

West Suffolk Discretionary Rate Relief Guidance

Guidelines Aim

1. These guidelines set out the Council's intentions for dealing with discretionary rate relief applications from Charities, Community Amateur Sports Clubs (CASC's), Non-Profit Making Organisations, and other businesses which are situated within the area of West Suffolk Council.
2. Through these guidelines, the Council is providing a mechanism to reduce or, remove the business rates liability for such charities, non-profit making organisations and certain rural businesses that are providing valuable facilities and services to communities within the area.
3. The guidance does not apply to farm buildings and land (excluding buildings used as offices or for other business activities); fish farms; places of public religious worship, eg. registered buildings and church halls; and buildings used for training or welfare of disabled people, as these are exempt from business rates. It must also be read in conjunction with the guidance on mandatory rate relief for organisations in rural areas (see paragraph 26).
4. These guidelines aim to provide clarity around the process of administration of applications for Discretionary Rate Relief, consistency in the application of the guidelines and to ensure maximum take-up from potential qualifying organisations, which will in turn make a contribution to achieving the Council's ambitions for its area.

Applications for Rate Relief

5. Business rate payments remain legally due and payable in accordance with the most recent bill, until such time as any relief is awarded. With some exceptions (see para 11), written applications will usually be required for each individual property. The Council will ensure that the application forms for discretionary rate relief are made available to ratepayers upon request as well as through the Council's website.
6. Except where specified (see para 11) applications for rate relief must be accompanied by the last 2 years' audited accounts. A review of the accounts will be undertaken which will consider any trading activity (bar or retail), annual turnover and unallocated reserves.
7. Where it is necessary, the ratepayer may be required to provide further information to support their applications. Application forms and guidance notes will set out the evidence requirements that need to be met for a decision to be made. Failure to provide the necessary evidence will delay the decision making process.

8. The Non-Domestic (Business) Rates Team at Anglia Revenues Partnership can provide assistance or advice to any organisation or business on the completion of applications.
9. All qualifying businesses and organisations are required to notify the Council of any change in circumstances that may affect their entitlement to Discretionary Rate Relief.
10. If an organisation moves address within the period that they are receiving rate relief, a fresh application will need to be made for the new address. Relief will not automatically be carried forward to the new property.

Automatic granting of relief

11. Given the near-certainty of their being eligible for relief, certain types of organisation will be able to self-certify that they are eligible, in order to reduce the burden of administration, These organisations are scout/guide huts, village halls and community centres/halls. They will be provided for the full amount of relief subject to certification from the applicant that they meet the financial criteria. A risk-based random review will be used to check compliance.

How Applications are Processed

12. The Non-Domestic (Business) Rates Team will administer all applications for Discretionary Rate Relief.
13. The Business Rates Team will assess applications for rate relief, and a summary of the analysis will be provided to the relevant Officer for a decision on whether to award discretionary relief. A Decision Notice will be issued by the Business Rates Team.

Notification of the Decision

14. Successful applications will be notified of the amount of the Discretionary Rate Relief award by the issue of a new Rate Demand Notice. The rate relief will be awarded by means of a reduction in liability shown on the business rates bill issued to the ratepayer. Where this puts the account in credit for the year, a refund will be made by the Council.
15. Unsuccessful applicants will be notified in writing and reasons for the decision will be provided.
16. There is provision for reconsideration of a decision by the Strategic Revenues Manager or Section 151 Officer, in consultation with the Cabinet Member, where the amount under consideration would exceed £1,000.

Timescales for New Applications

17. Applications have to be determined by law within six months of the end of the financial year for which relief is being sought.

Period of Award

18. The award period for new and renewal applications will be for a period of no more than 12 months. Continuation of relief will be subject to reapplication or review.

Annual Review of Relief Award

19. Qualifying businesses and organisations will be invited to renew their application for the next financial year during the last quarter of the preceding year. When completed forms are returned and awards will be considered in the light of these or amended guidelines.
20. Where a renewal application form is not returned, relief will not be awarded and the business or organisation will be sent a rate bill for the full charge.

