



Test Valley Borough Council

Revenues Service

Discretionary Rate Relief Policy

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Discretionary Rate Relief Policy

1 Introduction

There are two ways in which Discretionary Rate Relief may be granted:-

- to “top-up” mandatory relief already awarded
- as an award based on various criteria, of up to 100%.

When deciding whether to make an award of discretionary rate relief, consideration should be given to the interests of the taxpayers of Test Valley, as the Council must bear a percentage of the cost of any relief granted.

In most cases with the exception of special reliefs which are fully funded by central government. The cost of the relief is shared as follows; central government 50%; Test Valley Borough Council 40%; Hampshire County Council 9%; and Hampshire Fire and Rescue Authority 1%. The central government and Council share changes to 70% / 20% where the Council has business rates growth above a baseline figure.

Mandatory relief is granted where:-

- the ratepayer of a property is a charity, or the trustees of a charity, and
- the property is wholly/mainly used for charitable purposes (including charity shops, where the goods sold are mainly donated and the proceeds are used for the purposes of the charity)
- the ratepayer of a property is registered with Her Majesty’s Revenues and Customs (HMRC) as a Community Amateur Sports Club (CASC)

or in the case of Mandatory Rural Rate Relief, the property is a qualifying:-

- food shop
- general store
- post office
- public house
- petrol filling station

The Council has the discretion to award additional rate relief to reduce the liability still further and the policies detailed below are to be followed when dealing with an application.

No discretionary relief will be awarded to charities that are occupying hereditaments in return for a payment/donation from the landlord/owner/agent of the hereditament or where they are occupying premises for a nominal rent.

2 Legal Powers

This policy covers all the Council’s discretionary powers under Sections 43, 47 and 49 of the Local Government Finance Act 1988 as revised, in addition to Local Government and Rating Act 1997, Rating (Former Agricultural Premises and Rural Shops) Act 2001 and NDR (Public Houses and Petrol Filling Stations)(England) Order 2001.

3 Objectives

The overriding aim of the policy is to ensure that when considering whether it is appropriate to grant discretionary rate relief, the needs of the community and the interests of the Council Tax payers are taken into account, bearing in mind the Council's priorities.

4 Scope

This policy will be adhered to by all staff and Members involved with consideration of Discretionary Rate Relief applications.

5 Applications

With regard to the majority of discretionary reliefs, completed application forms may be required from each applicant and it must be demonstrated, where appropriate, how the individual, organisation or business can contribute towards the Council's priorities.

In relation to special reliefs, ratepayers will be required to complete an application form and receive a decision within 6 months of the end of the financial year to which the application relates and make a declaration with regard to State Aid.

Applications from excepted hereditaments cannot be considered. These are properties which are occupied by a billing or major precepting authority.

6 Approvals

Initial recommendations are to be approved by the Revenues & Welfare Manager or authorised officer with final approval from the Head of Revenues and the Finance Portfolio Holder, who have the relevant delegated authority.

7 Relationship between reliefs

There is no "better buy" provision in the legislation. Therefore:

- If a property is eligible for charitable relief as well as small business relief, it shall receive charitable relief only.
- If a property is eligible for rural rate relief and small business rate relief, it shall receive rural rate relief only.
- If a property is eligible for all three reliefs, it shall receive charitable relief only.

8 Charities

Mandatory relief is granted where the ratepayer of a property is

- a charity, or the trustees of a charity, and
- the property is wholly/mainly used for charitable purposes.

For the purposes of discretionary relief, the organisation does not have to be a registered charity. Determination of charitable status largely relies on case law, which has established 4 main divisions of charity:-

- the relief of poverty
- the advancement of religion
- the advancement of education, and
- other trusts beneficial to the community not falling under the other headings.

