

# **Discretionary Rate Relief Policy**

## **Wirral Council**

### **2021/2022**

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## 1. INTRODUCTION

1.1 As part of its role in the administration of National Non Domestic Rates (NNDR) (more commonly referred to as Business Rates) Wirral Council has several areas where it can exercise its discretion to provide reductions to the amounts of business rates that are due to be paid.

1.2 Since April 2017, the Council has participated in the 100% Business Rates Retention Pilot scheme. This means that at present under the Pilot:

- Mandatory Relief is financed 99% by the Council and 1% by the Merseyside Fire and Rescue Authority
- Discretionary Relief is financed 99% by the Council and 1% by Merseyside Fire and Rescue Authority

1.3 This policy outlines the areas of local discretion and the Council's approach to the various awards. This approach has regard to the impact

- of granting Discretionary Rate Relief on the Council's wider financial position and Council Tax payers;
- on the organisations and businesses that currently receive or may apply for relief in the future;
- for Wirral residents if relief is awarded and the regeneration benefits to the borough.

1.4 The principal consideration when making an award is that any relief granted is in the best interests of the residents and taxpayers of Wirral and produces a local benefit.

1.5 In addition the Council also operates a number of schemes which are funded fully by the government summarised at 2.3 below.

## 2. DISCRETIONARY RATE RELIEF SCHEME

2.1 The Local Government Finance Act 1988 requires the Council to maintain a Discretionary Rate Relief Scheme to award Business Rates Relief of up to 100% to certain organisations who operate within specified criteria.

2.2 This includes:

- Charitable bodies (who receive 80% relief) The Council has further discretion to “top up” this relief to 100% of the rates due.
- Registered community amateur sports clubs (CASC’s) (who receive mandatory 80% relief). The Council has further discretion to “top up” this relief to 100% of the rates due.
- Non-profit making organisations. The Council has further discretion to grant “standard” discretionary rate relief of between 0 to 100% of the business rates due.
- Hardship Relief. Section 49 of the Local Government Finance Act allows the Council to exercise its discretion to provide either partial or full relief from Non-Domestic Rates in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.
- Part Occupation Relief. Section 44(a) of the Local Government Finance Act 1988 allows the Council to exercise its discretion to grant relief on business premises that are partly occupied, as long as this situation is for a short time

2.3 There are also four schemes administered by the Council, where any relief granted is wholly funded by central government subject to specific criteria. The Council will be using its discretionary powers under section 47 of the Local Government Finance Act 1988 as amended to grant relief. Central government will fully reimburse the Council using a grant under Section 31 of the Local Government Act 2003.

- The Supporting Small Business Relief scheme for ratepayers who are losing some or all of their small business rate relief as a result of a large rateable value increase following the 2017 revaluation. The scheme is available for 5 years from 1 April 2017. The relief is fully funded fully via Section 31 Grant.
- Relief for Local Newspapers. The Council has discretion to award a discount of £1,500 office space occupied by local newspapers, up to a maximum of one discount per local newspaper title and per hereditament. The relief is fully funded via Section 31 Grant. This relief will cease at 31<sup>st</sup> March 2025, unless extended further by legislation.
- 100% business rates relief for new full-fibre infrastructure for a 5 year period from 1 April 2017. This is designed to support roll out to more homes and businesses.

- The Business Rates Retail Discount Scheme for 2019-20 and 2020-21. Properties that will benefit from the relief will be occupied hereditaments with a rateable value of less than £51,000, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments. The Government will, in line with the eligibility criteria set out in their guidance, reimburse local authorities that use their discretionary relief powers, via Section 31 Grant. For 2021-22 no scheme has been announced but the Council will follow government guidance on any new scheme.

### **3. CHARITABLE BODIES**

3.1 A Mandatory Rate Relief of 80% is granted to charities in the following circumstances. Where the:

- ratepayer of a property is a charity or the trustees of a charity; and
- property is wholly or mainly used for charitable purposes (including charity shops, where the goods sold are mainly donated and the proceeds are used for the purpose of the charity).