Qualifying Factors for Charities, Non-Profit Making Organisations (NPMOs) and Community Amateur Sports Clubs (CASCs)

21. The Council wishes to promote equality between organisations when granting discretionary rate relief. Therefore, when considering an application for discretionary rate relief, it will consider awards of relief to bodies of a similar nature to the applicant body. Unless specific considerations apply, the Council is likely to award relief to the same level as awarded to such similar bodies.

The following categories of charity or non-profit making organisations may be entitled to relief, particularly if the criteria shown below are satisfied.

22. Criteria to be satisfied:
 - Charities or Trusts (excluding *Housing Associations; social clubs; political party associations; trade organisations and employment organisations; all national, regional and county charities; premises which are for predominantly administration purposes; and applications from premises owned by local charities providing a primary function of education/meeting facilities, car parks, shops, and catering outlets*).
 - Scout, Guides and Youth Groups.
 - Local Community Support Services including Local Citizens Advice .
 - Village Halls, Community and Cultural Centres, Museums and Leisure Centres (not registered charities but meet the charitable purpose criteria as set out in the 2006 Charities Act).

The Council will not usually award discretionary rate relief to any of the types of organisations listed below unless exceptional circumstances apply:

23. Types of organisations the Council will not usually award discretionary rate relief to:
- Bodies operating a restrictive membership policy
 - Organisations with unrestricted/unearmarked reserves of at least £100,000
 - Organisations with annual operating surpluses in excess of £25,000 (an rolling average over 2 years will also be considered)
24. An award will not normally exceed £5,000 per annum
25. The table below identifies the criteria to be used in deciding whether to award discretionary rate relief to an organisation. *All* of the following criteria must apply for an application to be eligible:

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| No restrictive membership practices. |
| Evidence of support for disadvantaged groups where the applicant is a community organisation. |
| Facilities/services must demonstrate benefit to local people/redistribution of majority funding to local communities. |
| Bar provision in facilities should be an ancillary service. |
| Unrestricted/unearmarked reserves should not exceed £100,000 |
| Average Annual surpluses (based on the two most recent sets of accounts) should not exceed £25,000. |

26. One of the following criteria must also apply for the application to be eligible:

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| The applicant is a local Charity or Trust <i>not</i> a Housing Association; social club, a national, regional or county charity. Their premises <i>must not</i> be predominantly used for administration purposes or provide a primary function of education/meeting facilities, car parking, a shop or catering outlet. |
| The applicant is a Scout, Guide or Youth Group. |
| The applicant is a Local Community Support Service (for example a local Citizens Advice)). |
| The applicant is a village Hall, Community or Cultural Centre, Museum, Sports Association or Leisure Centre (not registered charities but meet the charitable purpose criteria as set out in the 2006 Charities Act). |
| The applicant is a village shop, petrol station, public house or post office that has a rateable value of £16,500 or less, that is within the boundaries of a rural settlement of less than 3,000, that is used for the purposes that are of benefit to the local community and is the last essential service in the settlement. |

27. The Council recognises that there will be occasions when an applicant does not satisfy the above factors. These factors are not restrictive and nothing in them shall be taken as restricting the Council's ability to depart from its general Guidelines as to the granting of relief if it sees fit to do so bearing in mind the facts of each case.

28. Where organisations are in receipt of Government mandatory relief, the maximum top-up that is available is 20%.
29. Where organisations are not entitled to the Government’s mandatory charitable relief but carry out similar philanthropic and community functions, relief may be awarded relief in line with the following table:

| Category of award | Amount of discretionary award |
|--|--------------------------------------|
| Institutions not established or conducted for profit and whose main aims are charitable and philanthropic, religious or concerned with social welfare, education, science, literature or fine arts | 50% |
| Scout or guiding organisations, boys and girls brigades and youth clubs | 100% |
| Recreational organisations – village halls, community centres, recreation grounds | 100% |
| Sports and social clubs without a bar | 75% |
| Sports and social clubs with a bar | 50% |

30. Relief will also be awarded according to how well the organisation meets West Suffolk Council’s priorities, as set out in the Strategic Framework.

