



Discretionary Rate Relief Policy

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Approved by:

A handwritten signature in black ink, appearing to read "Rob Manning", is positioned above the printed name.

Rob Manning

Strategic Director of Resource

Date: February 2024

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1. Introduction

- 1.1 This policy document sets out the Council's approach to supporting local businesses under its business rate relief schemes.
- 1.2 In particular, it outlines how we will use the Council's local discretionary powers to grant discretionary rate relief to organisations that meet our schemes' criteria. The policy recognises that public funds are limited and that a proportion of the costs of any relief granted are borne by council taxpayers. Therefore, one of the criteria for making an award under the scheme is ensuring that money invested in this way will result in economic and/or community benefit for residents.
- 1.3 Supporting local businesses and organisations to promote the provision of local facilities, economic growth, employment and investment to improve prosperity and contribute to improving our residents' life chances contributes to the Council's Public Service Strategy found here <https://www.walthamforest.gov.uk/council-and-elections/waltham-forest-public-service-strategy/public-service-strategy>

2. Scope of policy

- 2.1 The Local Government Finance Act 1988 makes provision for local authorities to award certain reliefs. This policy relates to the discretionary powers of the London Borough of Waltham Forest to award business rates relief under Section 44A, Section 47 and Section 49 of the Local Government Finance Act 1988 as amended by the Localism Act 2011.
- 2.2 The Council's Discretionary Rate Relief policy covers three distinct areas of discretion:
1. **General Discretionary Business Rate Relief** under which up to 20% relief can be awarded to certain registered charities and registered sports clubs already in receipt of mandatory relief, and up to 100% relief to organisations that do not qualify for mandatory relief, but who meet the eligibility criteria stipulated.
 2. **Hardship Relief** which is intended to support businesses recovering from a temporary crisis.
 3. **Section 44A Partially Occupied Property relief** where a business premises becomes partially unoccupied for a short period.
- 2.3 In accordance with the Council's Constitution the Strategic Director of Resource may determine discretionary rate relief applications which fall outside the scope of this approved Policy under exceptional circumstances.

3. General information related to the policy

- 3.1 This policy has been agreed by the Council to ensure that:
- there is a framework in situ under which ratepayers applying for relief are treated in a fair, consistent, and equal manner.
 - the overall interest of Council Taxpayers is safeguarded by ensuring that funds are allocated and used in the most effective and economic way.
- 3.2 The Council will consider each individual case in accordance with the criteria set out below. Consideration may be given to extenuating circumstances falling outside the stated criteria, providing they meet the general principles of the scheme.
- 3.3 Discretionary Business Rate Relief is not a matter of right; the Council is entitled through this policy to determine different levels of relief according to the nature and circumstances of individual organisations and the benefits they deliver to the wider community of Waltham Forest.
- 3.4 The Council's ability to grant Discretionary Business Rate Relief may be limited to other factors, such as for example, the subsidy control rules. Information can be found here: <https://www.gov.uk/government/collections/subsidy-control-regime>
- 3.5 Applicants will be notified in writing of the outcome of their application once a decision has been made and will receive a revised bill.
- 3.6 Recipients of relief are required to notify the Council immediately of any changes of circumstances which may have an impact upon the award granted.

4. Cost to the Council

- 4.1 The General Discretionary Business Rate Relief scheme covered by this policy is funded wholly by the Council
- 4.2 The Council will make a limited budget available each financial year for the award of all Discretionary Rate Relief.

Unique features of each relief

5. General Discretionary Relief

Unique features of the general discretionary relief element of the policy.

5.1 Eligibility criteria

5.1.1 Applicants must fulfil all of the following criteria for any application to be considered (evidence may be required) or to qualify:

- 75% or more of the primary beneficiaries of the organisation's services must be London Borough of Waltham Forest residents.
- Applicants must demonstrate how they positively engage with Waltham Forest to help support our Public Service Strategy and bring benefits to residents and the local community

<https://www.walthamforest.gov.uk/council-and-elections/waltham-forest-public-service-strategy/public-service-strategy>

- All paid employees of the organisation must receive the London Living Wage
- The relevant premises must be in the London borough of Waltham Forest
- The organisation must be able to demonstrate a robust business plan which highlights how the premises will assist in delivering the organisations objectives.
- The organisation must be registered as not-for-profit, and any surplus revenue must be used to further achieve the organisations' purpose or mission

Maximum relief levels

5.1.2 The Council can grant the following levels of relief to organisations applying for general discretionary relief:

Up to 20% relief to
Registered Charities (registered on the Charity Commission) for premises which are wholly or mainly used for charitable purposes.
Registered Community Amateur Sports Clubs (CASC), registered as such under the Corporation Tax Act 2010, for premises which are wholly or mainly

used for the purpose of the club itself, or for the purpose of the club and other CASCs.
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This is because the Local Government Finance Act 1988 (LGFA) requires Local Authorities to grant 80% Mandatory business rate relief reduction to businesses meeting the conditions above.