3.2 The Council does not have discretion regarding awarding Mandatory Rate Relief, however the Council must be satisfied that the statutory criteria has been met. For this purpose the Council will use guidance provided in both the Local Government Finance Act 1988, and by reference to other enactments and case law.

3.3 Registration under the Charities Act 1993 is conclusive evidence of charitable status and the Council will refer to the Charity Register for evidence of this. Absence from the register does not mean an organisation has not been established for charitable purposes as certain organisations are exempt from registration under the Charities Act 1993.

3.4 In cases where a charity is in receipt of mandatory rate relief of 80%, the Council has discretion to grant up to 20% additional rate relief. This is known as Discretionary Rate Relief top up.

3.5 The Council will consider applications for a Discretionary Rate Relief top up from charities based on their own merits, on a case by case basis. However the principal consideration is that the relief is in the best interests of the residents and taxpayers of Wirral and produces a local benefit as the Council must contribute to the cost of each award. As such, top up will be awarded to only the following type of registered charities:

- Scouts, guides, cadets and other clubs/associations for young people;
- Community schemes encompassing organisations providing support for those over the age of retirement, community transport, those based on volunteering and residents associations;
- Organisations providing support in the form of advice, training for employment, counselling;

- Organisations that provide services that address the consequences of ill health and disability;
- Charitable sporting clubs;
- Locally based leisure and cultural organisations;
- Armed forces veterans associations
- Locally based charities;
- Charity shops (operated by either locally based or national charities);
- Local child care providers registered as charities.

3.6 Applications for Discretionary Rate Relief can be made via the online Discretionary Rate Relief Form

3.7 Applications for Discretionary Rate Relief top up must be supported by, and include:

- The applicant organisation's main purposes and objectives, as set out in, for example, a written constitution, a memorandum of association, or set of membership rules;
- A full set of audited accounts relating to the two years preceding the date of application. Where audited accounts are not available, projected figures should be provided instead;
- Details of how the organisation meets the criteria outlined in these guidelines.  
Objectives

3.8 In determining the application, the following matters will be taken into consideration:

- How the charity supports and links into the Council's Corporate Objectives:
- The purpose of the charity and the specific activity carried out within the building for which the relief is requested:
- Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and financial position of the charity

3.9 Registered Social Landlords, universities, further education colleges and independent schools are specifically excluded from receiving discretionary rate relief as per Cabinet decision dated 10 January 2008.

3.10 If an organisation in receipt of Discretionary Rate Relief top up ceases to meet the eligibility criteria outlined in this policy, it will cease to receive Discretionary Rate Relief. The Council will give such organisations twelve months written notice prior to the withdrawal of the Discretionary Rate Relief top up

- 3.11 The Council delegates the decision making power for Discretionary Rate Relief awards to the Head of Customer Services and the Section 151 Officer.
- 3.12 The initial recommendations to award or refuse a Discretionary Rate Relief top up will be made by the staff from the Business Rates section.
- 3.13 Applicants will be informed in writing of the outcome of their application as soon as possible.
- 3.14 The granting of relief will be reviewed annually and those in receipt of Discretionary Rate Relief may be asked to supply or confirm relevant information for the purpose of the review.
- 3.15 The Council recognises that there will be occasions when the applicant body does not appear to satisfy the criteria generally applied but where the Council may choose to award relief. The Council has the ability to depart from its general policy as to granting relief if it sees fit to do so, taking into account the facts of each case and the interests of residents and Council Taxpayers.