| Criteria | Level of Award |
|--------------------------|-----------------------|
| Meets no priorities | Nil |
| Meets limited priorities | 5% |
| Meets some priorities | 10% |
| Meets most priorities | 15% |
| Meets all priorities | 20% |

Mandatory Rural Rate Relief (Set by Government)

31. Mandatory Rural rate relief applies to certain properties which are situated in a rural settlement. A rural settlement is one which appears to have a population of not more than 3,000 on 31st December proceeding the financial year in question, which is wholly

or partly within a designated area. Mandatory relief of 50% is awarded to certain properties which meet the following factors:

| Property | Factors |
|-------------------------|---|
| Food Shops | <ul style="list-style-type: none"> • Rateable value of £8,500 or less • Selling food which is wholly / mainly for human consumption • It is the only such business within the rural settlement area <p>Excludes confectionery and the supply of food in the course of catering (this excludes businesses such as restaurants, cafes and take-aways)</p> |
| General Stores | <ul style="list-style-type: none"> • Rateable value of £8,500 or less • Selling food which is wholly / mainly for human consumption (excluding confectionery) and general household goods • It is the only such business within the rural settlement area |
| Post Offices | <ul style="list-style-type: none"> • Rateable value of £8,500 or less • Used for the purpose of a Post Office • Holding a licence under the Post Office Act 1953 • It is the only such business within the rural settlement area |
| Public Houses | <ul style="list-style-type: none"> • Rateable value of £12,500 or less • With a premises licence granted in accordance with the Licensing Act 2003 • Which authorises the retail sale of alcohol for consumption on the premises • The sales are not made on the condition that the buyers reside at or consume food on the premises • It is the only such business within the rural settlement area |
| Petrol Filling Stations | <ul style="list-style-type: none"> • Rateable value of £12,500 or less • Sells petrol and / or other automotive fuel to the public • For use in motor vehicles intended or adapted for use on roads • It is the only such business within the rural settlement area |

32. All applications for Mandatory Rural Rate Relief should be made to the Non-Domestic (Business) Rates Team.

Discretionary Rural Rate Relief

33. This relief applies to properties meeting specific factors, which are in settlement areas with a population of 3,000 or less. The settlement areas are identified in the Council's 'Rural Settlement List'. Discretionary rural rate relief of up to 100% (top up of 50% if

Mandatory Relief is awarded) is available for businesses that meet one of the following factors:

- Public Houses and Petrol Filling Stations with a rateable value under £12,500
- General Stores with a rateable value under £8,500
- Post Offices with a rateable value under £8,500
- Rural food shops with a rateable value under £8,500
- Categories that do not fall into the above with a rateable value under £16,500

The Government is intending to double Mandatory rural rate relief to 100%. Legislation will be passed in due course, however in the meantime Government have funded Local Authorities to award 50% Discretionary relief where an organisation qualifies for 50% Mandatory relief. Therefore properties that qualify for Mandatory relief will also be awarded 50% Discretionary relief.

34. All applications for Discretionary Rural Rate Relief should be made to the Non-Domestic (Business) Rates Team.
35. In granting discretionary rural rate relief, the Council must be satisfied that:
 - The property is used for purposes which are of benefit to the local community; and
 - Having regard to the interest of its Council Tax Payers it is reasonable for the Council to provide the relief

The applications process (Charities/Non-profit making organisations & Rural)

36. The Business Rates Team will assess applications for rate relief, and a summary of the analysis will be provided to the Revenues Manager for a decision on whether to award discretionary relief. A Decision Notice will be issued by The Business Rates Team. If any single award would exceed £1,000 then further authorisation will be required from the Strategic Revenues Manager. Where a single award is greater than £2000 then authorisation will be required by the Section 151 Officer in consultation with the Cabinet member.

Hierarchy of reliefs

37. Organisations will receive the amount of relief to which they are entitled, even where the order in which the reliefs are applied (the hierarchy of reliefs) initially prevents this from happening. For example, a social enterprise may be entitled to 100% rate relief through Small Business Rate Relief, but if they are also entitled to mandatory charitable rate relief, this has to be applied first. If the organisation is not then eligible for 20% discretionary rate relief, it could lose out compared to their overall entitlement. The intention of the West Suffolk scheme is that the social enterprise would receive 100% relief.

