

Appendix 1

Discretionary Rate Relief Policy

This policy sets out the legislative and eligibility criteria required for processing applications for rate relief. This policy will apply from 1 April 2016 for a period of two years, before further review.

1. Discretionary Relief for charities and non-profit making organisations

All applications for Discretionary Relief must be considered on their own merits. In order for the Chief Finance Officer to consider an application for Discretionary Rate Relief:

- the application should meet the legislative requirements in section 1.1, and
- the application is in accordance with the guidelines in section 1.2 or that there are exceptional circumstances that merit the award of Discretionary Relief (see section 1.3).

1.1. Legislative requirements

The Local Government Finance Act 1988 makes provision for local authorities to award 80% Mandatory Relief to charities.

Section 47 of the Local Government Finance Act 1988 allows a local authority to grant Discretionary Relief if all or part of the hereditament is occupied for the purposes of one or more institutions or other organisations:

- I. none of which is established or conducted for profit, and
- II. each of whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or
- III. the hereditament:
 - is wholly or mainly used for purposes of recreation, and
 - all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

A local authority may in its discretion award up to 20% Discretionary Relief to charitable organisations in receipt of 80% Mandatory Rate Relief.

A local authority may also in its discretion award up to 100% of Discretionary Relief to organisations not eligible for Mandatory Relief.

Discretionary Relief will be administered in accordance with guidance issued by central government.

1.2. Considerations

The following factors will be considered by the Chief Finance Officer deciding whether to recommend the granting of Discretionary Business Rate Relief for charities and non-profit making organisations.

Whether the organisation:

- i) predominantly serves the needs of residents of London Borough of Barnet
- ii) contributes to the area and provides benefits to the local community
- iii) provides facilities that satisfy a local need or indirectly relieve the Council of the need to do so, or enhance and supplement those services the Council does provide
- iv) has a membership that is open to all sections of the community (not unduly restricted) and that is mainly drawn from persons resident in London Borough of Barnet
- v) provides training, education or schemes for its members or encourages participation from particular groups in the community, such as young people, the elderly, the disabled, minority groups, etc.
- vi) has facilities provided by self-help or grant aid.

The Chief Finance Officer will also consider:

- i) the finances of the organisation and whether payment of business rates would adversely affect provision of the organisation's objectives
- ii) whether the cost to the Council of granting relief can be justified.

1.3. Exclusions

The following categories of organisations will not normally be considered for Discretionary relief:

- i) national charity shops
- ii) organisations whose objectives are solely concerned with education and which are already receiving Mandatory relief (80%).
- iii) administrative offices of national charitable organisations which are already in receipt of Mandatory relief (80%)
- iv) organisations which have a commercially operated bar within the relevant property serving alcohol.
- v) organisations that have audited income of more than £1 million per annum.

1.4. Exceptional circumstances

The Chief Finance Officer has the ability to recommend awards of Discretionary Relief which run contrary to these guidelines if the Chief Finance Officer is satisfied there is sufficient evidence of exceptional circumstances.

1.5. Revocation

Any relief awarded will be subject to an annual review. In the event that an award is revoked, it will be subject to a minimum of 12 months' notice ending on 31 March.

2. Part occupied hereditaments

Relief for part occupied or not fully occupied hereditaments may be granted for a short time. Relief is awarded based on a temporary apportionment of the valuation of the premises for an operative period.

2.1. Legislative Requirements

Under section 44A of the Local Government Finance Act 1988 a local authority has the discretion to allow rate relief where a property is partly occupied for a short time. The definition of a 'short time' is not prescribed and therefore it is for local authorities to decide the period of relief that should be awarded.

The Rating (Empty Properties) Act 2007 amended the above section 44A, to reflect 3 and 6 month free periods. This means that most cases will be calculated for 3 or 6 months only and thereafter have a nil entitlement even though the operative period runs on. Properties that are exempt from rates would benefit for up to 12 months to 31 March in any year. This would include hereditaments where the rateable value of the apportioned empty part is below the low rateable value limit.

2.2. Considerations

Partially occupied rate relief (also referred to as Section 44A Relief) is not intended to be used where part of a property is temporarily not used. The intention is aimed at situations where there are practical difficulties in occupying or vacating part of the property.

2.3. Persons who can make application

Applications must be made in writing by the ratepayer which includes a plan of the property, with the unoccupied portions clearly identified.

If the application is approved the council will contact the valuation office agency for a certificate of apportionment.