8.1 Criteria

Discretionary relief will be recommended if the charity:-

1	Meets local needs in the district and benefits local people	<ul style="list-style-type: none"> • if the premises are used for the purposes of a national organisation, the Council will not normally grant any discretionary relief • if the premises are used for a semi-national (or county-wide) organisation, the extent to which the Borough and its residents benefit from the organisation must be taken into account • if the premises are used for a local organisation the full “top-up” will be awarded
2	Does not have more than 12 months spending available as “free reserves” (not legally restricted)	<ul style="list-style-type: none"> • unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community
3	Provides evidence to support the application	
4	Provides the previous 2 years’ signed accounts	

8.2 Village Halls and Community Centres

Village Halls and Community Centres, which are not excepted (see 5 above), will be awarded 80% mandatory relief and 20% discretionary relief unless the Head of Revenues, in consultation with the Finance Portfolio Holder, considers it inappropriate to do so, based on the financial standing of the ratepayer(s).

9 Charity Shops

Mandatory relief will be granted where the ratepayer of a property is

- a charity, or the trustees of a charity, and
- donated goods relate to more than 50% of total sales, and
- the proceeds of goods (after any deductions for expenses) are applied for the purposes of the charity

Providing the above criteria are met, 80% mandatory relief will be granted.

9.1 Criteria

Discretionary relief will be recommended if the charity:-

1	Meets local needs in the district and benefits local people	<ul style="list-style-type: none"> • if the premises are used for the purposes of a national organisation, the Council will not normally grant any discretionary relief • if the premises are used for a semi-national (or county-wide) organisation, the extent to which the Borough and its residents benefit from the organisation must be taken into account • if the premises are used for a local organisation the full “top-up” will be awarded
2	Does not have more than 12 months spending available as “free reserves” (not legally restricted)	<ul style="list-style-type: none"> • unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community
3	Provides evidence to support the application	
4	Provides the previous 2 years’ signed accounts	

9.2 Non-Profit Organisations, Clubs and Societies

The Council has the discretion to award up to 100% Discretionary Rate Relief to organisations whose main objectives are charitable or philanthropic, or concerned with education, social welfare, science, literature, fine arts or recreation. The determination of charitable (or non-profit) status largely relies on case law which has established the 4 main divisions of charity shown in section 8, above.

9.3 Criteria

Discretionary relief will be awarded if the organisation is not excepted (see above) and:-

1	The main objectives of the organisation are concerned with	<ul style="list-style-type: none"> • the relief of poverty • the advancement of religion • the advancement of education • social welfare • science • literature • arts • recreation, or • in other ways which are beneficial to the local community
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2	Meets local needs in the borough and benefits local people	<ul style="list-style-type: none"> • if the premises are used for the purposes of a national organisation the Council will not normally grant discretionary relief • if the premises are used for a semi-national or county-wide organisation, the extent to which the Borough and its residents benefit must be taken into account and relief of up to 50% will be granted • if the premises are used for a local organisation up to 100% will be awarded
3	Provides a valuable service to the community	<ul style="list-style-type: none"> • which is complementary to those services provided by or supported by the Council, or • which relieves the need for the Council to provide such services
4	Is open to all sections of the community	<ul style="list-style-type: none"> • or access is restricted by providing a service for a specific sector of the community for justifiable reasons such as addressing inequality
5	Is able to demonstrate that the way in which it operates does not discriminate against any section of the community	<ul style="list-style-type: none"> • please see 9.4 below
6	Is non-profit making	<ul style="list-style-type: none"> • no high surplus of income over expenditure • as a guide, no more than 12 months expenditure available in unrestricted reserves unless a Business Plan exists, detailing how these reserves are to be used to the benefit of the local community
7	If the organisation has licensed bar facilities	<ul style="list-style-type: none"> • please see 9.5 below
8	If the organisation requires a membership or entry fee	<ul style="list-style-type: none"> • please see 9.6 below
9	Evidence is provided to support the application	
10	The previous 2 years' signed accounts are provided	

9.3.1 Community Amateur Sports Clubs (CASC)

If a sports club is registered with HMRC as a CASC it will be entitled to 80% mandatory relief. The club will also be awarded 20% discretionary rate relief.

9.3.2 Village Halls and Community Centres

Village Halls and Community Centres that are not charities and which are not excepted (see 5 above), will be awarded 100% discretionary relief unless the Head of Revenues, in consultation with the Finance Portfolio Holder, considers it inappropriate to do so, based on the financial standing of the ratepayer(s).

