

Discretionary Business Rates Relief Policy

Introduction

Councils have the power to grant Discretionary Rate Relief to organisations that meet certain criteria. As the title suggests the power is discretionary and can therefore be limited by other factors, notably the budget and funds available for this purpose. Any relief granted is used to reduce the amount the organisation is required to pay in Business rates.

The provisions are set out in Section 47 of the Local Government Finance Act 1988. Councils have discretion to grant rate relief from all or part of the amount of non-domestic rates payable and the level of relief determined by an authority may be varied by a further determination.

The City Council recognises the valuable role that voluntary organisations can and do play in the life of the community. The City Council is committed to providing high quality services to Birmingham's ratepayers and acknowledges the way voluntary groups can complement these services.

Legislation

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. The legislation states the qualifying conditions as one of more of the following:

- '(a) the ratepayer is a charity or trustees for a charity, and the hereditament is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities);
- (b) the hereditament is not an excepted hereditament, and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts;
- (c) the hereditament is not an excepted hereditament, it is wholly or mainly used for purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.'

Section 47 Local Government Finance Act 1998 paragraph (2)

Birmingham City Council Policy

The following sections set out how Birmingham City Council will operate its discretionary powers in the Local Government Finance Act 1988 and the factors we will consider when deciding if relief can be awarded and the way in which we decide the value of the relief granted.

We will deal with each application for Relief on its merits and treat all organisations that apply for Discretionary Rate Relief equally and fairly. We will communicate with other grant funders to prevent duplication of payment in respect of Business Rates. We will operate the scheme in a manner that helps us to "Achieve Our Full Potential" and helps to support City Council priorities contained in the Corporate Plan as well as Regional and National priorities.

How we will decide whether to award Discretionary Rate Relief

The criteria to be used in deciding whether or not to give discretionary rate relief are based on assessing how an organisation's work helps achieve the City Council's priorities to meet the community's need for services and facilities.

The following essential criteria must be met before the City Council will award discretionary rate relief:

- the ratepayer must be a non-profit making body
- the property must be used by the ratepayer wholly or mainly for charitable, philanthropic or religious purposes, or concerned with education, social welfare, science, literature or the fine arts, or
- The ratepayer must use the property wholly or mainly for recreation by a non-profit making club or society.

It is possible for a voluntary organisation to apply for 100% discretionary rate relief, and for registered charities to apply for an additional 20% discretionary relief in addition to the mandatory relief they already receive. In these circumstances additional criteria will also be applied as described below. The City Council will consider applications for discretionary rate relief for non-profit making sports clubs that do not qualify for charitable status.

- Equal Opportunities The organisation should have an appropriate policy that aims to give equality of opportunity to both any employees it has and to people in the community it services. A copy of a formal policy should be submitted with the discretionary relief application. However if a written policy is not available evidence must be provided that the organisation does not unfairly discriminate against any section of the community.
- Open access to membership Membership should be open to all sections of the community. There may be some restrictions placed on ability in sport if this is appropriate, however, in general membership should not be exclusive or restrictive.

Membership fees must not be set at such a level as to exclude the general community. The council would expect applicants to state their current membership rates and to illustrate that the criteria used to consider applications for membership is consistent with the principle of open access.

Applications will be dealt with more sympathetically, if the organisation can demonstrate it actively encourages membership from, or offers support to, particular groups in the community such as young people, women, older people, persons with a disability or ethnic minorities.

- Beneficiaries of services or facilities The organisation should provide training or education to its members, and non-members such as young people, people with disabilities, retired people. The organisation should provide facilities that indirectly relieve the City Council of the need to do so, or enhance and supplement those it does provide.
- Affiliation to local or national organisations The organisation should be actively involved in local/national development of their interests.
- **Benefit to Birmingham residents** -Applicants must show that the benefits, services or facilities they provide mainly benefit the residents in the Birmingham area. This could be as a result of the employment of local people or on the basis of the membership of the organisation.
- Members are not paid The City Council will not grant relief where payments
 or other significant benefits are provided to players of a sports club. This
 excludes the reimbursement of reasonable travel expenses for players or
 officials and reasonable provision and maintenance of club owned equipment
 necessary for playing the sport.
- Contribution to community plans and objectives The activities of the
 organisation should contribute to a local or regional community strategy
 and/or authority objectives for building neighbourhood identity, community
 building or social inclusion.
- Financial support from external sources Copies of the organisation's last two years audited accounts must be provided with the application to assist the Council to assess the ability of the applicant to meet the costs of rates in the absence of additional rate relief.