2.4. Revocation

The temporary period will end on the first day following one or more of the following events:

- a) the occupation of any unoccupied part of the premises
- b) the ending of the rate period to which the apportionment relates
- c) the beginning of a new period being awarded
- d) the hereditament becoming completely unoccupied

3. Local Discounts

All applications for Local Discounts must be considered based on their own merits. In order to recommend an award of a Local Discount, the Chief Finance Officer must be satisfied that:

- i) the application meets the legislative requirements in section 2.1 and
- ii) the application is in accordance with the guidelines in section 2.2 or that there are exceptional circumstances that merit the award of a Local Discount (see section 2.3)

3.1. Legislative requirements

The Localism Act 2011, which came into effect on 1 April 2012, amends Section 47 of the Local Government Finance Act 1988 to allow local authorities to grant Discretionary Reliefs to any ratepayer, subject to the European rules on State Aid. The authority must have regard to the interests of council tax payers.

Rate relief for charities and non-profit making bodies is not normally considered to be state aid because recipients are usually not in market competition with other businesses. However, if the charities or non-profit making bodies are engaged in commercial activities or if they are displacing an economic operator rate relief could constitute state aid.

State Aid does not apply where the aid is below a de Minimis level. This is currently 200,000 Euros to any one business over three years.

3.2. Considerations

The Localism Act 2011 does not set criteria for the award of a Section 47 Local Discount; therefore each application will be considered on its own merit and based on a local policy.

At this time the Council's policy is to approve applications for a local discount for organisations that were Community and Amateur Sports Clubs in 2015/16 have amended their CASC status with the HMRC during 2015/16, and who also received mandatory rate relief in 2015/16. The maximum amount of relief is 80%.

This local discount will apply for five years, from 2016-17 until 2021-22, or such time that the regulations prevent it.

3.3. Revocation

Subject to a minimum of 12 months' notice, ending on 31 March in any year the council may review and withdraw any local discounts.

4. Government Supported initiatives

The government has recently introduced some amendments to the legislation governing business rates. The government has asked local authorities to administer these changes through the existing Business Rates Discretionary Relief legislation. There is however no real discretion for local authorities, as the government expects local authorities to award relief and has committed to fully fund all such awards.

The relevant changes relate to the provision of a period of up to 18 months exemption for newly built properties (subject to state aid limits).

These will be administered in accordance with guidance issued by central government.

4.1. Other

Any relief awarded may be subject to a review.

5. Hardship Policy

5.1. Legislative requirements

Section 49 of the Local Government Finance Act 1988 gives the authority the discretion to remit all or part of a ratepayer's debt if it is satisfied that a ratepayer would suffer hardship if it did not do so, and it is reasonable to do so having regard to the interests of the local taxpayers. Hardship should not be confused with competition and this should not normally be a tool to influence market forces.

5.2. Considerations

Each application has to be carefully considered on its own merits. Individual ratepayers or limited companies can make applications.

- **Companies** - The interests of local taxpayers go wider than just the financial implications. For example where the employment prospects in the area could be worsened by a company going out of business, or the amenities available to local residents in an area might be reduced.
- **Sole Traders** - Each application has to be individually considered, however this Authority considers that the following criteria can be deemed appropriate for the allowing of relief, provided of course that hardship can be proved and having regard to the interests of the local taxpayers:
 - the ratepayer(s) is/are dying of an incurable illness.
 - the ratepayer has had to close the business to look after a relative dying of an incurable illness
 - the ratepayer manages a shop which provides a service to the local community which could not be replaced if he/she stopped trading.
 - the business has been affected by temporary action by the Council which was unavoidable and no allowance can be given by the Valuation Officer.

5.3. Exclusions

A reduction in business rates on grounds of hardship should be the exception rather than the rule.

Generally, claims for hardship in respect of empty rate will not be considered, on the basis that the premises could be sold or let at a peppercorn rent, if necessary, in order to relieve the owner of rate liabilities.

Relief will only be given for the period where there is clear evidence of hardship; it may be given for short periods subject to review and may be renewed following

review; No relief to be granted for a retrospective period, i.e. for the previous financial year.

5.4. Revocation

In the event of a change in circumstances of the ratepayer, the relief awarded would be apportioned, and may be repayable to the council.

5.5. Application Process

Ratepayers will be able to apply for discretionary rate relief or hardship relief by writing to the business rate team, and by completing a form available on the council's website. Evidence of registration and/or audited accounts will need to be supplied as applicable. Once the application has been made and processed by the business rate team, a recommendation shall be made to the Chief Finance Officer, who would then review the application before confirming the reduction.

Where an application has been refused, the ratepayer may ask for the matter to be reviewed by the Chief Finance Officer.