9.4 Discrimination

In order to qualify for Discretionary Rate Relief clubs must be able to show that all facilities are available to members without discrimination.

Discrimination includes indirect discrimination and encompasses any of the characteristics protected by law, except as a necessary consequence of the requirements of a particular sport.

This does not prevent a club from having different classes of membership depending on:-

- The age of the member
- Whether the member is a student
- Whether the member is waged or unwaged
- Whether the member is a playing or a non-playing member
- How far from the club the member lives, or
- Any restriction on the days or times when the member has access to the club's facilities

9.4.1 Sports Clubs

There are additional considerations in the case of sports clubs.

If a club effectively discriminates by only accepting members who have already reached a certain standard, rather than seeking to promote the attainment of excellence by enhancing access and the development of sporting aptitude, then it does not have an open membership policy. Therefore, a club selecting members on the basis of existing attainment would not come within the requirements.

Clubs can refuse or revoke membership, on non-discriminatory grounds, where the membership, or continued membership of the person concerned would be likely to be contrary to the best interests of the sport or the good conduct and interests of the club.

Although clubs should be open to all, without discrimination, single-sex clubs may be permitted where such restrictions are not discriminatory in intent but a genuine result of physical restraints (such as changing room facilities) or the requirements of the sport.

9.5 Organisations with Licensed Bar Facilities

9.5.1 Sports Clubs

Any Discretionary Rate Relief award will be aimed at the sporting activity of the club.

- If the bar income aids the overall operation and development of the organisation, this would be allowable provided it is still primarily a sports organisation and such funds are shown to provide direct support for the sporting activities
- The level of the relief awarded will be reduced if the net income from the bar and gaming machines, expressed as a percentage of total income, is 30% or greater.

9.5.2 Other Organisations

- If the bar income aids the overall operation and development of the organisation, this would be allowable provided it is a minor function of the organisation and funds can be shown to provide direct support for the organisation's activities.
- The level of the relief awarded will be reduced if the net income from the bar and gaming machines, expressed as a percentage of total income, is 30% or greater.

9.6 Membership and Entry Fees

If the organisation requires a membership or entry fee, the Council will give regard as to whether:-

- The subscription or fees are set at a high level which excludes the general community
- Fee reductions are offered for certain groups such as under 18s or over 60s
- Membership is encouraged from particular groups such as young people, older age groups, persons with disabilities or to reduce inequality
- Facilities are available to people other than members, e.g. schools, public sessions.

9.7 Council Priorities

The Council would wish to support organisations which provide the following categories of service to the Borough's residents:-

- a. support for the disadvantaged, e.g. disabled, unemployed, elderly, those with health problems, those with drugs or alcohol problems, young people
- b. support with housing needs
- c. education and training opportunities
- d. support with debt and financial management
- e. facilities for scouts, guides, youth clubs and youth groups
- f. village halls and community centres
- g. sports clubs and other organisations providing recreational facilities
- h. theatres and dramatic societies

Those organisations applying for relief, whose work involves children, young or vulnerable adults, must be able to demonstrate that appropriate checks have been carried out on staff and volunteers, and that sound child protection policies are in place.

10 Rural Rate Relief

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 the 31st December preceding the financial year in question, which is wholly or partly within a designated area. The Rural Settlement list is published each year.

10.1 Changes to Mandatory Rural Rate Relief

50% Mandatory Relief will be awarded to any of the following type of premises, where it is the only such business within the rural settlement area. This will be topped up with a further 50% discretionary rural rate relief.

- Food shops selling food which is wholly / mainly for human consumption (excluding confectionery and the supply of food in the course of catering), with a rateable value of £8,500 or less.
- General stores selling food for human consumption and general household goods, with a rateable value of £8,500 or less.
- Post Offices holding a Post Office Licence under the Post Office Act 1953, with a rateable value of £8,500 or less.
- Public houses with a licence granted under the Licensing Act 2003 which authorise the retail sale of alcohol for consumption on the premises and has a rateable value of £12,500 or less.
- Petrol filling stations with a rateable value of £12,500 or less.