Up to 100% relief to
Other organisations or institutions that are not established for profit and whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature, or the fine arts (up to 100%)
Properties occupied by not-for-profit sports or social clubs or societies, or other organisations for the purpose of recreation.
Other organisations meeting the policy criteria that the Council believes should receive relief having regard to the interests of persons liable to pay council tax.

5.1.3 The sum available for awards of Discretionary Rate Relief differs annually. Priority will be given to organisations with the lowest rateable values. However, the number of organisations benefiting, and the value of any awards made will be dependent on the number of applications received.

5.1.4 Leisure centres operated by Greenwich Leisure Ltd (GLL) and where the hereditament is owned by LBWF and in the borough will receive Discretionary Rate Relief, regardless of the number of applications received in accordance with the terms and conditions entered into between the Council and GLL.

5.2 Duration of awards

5.2.1 Awards made after the billing year has started will commence from the date on which they are received unless there are extenuating circumstances for the award to be backdated.

5.2.2 Awards made for the full billing year will be awarded for the period 1 April to 31 March.

5.2.3 General discretionary relief awards are fixed awards made for a maximum of 12 months at a time so there is a requirement for businesses to re-apply on an annual basis. It should not be assumed that relief awarded in one year will automatically be awarded in future years.

Revenues and Benefits Service

5.2.4 The Local Government Finance Act 1988 requires that the local authority give 12 months' notice for the withdrawal of Discretionary Rate Relief. This notice will be given alongside the award of relief to successful applicants where applicable.

5.3 Businesses and circumstances not qualifying for General Discretionary Relief

5.3.1 Not all Registered Charities and CASCs will qualify for Discretionary Business Rate Relief. The following businesses will not be considered for relief regardless of their charitable status:

Administration offices for national charities

Overseas aid organisations

Profit making organisations

Charity shops and cafes operated by national charities or associated organisations
Shared multi use workspaces
Housing Associations

Buildings used for worship or promotion of religious belief

Organisations operating a restrictive membership policy for which a fee is payable.

Empty properties

Car parking spaces unless forming part of a qualifying assessment

Independent and private schools, academies, colleges or nurseries.

Organisations that have an audited income/grant in excess of £1 million per annum including any reserves,

Organisations whose objectives are solely concerned with education, and which are already receiving Mandatory relief.

Organisations which may be entitled to another type of relief.

5.3.2 The applicant must not be subject to investigation by the relevant regulator.

5.3.3 Where an application for Discretionary Business Rate relief does not meet the legal requirement (for example if an organisation is established solely for profit) the application cannot be considered.

5.4 Advance applications and Reapplications

- 5.4.1 Applications can be made in advance for the following billing year from 1 October but must be received no later than 31 December to ensure an award is made on time for the start of the following billing year beginning on 1 April.
- 5.4.2 Advance applications made after 31 December will still be accepted but may not be processed in time for any award due to be included in the annual business rates bill.
- 5.4.3 The Council will usually invite reapplications from organisations in receipt of discretionary relief on the last day of September each year.
- 5.4.4 Where an application for Discretionary Business Rate relief does not meet the legal requirement (for example if an organisation is established solely for profit) the application cannot be considered.

6. Hardship Relief

- 7.1 Section 49 of the Local Government Finance Act 1988 and Schedule 1(2 & 3) Non-Domestic Rating Contributions Regulations 1992, gives the local authority discretionary power to reduce or remit the payment of Business Rates. The Council may award hardship relief to businesses where it feels that such assistance may help a business that is struggling to pay its Non-Domestic rate instalments. The intention of this relief is to enable it to become financially stable.
- 7.2 There is no definition in legislation for hardship, the scheme is aimed at covering temporary events which result in a serious loss of trade or have a major effect on services that can be provided and where no other financial assistance has been received.
- 7.3 Applications for hardship relief can be made at any time during the financial year. All applications must detail the reason for the application and the amount of relief requested. In addition, applicants must include two years of Audited Accounts.
- 7.4 As a proportion of Hardship Relief is funded by Council Tax payers, the Council must be satisfied that:
- The ratepayer will suffer hardship if the relief is not awarded.
 - The payment of non-domestic rates liability is the root cause of the hardship.
 - The ratepayer provides a service that benefits the wider community of Waltham Forest.

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- The business would continue to be economically viable following granting of the hardship relief.
- 7.5 It is recognised that some organisations may not keep records in sufficient detail to provide the information that is normally requested 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 available information, 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.
- 7.6 Hardship relief will not be granted where the applicant:
- has more than one trading business.
 - has failed to have adequate insurance for their business or premises, resulting in the application for hardship.
 - Has not maintained payment of their business rates liability for previous years.
- 7.7 Application should only be made if alternative reliefs and grant scheme applications have been exhausted.
- 7.8 Applicants must reside in the London Borough of Waltham Forest.
- 7.9 The applicant **MUST NOT** be part of a group of companies.
- 7.10 Car parks, advertising hoardings, telecommunication masts and towers, and properties installed with Bluetooth/Wi-Fi transmitters **WILL NOT** be eligible.