#### **4. REGISTERED COMMUNITY AMATEUR SPORTS CLUBS (CASC)**

- 4.1 A mandatory rate relief of 80% is granted to registered community amateur sports Clubs (CASC). To qualify as a CASC, a sports club must fulfil all of the following criteria. It must be
- Open to the whole community;
  - Run as an amateur club;
  - A non-profit making organisation; and
  - Aiming to provide facilities for, and encourage people to take part in, eligible sport.
- 4.2 In cases where a CASC is in receipt of Mandatory Rate Relief of 80%, the Council has discretion to grant up to 20% additional rate relief as a Discretionary top up
- 4.3 The Council will consider applications for a Discretionary Rate Relief top up from CASCs based on their own merits on a case by case basis. The principal consideration is that any relief is in best interests of the residents and taxpayers of Wirral and produces a local benefit as the Council must contribute to the cost of each award.
- 4.4 Applications for a Discretionary top up can be made through the online Discretionary Rate Relief claim form
- 4.5 Applications for a Discretionary top up must be supported by, and include:
- The applicant organisation's main purposes and objectives, as set out in, for example, a written constitution, a memorandum of association, or set of membership rules;

- A full set of audited accounts relating to the two years preceding the date of application. Where audited accounts are not available, projected figures should be provided instead;
- Details of how the organisation meets the criteria outlined in these guidelines.

4.6 In determining the application the following matters will be taken into consideration:

- How the CASC supports and links into the Council's Corporate objectives;
- A club should have an open access policy. If a club effectively discriminates by only accepting members who have reached a particular standard, rather than seeking to promote the attainment of excellence by enhancing access and the development of sporting aptitude, then it does not fulfil the requirements;
- The extent to which the facilities provided reduce the demand for Council services or produce savings to the council
- Membership must be open to everyone, regardless of race, ethnic origin, sex, marital or parental status, sexual orientation, creed, disability, age, religious affiliation or political belief,
- If the organisation applying for a Discretionary Rate Relief requires membership or an entry fee, the Council will consider whether:
  - The subscription or fee is set at a level which is not prohibitively high and considered to be affordable by most sections of the community
  - Fee reductions are offered for certain groups such as, for example, under 18s or over 60s
  - Membership is encouraged from groups who face social barriers, such as, for example, young people not in employment, education or training; people above working age or people with disabilities
  - Facilities are made available to people other than members

4.7 It should be noted that sports clubs which run a bar are unlikely to be awarded relief if their main purpose is the sale of food or drink. However, if the sale of food or drink by the organisation aids the overall operation and development of the organisation in achieving its objectives, this would be permissible as long as the principal objectives of the organisation meet the eligibility criteria detailed at 4.1. If the bar makes a profit, this profit must be reinvested to support the organisation in achieving its principal objectives. Financial information will be required to evidence any profit and its use.

4.8 The Council delegates the decision making power for Discretionary Rate Relief awards to the Head of Customer Services and the Section 151 Officer.

- 4.9 The initial recommendations to award or refuse a Discretionary Rate Relief top up will be made by the staff from the Business Rates section.
- 4.10 Applicants will be informed in writing of the outcome of their application as possible.
- 4.11 The granting of relief will be reviewed annually and those in receipt of Discretionary Rate Relief may be asked to supply or confirm relevant information for the purpose of the review.
- 4.12 The Council recognises that there will be occasions when the applicant body does not appear to satisfy the criteria generally applied but where the Council may choose to award relief. The Council has the ability to depart from its general policy as to granting relief if it sees fit to do so, taking into account the facts of each case and the interests of residents and Council Taxpayers.

## **5. NON-PROFIT MAKING ORGANISATIONS INCLUDING COMMUNITY INTEREST COMPANIES (CIC)**

5.1 The Council has the power to grant discretionary rate relief of up to 100% for the rates due to non-profit making organisations. The main objectives of the organisation must be related to:

- Relief of poverty;
- Advancement of religion;
- Advancement of education;
- Social Welfare;
- Science;
- Literature;
- Fine arts;
- Recreation

5.2 An organisation must be able to demonstrate how it

- meets local needs and benefit local people; and
- provides a valuable service to the community; and
- is open to all sections of the community; and operates in such a way that it does not discriminate against any section of the community; and
- is not conducted or established for the primary purpose of accruing profit.