10.2 Discretionary Rural Rate Relief

The Council has the power to award Discretionary Rural Rate Relief of up to 100%. Discretionary relief will be considered in the following circumstances.

- The property has a rateable value of £16,500 or less
- There is no high surplus of income over expenditure (no more than 12 months spending held as a reserve)
- The business must be considered to be of benefit to the local community. The application will be referred to local Members for their approval

11 Timing of Decisions

Ratepayers wishing to apply for discretionary relief will be required to complete an application and receive confirmation that relief has been awarded within 6 months of the end of the financial year to which the application relates. If a decision on an application is made more than 6 months after the end of the financial year in respect of which the application is made, no relief will be applied.

12 Notification of Decision

Applicants will be notified in writing of any decision made in respect of their applications, whether they are successful or not. The notification will include a revised bill where appropriate.

13 Rights of Appeal

Unsuccessful applicants should, in the first instance, detail in writing their reasons for not agreeing with any decision to the Revenues & Welfare Manager.

Should they still be aggrieved having received a response to the first “appeal” they should then contact the Head of Revenues who will arrange to have their case brought before the Cabinet at the earliest opportunity.

14 Review

Awards of Discretionary Rate Relief will be reviewed regularly.

15 Hardship Relief

The Council has the discretion to reduce the amount a ratepayer is liable to pay as a result of a business suffering unexpected hardship arising from short-term unexpected circumstances (e.g. the impact of flooding affecting customer access to the business), to the extent that the viability of the business would be threatened if an award were not made.

Relief will not be considered where a business is facing a market downturn in trade, increased competition or increasing costs unless there are wider local amenity issues that an award of relief will help ameliorate, e.g. the potential closure of the only shop in a village.

Each case will be judged on its merits. Relief will be awarded where the Council is satisfied that:

- the ratepayer would sustain hardship if no relief is granted; and
- it is reasonable for the Council to grant the relief having due regard to the interests of the Council Tax payers

15.1 Guidelines for Consideration of Hardship Relief

- a) Any decision must be balanced against the wider interests of the council tax payers of the Borough.
- b) There must be proof that hardship exists.
- c) Evidence must be provided to support the application, including as a minimum:
 - A detailed business plan and cashflow forecast covering at least the next 12 months. This should demonstrate how the company expects to become sustainable following the ending of any Hardship Relief period.
 - A copy of the business's accounts for the previous two years.
- d) It is expected that businesses should have taken prompt action to mitigate the factors giving rise to hardship (e.g. challenging an increased rateable value)
- e) The amount of rates that will be remitted will depend upon the circumstances of each case and will be effective for a set period. Relief will be withdrawn on the sale of the business.
- f) It is unlikely that relief will be awarded in cases where there is little expectation of economic survival of the business beyond any relief period.
- g) The purpose of this policy is to support local businesses in the community. In assessing this factor the Council will consider the following criteria:
 - the business's contribution to local distinctiveness

- the size of the business – the Council would normally prioritise smaller businesses although relief is potentially available for all businesses
- how the granting of rate relief will be in the interest of council tax payers.

16 Special Reliefs

From time to time the Government provides for the Council to grant relief for a particular set of circumstances and/or for a specific period. These do not normally require a change in legislation and are provided for by Section 47 of the Local Government Finance Act 1988, as amended by Section 69 of the Localism Act 2011.

These reliefs will be covered in separate appendices and currently include:-

- **Newspaper Premises Relief** [Appendix 1](#)
- **Supporting Small Business Relief** [Appendix 2](#)
- **Revaluation Relief** [Appendix 3](#)
- **Retail Relief** [Appendix 4](#)
- **Public Convenience Rate Relief** [Appendix 5](#)
- **Pub Relief** [Appendix 6](#)

The Council will be reimbursed in full by the Government by way of a grant under Section 31 of the Local Government Act 2003 for its share of the costs of awarding these special reliefs.

17 State Aid

Relief from taxes, including Non-Domestic Rates, can constitute State Aid and this must be borne in mind when considering granting Discretionary Relief.