7. Section 44A Partially Occupied Property

- 8.1 Where a property has become partially unoccupied for a short period of time, we may consider awarding Discretionary Rate Relief. There is no specific time frame to award the relief, but the Council anticipates awarding for no longer than 3 months unless good cause can be shown to warrant a further period of relief. Applications for section 44A can be made at any time during the financial year.
- 8.2 All applications must be made in writing detailing the reason for the application and the amount of relief requested. There is no formal applications process. The service will accept any written communication such as for example, a letter from the company.
- 8.3 Detailed plans must be provided to clearly show the defined areas which are occupied and unoccupied parts of the property in question and an action plan for future reoccupation

- 8.4 The business does not need to be a registered charity to apply but the remaining criteria for eligibility outlined above still applies.
- 8.5 We will fully consider detailed plans of the premises and the reasons for the application before any decision regarding eligibility is made. An inspection of the unoccupied area to verify the details supplied will be required prior to any relief being awarded.

Features common to all elements of the policy

8. The Application Process

- 9.1 Applications must be made by the registered ratepayer using the Council's standard forms which are available on the Council website as follows:
- For mandatory, discretionary and hardship relief at:
<https://www.walthamforest.gov.uk/content/business-rates-reductions-and-grants>
- 9.2 Where the ratepayer is an organisation the application must be made by a person with the authority to act on behalf of that organisation. The Council may ask for evidence that the person making the application is entitled to act in that capacity.
- 9.3 Applications must explain the purpose and activities of the organisation and clearly show how that organisation supports or will support the Council's priorities to connect people with jobs, live safe and healthy lives, 15-minute neighbourhoods and confidence in our future.
<https://www.walthamforest.gov.uk/council-and-elections/about-us/waltham-forest-public-service-strategy/public-service-strategy>
- 9.4 Applicants are required to supply supporting information with their application, including up to date Audited Accounts and Articles of Association. If any organisation fails to provide information/ evidence within the required time limits, their application will not be considered.
- 9.5 If an organisation is unable to provide any of the above, then a detailed explanation outlining your reason(s) must be provided. In some circumstances we may decide that it is necessary to visit the rated property to assist the decision process.

- 9.6 Please note that Business Rates are still due and payable as billed during the application and decision process. Any overpayment will be refunded by BACS.**

9. Applications for Retrospective Periods

- 9.1 With the exception of applications on the grounds of hardship, discretionary rates relief will not normally be awarded in respect of any day prior to the day that an application is received. However, in exceptional circumstances consideration may be given to awarding rate relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting the application earlier.
- 9.2 Where the application is on the grounds of hardship an award may be made for a respective period where it is considered that the business suffered hardship during that period.
- 9.3 No consideration shall be given to an award for a retrospective period where the Council is not able to verify to its satisfaction that the circumstances giving rise to the application pertained for that period.

10. Subsidy Control (previously State Aid)

- 10.1 Discretionary Business Rates relief shall not be awarded in any circumstances where it appears that an award will result in the ratepayer receiving Subsidy that is above the current de minimus level. For further information please visit <https://www.gov.uk/government/collections/subsidy-control-regime>

11. Circumstances that may prevent an award being made

- 11.1 Where the organisation's business premises include the running of a commercially operated bar serving alcohol this must be incidental to the main purpose of the organisation to qualify for relief. Running a bar in itself is not a reason for declining relief, but a club which is primarily a commercial bar is unlikely to qualify. Bar receipts and income from venue hire will be taken into account.

12. Circumstances leading to an award being terminated

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12.1 In addition to the circumstances above under which no award will be made under this scheme; awards will be terminated early under the following circumstances:

- the organisation ceases from activities which the Council deems to meet the above eligibility criteria. The organisation is required to advise the Council of any such change as soon as possible in writing.
- The organisation ceases trading

13. Review/ Reconsideration process

13.1 Discretionary Rate Relief is awarded entirely at the discretion of the local authority so there is no formal right of appeal. However, applicants dissatisfied with the authority's decision may request that their application be reviewed/ reconsidered under the following circumstances:

- Additional information that is relevant to the application and that was not available at the time the decision was made becomes available; or
- There are good grounds to believe the application or supporting information was not interpreted correctly at the time the decision was made.

13.2 Any such request should be made in writing with the title 'Discretionary Rate Relief Appeal and include the business rates reference number to the Service Head of Revenues and must be received by the Council within 4 weeks of the date the decision letter is sent. Late appeals will not be considered. The Service Head of Revenues decision will be final.

13.3 Review requests may be made against decisions regarding Discretionary Business Rate Relief, Hardship Relief and Section 44A (partially occupied) relief.

13.4 All review requests must state the reason for the request and include any supporting evidence.

13.5 Where an application is refused either initially or following a review, further applications will not be considered unless:

- The use of the property changes
- The objectives of the organisation changes
- There have been other material changes that may affect the Council's decision.