Discretionary 'Hardship' Relief

38. Section 49 of the Local Government Finance Act 1988 allows the Council to reduce or remit the NDR (Business rates) charge if it is satisfied that:
 - The ratepayer would sustain hardship if the Council did not do so; and
 - Having regard to the interest of its Council Tax Payers it is reasonable for the Council to provide the relief
39. All applications for Discretionary Rate Relief in relation to 'hardship' should be made to the Non-Domestic (Business) Rates Team at Anglia Revenues Partnership.
40. Applications for rate relief must be accompanied by:
 - Copies of the audited accounts and balance sheets for the last 2 years
 - A comprehensive Business Plan incorporating a brief history of the business
 - Cash Flow forecast for a minimum of the next 12 months
41. Although there is no statutory definition of hardship some guidance has been provided by the Government to assist in the consideration of hardship applications.
 - A blanket approach, either to give or not to give relief, should not be adopted by the Authority, each application should be considered on its own merits
 - Any relief granted should be the exception rather than the rule
 - All relevant factors affecting the ability of a business/ratepayer to meet their liability for rates should be taken into account
 - The test of hardship need not be confined to 'financial', all relevant factors affecting the ability of a business to meet its liability for rates should be taken into account
 - The 'interest' of local tax payers in an area may go wider than direct financial interests. For example, where the employment prospects would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the loss of the only shop in a village
 - Where the granting of the relief would have an adverse effect on the financial interests of local tax payers, the case for reduction of rates may still on balance outweigh the cost to the local tax payers
 - The hardship caused to a ratepayer may be self-evident, for example where a business has been affected by severe loss of trade, due to external factors such as natural disasters. However the council will have to consider how the business can demonstrate such loss of trade or business. For example, do accounts, order books, till receipts of VAT returns show a marked decline in trade compared to corresponding periods in previous years?

42. The table below identifies factors that will be considered in deciding whether to award discretionary hardship rate relief to an organisation.

| Factors | Guideline Considerations |
|---|--|
| Financial Positions of the organisation | Hardship will often be determined on the basis of the financial position of the ratepayer's business. In addition to looking at the business ability to pay rates the Council will also want to see evidence of future viability if help is given. |
| Do the organisations aims and purpose fit with the strategic objectives of the Council? | Consideration will be given as to whether the organisation addresses a need which is not being provided by the Council, but is identified as a priority for action and fits with the Council's strategic objectives. |
| How important is the organisation to the local community? | An organisation applying for 'hardship' relief must be very important to the local community. |
| Is the same service available in the same locality? | Consideration may be given as to whether the service provided by the organisation is available in the same locality or within reasonable distance of the property address of the applicant. |
| Is the same service available by public transport? | Public transport to the nearest alternative service is not available or is very restricted. |
| How long is the hardship likely to last for? | Awards are less likely to be made if the Council believe that the need may be a medium or long term need. |

43. The Council recognises that there will be occasions when an applicant body does not satisfy the above factors. These factors are not restrictive and nothing in them shall be taken as restricting the Council's ability to depart from its general Guidelines as to the granting of relief if it sees fit to do so bearing in mind the facts of each case.

Local Business Rate Discount

44. Section 47 of the Local Government Finance Act 1988 has been amended by the Localism Act 2011 to give Councils power to give a discretionary relief on business rates to any property or business of the Council's choosing. The relief can apply to an individual or a group of accounts for a similar business type or facing a similar issue. 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
45. The new power recognises that the current business rates scheme is broadly prescribed by central government and its aim is to provide increased flexibility to local authorities to support organisation, recognising the variations in economic conditions across and within local authority boundaries.
46. Every case will be considered on its own merit. Any award will be the exception rather than the rule, and will be time-limited.