Rate relief for European and national legislation requires that public bodies do not provide tax exemptions or other relief which might serve to give a business an advantage over other businesses and so distort competition in the marketplace. Such an advantage is termed State Aid. The State Aid 'de minimis' limit is that the total amount of State Aid funding received by an organisation should not exceed 200,000 euros over a three year period. Some businesses have a lower limit e.g. road transport, and others e.g. agriculture, cannot be supported under the 'de minimis' rules. The limit applies to State Aid received from any public body and has to be aggregated. The Government has provided template documentation to be used to get appropriate declarations about other aid received by applicants for relief. False declarations could result in prosecution and the aid being reclaimed from the organisation concerned.

Appendix 1 – Newspaper Premises Relief

The Government introduced a temporary business rates discount for office space occupied by local newspapers, effective from 1st April 2017.

It was announced on 27th January 2020 that this relief will continue for a further 5 years until 31st March 2025. The cost of this relief will be met by a government grant.

Businesses Eligible for Relief

Properties occupied as office space by local newspapers in England will be eligible for this relief. There is a maximum of one discount per newspaper title and one discount per hereditament.

Where a property becomes / ceases to be used as office accommodation during the year, the relief will be applied on a pro-rata basis.

Amount of Relief

The maximum amount of relief is £1,500 per annum.

This relief is subject to State Aid limits.

Appendix 2 – Supporting Small Business Relief

The Government introduced measures to support small and rural businesses that were affected by the 2017 Valuation process. The relief is administered in accordance with the guidance published by the Ministry for Housing, Communities and Local Government.

Businesses Eligible for Relief

Businesses that were eligible for relief in 2016/17 under the Small Business Rate Relief Scheme or Rural Rate Relief Scheme, but would not be eligible to receive such relief in 2017/18 by virtue of increases to their rateable value as part of the 2017 Valuation process.

Amount of Relief

In 2020/21 relief is awarded to restrict the increase in eligible businesses' bills to the higher of:

- £600 per annum
- A 15% plus inflation increase in the bill from 2019/20 (in 2019/20 the threshold was 10% plus inflation).

Relief will be assessed and calculated on a daily basis and applied against the net bill after all other reliefs, except Revaluation Relief and Pub Relief. Any overpaid relief will be recovered by the Council.

Where a business occupies more than one eligible property, the relief can be granted in respect of each property.

This relief is subject to State Aid limits.

Application

Ratepayers eligible for this scheme will already be in receipt of the relief in respect of earlier financial years. The scheme is not available to new applicants.

Appendix 3 – Revaluation Relief

The Government introduced a national discretionary fund for billing authorities to award relief to businesses facing large increases in their business rates bills following the 2017 Valuation process.

This scheme covers the financial years 2017/18 to 2020/21.

Businesses Eligible for Relief

To be eligible for this relief:

- Properties must be occupied
- The occupier must have been liable for business rates at the property on 31st March 2017 and have remained in continuous occupation during the relief period
- The rateable value of the property must be no more than £200,000.
- The business must operate primarily in Test Valley. This means that more than 50% of the business's total rateable value should lie within Test Valley's boundaries.

Properties occupied by public sector bodies are excluded from the scheme.

Amount of Relief

In 2019/20 relief was awarded to restrict the increase in the daily charge in eligible businesses' bills to 9% more than that charged in the previous financial year. A maximum of £500 was applied per property. Where the amount of relief calculated was less than £50, no relief was awarded.

Additional relief will be awarded from the remaining budget allocation in 2019/20 pro rata with the original award, subject to a maximum award of £125 and a minimum award of £50.

2020/21 awards will be made proportional to the original awards for relief in 2019/20 with a maximum award of £100 and a minimum award of £50.

Relief will be assessed and calculated on a daily basis and applied against the net bill after all other reliefs except for Retail Relief. Where a business successfully appeals its rateable value, the amount of relief awarded will be recalculated based on the new RV. Any overpaid relief will be recovered by the Council.

Where a business occupies more than one eligible property, the relief can be granted in respect of each property.

This relief is subject to State Aid limits.

