceptional circumstances.
- 2.6 All requests for hardship relief will be considered on an individual basis and decisions will be made in accordance with this policy and where the Council is satisfied that:-
  - a. That all other eligible discounts/reliefs have been awarded to the ratepayer
  - b. The ratepayer will suffer hardship if the relief is not granted
  - c. There is a direct benefit to the ratepayer, or the community, and there is no adverse impact to other ratepayers or the community as a result of awarding relief
  - d. The cost to local taxpayers is proportional to the benefits to the community
  - e. The relief will be awarded as a result of a crisis or exceptional circumstances
  - f. The liable person for an unoccupied property has made their best efforts to sell or let the property

- g. The Council's finances allow for a reduction to be made and it is reasonable to do so in light of the impact on other charge payers and the community
- h. The Council is satisfied that the Valuation Office Agency has been asked to review the rateable value.

### **3 APPLICATIONS**

- 3.1 Applications must be made in writing by the ratepayer, their agent or someone authorised to act on their behalf.
- 3.2 Applications must provide the following information as appropriate:-
  - a. The reason for the application
  - b. Articles of Association
  - c. A set of the most recent accounts
  - d. A set of the last audited accounts
  - e. An up to date trading statement showing the current financial situation of the business
  - f. Details of the amount of relief requested and the period it is intended to cover
  - g. An explanation of the benefits to the community arising from an award of relief
  - h. A full description of the business and the goods or services supplied
  - i. Details of the number of employees and whether they are local
  - j. Any other information regarding the application which supports why the business should be granted discretionary relief.

### **4 AMOUNT OF RELIEF**

- 4.1 Relief may be awarded as a fixed sum or as a percentage of the rates bill.

### **5 EXAMPLES OF APPROPRIATE CIRCUMSTANCES**

- 5.1 The following examples indicate circumstances where it may be appropriate to award relief. They are included in this policy in the form of broad general guidelines and are not intended to be prescriptive:-
  - a) The ratepayer is severely or terminally ill and unable to work;
  - b) Without rate relief the business will close and deprive local residents of a service regarded by the District Council as essential;
  - c) The ratepayer's business has been detrimentally affected by circumstances beyond the ratepayer's control and that do not constitute part of the normal risks of running a business (e.g. a natural disaster, or an unusual or uncontrollable event in the neighbourhood of the business such as a fire making the immediate area of the business unsafe).

### **6 ACTION TO RECOVER UNPAID BUSINESS RATES**

- 6.1 Once an application, or an appeal, is received for Hardship Relief no action will be

taken to recover unpaid charges until fourteen days after the decision has been notified to the ratepayer.

- 6.2 In the event of an application or appeal being discontinued, recovery action may be commenced seven days after the Ratepayer has been notified of the discontinuation.

Further information relating to the application, decision-making and appeals processes, state aid and other issues, please refer to the “Information Relevant to All Parts” set out on pages 4 to 10 of this policy.

**1 LEGAL BACKGROUND**

- 1.1 Section 69 of the Localism Act 2011 amends the Local Government Finance Act 1988 to allow local authorities the discretion to award rate relief to all types of businesses.
- 1.2 The granting of this relief is entirely under the discretion of Derbyshire Dales District Council and each case will be considered on its merits and be referenced to the interests of Derbyshire Dales Council Tax payers. General rate relief is unlikely to be granted save in all but the most exceptional circumstances

**2 THE SCHEME**

- 2.1 Any ratepayer applying for discretionary rate relief who does not meet the criteria for relief under the specifically named categories mentioned in this policy, may be considered for general rate relief in exceptional circumstances. The Council expects awards of this type of relief to be very exceptional and extremely rare. Relief will be considered on the individual merits of each case, having due regard to:-
- a. The ratepayer must not be entitled to any other Rate Relief including Mandatory or Discretionary Rate Relief;
  - b. The ratepayer must not be an organisation that could receive relief as a non-profit making organisation or as Community Amateur Sports Club;
  - c. The ratepayer must occupy the premises - no general rate relief will be granted for unoccupied properties;

**3 APPLICATIONS**

- 3.1 To qualify for relief the ratepayer is required to make a written application, setting out, as part of the application: the exceptional and rare circumstances leading to the application; and the benefits that the ratepayer considers will accrue to Derbyshire Dales District Council taxpayers as a result of the award.
- 3.2 The application must demonstrate how the ratepayer meets the criteria outlined above.
- 3.3 Applications in respect of a new liability will be determined from the date the liability commences if the application is made within 28 days of the dispatch of the Business Rates bill and for existing liability from the date the application is submitted.

**4 AMOUNT OF RELIEF**

- 4.1 Relief may be awarded as a fixed sum or as a percentage of the rates bill.

Further information relating to the application, decision-making and appeals processes, state aid, action to recover unpaid rates whilst a decision is pending, and other issues, please refer to the “Information Relevant to All Parts” set out on pages 4 to 10 of this policy.