It should be made clear on the application form the level of funding given to the organisation by the Council and or any other external bodies.

Amount of relief

As noted above the City Council has the discretion to allow relief at any rate up to 100% of the business rates charge minus any mandatory relief an organisation is entitled to.

Entitlement will be assessed against the criteria and factors described above.

The amount of actual relief granted will however, be determined by the affordable budget available within the City Council.

In order to ensure equitable distribution all organisations meeting the criteria will receive the same proportionate level of relief.

Claiming Discretionary Relief

A claim must be made on an approved application form which will be available free from the Council. This application should be completed and returned to:

Birmingham City Council Revenues and Benefits PO Box 5 Birmingham B4 7AP

It is the responsibility of the organisation applying for relief to provide sufficient information and documentary evidence to support applications. Where further information is required, we will request this and allow a minimum of 1 month for its provision.

If the organisation applying does not or will not provide the required evidence, we will still consider the application but only on the basis of the information and evidence in our possession.

Period of Award

The Council will decide the period that Discretionary Rate Relief will be awarded for, dependent on the circumstances of the application. Awards will be for a minimum of 1 year and a maximum of 3 years and the term of the award will be stated on the decision notification.

At the expiry of the award the Council will invite a renewal claim.

The minimum period of relief that can be awarded is one day.

The maximum period of relief that can be awarded is up to 3 years but all applications cease on the 31st March of the financial year the application is made in.

Changes in Liability

If there is a change to the organisation's liability during the period of the relief the following amendments to the awarded amount will apply:-

Increase in liability/charge – Where liability/charge increases, the amount of the award will continue at the rate originally granted up to the appropriate renewal date

Reduction in liability/charge – the amount of the award for the remaining financial year will be the required percentage of the new liability/charge.

How Payments will be made

All relief awarded will be credited against the Business Rates bill.

Notification

The Council will inform the organisation applying, in writing, of the outcome of their application for Discretionary Rate Relief within seven days of making a decision.

Where the application is not successful, the notification will provide full reasons why we have decided not to award Discretionary Rate Relief and the applicant's right to ask us to look at the decision again.

Where the application is successful, the notification will include the following information:-

- The period of the award.
- The percentage of the rate liability awarded for that period.
- The amount of Rate Relief to be awarded for the period.
- Details of when an amended Non Domestic Rate Demand will be issued.
- The right to ask us to look again at the decision.

Overpayments

The Council will recover all overpayments of Discretionary Rate Relief through the organisation's Business Rates account.

Right of Appeal

If you disagree with a decision made under this policy, you must write and tell us why you think the decision is wrong, i.e. whether you consider the published criteria have been properly applied.

An independent panel will be appointed to look at your case.

It will check your Discretionary Rate Relief application thoroughly and take account of any information given in your appeal letter. It will decide whether or not the criteria have been properly applied. This is called 'reconsidering' the decision. The Panel has the authority to: -

- Confirm the decision;
- Change the decision and pay you more Discretionary Rate Relief; or
- Change the decision and pay you less Discretionary Rate Relief.

We will write to tell you what has happened, normally within 7 days of decision of the Panel. There is no further right of appeal against a decision of the Panel.

Fraud

The Council is committed to reducing fraud in all its forms. An organisation which tries to fraudulently apply for Discretionary Rate Relief by falsely declaring their circumstances or providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968. Where we suspect that such a fraud may have occurred, the matter will be investigated in line with the Council's Anti-Fraud Strategy. This may lead to criminal proceedings being instigated.

Publicity

The Council will include information about Discretionary Rate Relief with Non Domestic Rate Demands, relevant leaflets and within the Non Domestic Rate Section of the Council's website.

Review

The policy will be reviewed periodically, taking into account Council policies and priorities and any changes in legislation.