Appendix 4 - Retail Relief

In the October 2018 Budget, the Chancellor announced a new business rates relief, in response to changing customer behaviours that are affecting high street retailers.

Initially the relief was available for the 2019/20 and 2020/21 financial years. On the 27th January 2020 the relief was extended for a further 12 months until 31st March 2021. The relief was also increased for 2020/21 as detailed below.

The Relief will be administered in accordance with the guidance published by the Ministry for Housing, Communities and Local Government, which is summarised below.

Businesses Eligible for Relief

Businesses that will benefit from the Relief will be occupied properties that:

- have a rateable value of less than £51,000 and
- are wholly/mainly used as a shop, restaurant, café or drinking establishment. From April 2020 this also includes cinemas and live music venues.

Shops, restaurants, cafes and drinking establishments are considered to be those being used as follows -

Sale of goods to visiting members of the public, such as –

- Shops (e.g. florist, bakers, butchers, grocers, jewellers, stationers, off-licences, chemists, newsagents, hardware stores, supermarkets, charity shops etc.)
- Opticians
- Post offices
- Furnishing shops / display rooms (e.g. carpet shops, double glazing, garage doors)
- Car / caravan show rooms and second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale / hire)

Provision of services to visiting members of the public, such as –

- Hair and beauty services (e.g. hair dressers, nail bars, beauty / tanning salons)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC / TV / domestic appliance repair
- Funeral directors
- Tool hire
- Car hire

Sale of food and / or drink to visiting members of the public, such as –

- Restaurants

- Takeaways
- Sandwich shops
- Coffee shops
- Pubs and bars

Properties which are being used as cinemas or live music venues will be eligible from April 2020

These lists are not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist.

There will also be mixed uses and properties which are not listed but are broadly similar in nature to those listed. These may be considered eligible for the relief.

Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

The term wholly or mainly being used as a shop, restaurant, cafe or drinking establishment is a test on use rather than occupation. Therefore, properties which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

Businesses which are not considered to be eligible for the relief

These will include:-

- Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents / financial advisers, tutors)
- Leisure facilities (e.g. gymnasiums, theatres, cinemas, museums)
- Post office sorting office.

This list is not exhaustive and the Council may decide not to award relief where a business is broadly similar in nature to those above.

Businesses that occupy properties which are not reasonably accessible to visiting members of the public will not be eligible for the relief.

Amount of Relief

The amount of relief to be awarded 2020/21 is equivalent to one half of the bill (2019/20: one third), after mandatory reliefs and other discretionary reliefs have been applied.

The relief can be granted in respect of each property, where a business occupies more than one.

The relief is subject to State Aid limits.

Appendix 5 – Public Convenience Rate Relief

In the October 2018 Budget, the Chancellor announced a new business rates relief in respect of public toilets.

Businesses Eligible for Relief

Stand alone properties that are wholly / mainly used as public toilets.

Amount of Relief

The maximum amount of relief is 100% of the daily charge.

Appendix 6 – Pub Relief

The Government introduced measures to support pubs in the 2017/18 and 2018/19 financial years only. It will be possible to apply for relief related to the 2018/19 financial year until 30th September 2019. No relief under this scheme will be awarded for the 2019/20 financial year.

Relief will be administered in accordance with the guidance published by the Ministry for Housing, Communities and Local Government. A summary of the guidance is shown below.

Businesses Eligible for Relief

Public Houses with a rateable value of up to £100,000 that:

- are open to the general public
- allow free entry other than when occasional entertainment is provided
- allow drinking without requiring food to be consumed
- permit drinks to be purchased at a bar

Amount of Relief

The maximum amount of relief available for each property under this scheme is £1,000.

Relief will be assessed and calculated on a daily basis and applied against the net bill after all other reliefs have been applied. Any overpaid relief will be recovered by the Council.

Where the net rate liability, after all other reliefs, is less than £1,000, the maximum amount of this relief will be no more than the net rate liability. This means that relief cannot be applied to create a credit balance on any account.

Where a business occupies more than one eligible property, the relief can be granted in respect of each property.

This Relief is subject to State Aid limits.