47. Written applications will need to be supported as a minimum by:-
- Clear reasoning for the request, including a statement of the business type and the impact on the local community if the business were to come into the area/move away from the area.
 - Details of the business and its importance to the local community, including an explanation as to what is unique and how the business sets itself apart from other businesses.
 - Copies of the last 2 years audited accounts.
 - Copy of any business plan.
 - Details of any other support already received from other sources, or reasons why support was not forthcoming.
 - Details of the number of people who are, or will be, employed by the business who reside in West Suffolk. Information about future employment opportunities and business growth.
 - Any other evidence that the rate payer feels supports their application and that would assist us to be satisfied that the granting of the relief would be in the interest of the local council taxpayer.
48. From time to time Government may recommend a specific scheme in response to an event such as a natural disaster (e.g. flooding). Where such schemes are introduced, funding is normally fully met by Government without impact on the local council tax. Any such schemes that are recommended, in so far as the fall to be administered under Section 47 of The Local Government Finance Act 1992, will be considered by the Section 151 officer in consultation with the Cabinet member and if approved will be administered in accordance with instructions and guidance set out by Government. Current schemes are included as addendums to these guidelines.

The applications process (Hardship & Local Business Rate Discounts)

49. The Business Rates Team will assess applications for rate relief, and a summary of the analysis will be provided to the Section 151 Officer in consultation with the Cabinet Member for a decision on whether to award discretionary relief. A Decision Notice will be issued by The Business Rates Team.

Promoting and Communicating this Policy

50. Advice and information relating to this policy is available on the Council's website and from the Non-Domestic Rates Team at the Anglia Revenues Partnership.
51. Renewal applications and reviews will be sent to all organisations whose award period is about to end, at least 3 months before the end of the award period.

52. Where, possible, the Council will identify any new ratepayer who may qualify under this policy and provide them with information and guidance at the earliest opportunity.

State Aid

53. The award of discretionary rate relief is considered likely to amount to State Aid. State Aid is the means by which the European Union regulates state funded support to businesses. Discretionary Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations EC 1407/2013. The De Minimis Regulations allow an undertaking to receive up to €200,000 'de-minimis' aid over a rolling three year period.
54. Businesses applying for Discretionary Relief will be required to sign a declaration to confirm that, including any reoccupation relief award, they will not have received more than €200,000 in total of De Minimis aid within the current financial year, or the previous two financial years.
55. Further information on State Aid can be found at <https://www.gov.uk/state-aid>

Complaints and reconsiderations of refusal to award.

56. Applicants for discretionary rate relief should note that some of the cost in awarding such relief is borne by the Council. As such, in determining the level of relief to be granted, the Council must consider its budgetary position. Although the Council will aim to achieve equality between organisations in terms of the level of relief that it grants, this might not always be possible. The Council has the right, subject to giving the requisite notice required by law, to vary the level of relief that it has previously granted either in respect of a particular organisation or in respect of a class of organisation or to all organisations in receipt of relief.
57. Although there is no legal right of appeal against the Council's decisions on discretionary rate relief applications, in keeping with good customer care practice and principles of transparency, this policy provides for a review/reconsideration of any decision.
58. Decisions on awarding discretionary rate relief are usually made on the basis of the relevant factors and an organisation asking for a reconsideration of a decision should be able to demonstrate that they do satisfy the factors detailed in this guidance or, must provide other evidence that demonstrates that an award should be considered.
59. There is provision within this policy for a request for reconsideration of a decision to be made by the strategic Revenues Manager or Section 151 Officer in consultation with the Cabinet Member

(dependant on value). It will be necessary to provide further information or, to show that sufficient "weighting" or consideration has not been given to a particular factor or factors raised in the application.

| Action | Timescale |
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| If the applicant wishes to ask for a reconsideration of a decision, the request should be made in writing to the Strategic Revenues Manager or Section 151 Officer and must demonstrate that some or all of the relevant factors contained within this document are met. | A request for reconsideration should be sent to the Council within 1 month of the date on the letter of refusal/award. |
| The Council will acknowledge receipt of a request for reconsideration in writing and advise the applicant of the date that the application will be reviewed by the Strategic Revenues Manager or Section 151 Officer in consultation with the Cabinet Member. | Letter advising the date of application review will be sent within one week of the receipt of appeal letter. |
| The Strategic Revenues Manager or Section 151 Officer in consultation with the Cabinet Member will review the appeal. A letter will be sent to the applicant advising the final decision of the Council. | The letter will be sent within one week of the final decision. |