5.3 The Council will consider applications for a Discretionary Rate Relief top up from non-profit making organisations based on their own merits, on a case by case basis. The principal consideration is that any relief is in the best interests of the residents and Council Tax payers of Wirral and produces a local benefit as the Council must contribute to the cost of each award. As such, top up will only be awarded to the following type of non-profit making organisations:

- Scouts, guides, cadets and other clubs/associations for young people;
- Community schemes encompassing organisations providing support for those over the age of retirement, community transport, those based on volunteering and residents associations;
- Organisations providing support in the form of advice, training for employment or counselling;
- Organisations that provide services that address the consequences of ill health and disability;
- Locally based leisure and cultural organisations;
- Armed forces veterans associations.

5.4 If the organisation applying for DRR requires membership or an entry fee, the Council will consider whether:

- Membership is open to everyone, regardless of race, ethnic origin, sex, marital or parental status, sexual orientation, creed, disability, age, religious affiliation or political belief.
- The subscription or fee is set at a level which is not prohibitively high and considered to be affordable by most sections of the community.
- Fee reductions are offered for certain groups such as, for example, under 18s or over 60s.
- Membership is encouraged from groups who face social barriers, such as, for example, young people not in employment, education or training; people above working age; or people with disabilities.
- Facilities are made available to people other than members

5.5 Applicants will be encouraged to submit their applications through an online Discretionary Rate Relief Form

5.6 Applications for DRR must be supported by, and include:

- The organisation's main purposes and objectives, as set out in, for example, a written constitution, a memorandum of association, or set of membership rules.
- A full set of audited accounts relating to the two years preceding the date of application. Where audited accounts are not available, projected figures should be provided instead.

- Details of how the organisation meets the criteria outlined in these guidelines.

- 5.7 If an organisation in receipt of DRR ceases to meet the eligibility criteria outlined in this policy, it will cease to receive DRR. The Council will give such organisations twelve months written notice prior to the withdrawal of DRR.
- 5.8. The Council delegates the decision making power for Discretionary Rate Relief awards to the Head of Customer Services and the Section 151 Officer.
- 5.9 The initial recommendations to award or refuse a Discretionary Rate Relief top up will be made by the staff from the Business Rates section.
- 5.10 The granting of relief will be reviewed annually and those in receipt of DRR may be asked to supply or confirm relevant information for the purpose of the review.
- 5.11 Applicants will be informed in writing of the outcome of their application as possible.
- 5.12 The granting of relief will be reviewed annually and those in receipt of Discretionary Rate Relief may be asked to supply or confirm relevant information for the purpose of the review.
- 5.13 The Council recognises that there will be occasions when the applicant body does not appear to satisfy the criteria generally applied but where the Council may choose to award relief. The Council has the ability to depart from its general policy as to granting relief if it sees fit to do so, taking into account the facts of each case and the interests of residents and Council Taxpayers.

## **6. HARSHIP RELIEF**

- 6.1 The Council has the power under Section 49 of the Local Government Finance Act 1988 to reduce or remit the Non-Domestic Rates charged in certain circumstances where the applicant organisation is enduring temporary financial difficulties. This is known as Discretionary 'Hardship' Relief.
- 6.2 The Council may grant Discretionary Hardship Relief if it is satisfied that:
- The ratepayer would sustain financial hardship if the Council did not do so, and,
  - It is reasonable for the Council to grant relief, with regard to the interests of its residents and Council Tax payers.
- 6.3 Discretionary Hardship Relief is a temporary measure which should not be used to artificially sustain a failing business. Discretionary Hardship Relief will be awarded where the applicant organisation is facing temporary financial difficulties and where the community would be significantly disadvantaged if the business were to close due to these temporary financial constraints.

- 6.4 When deciding to award hardship relief, as well as being confident that the organisation is experiencing hardship, the principle consideration will be that any relief is in the best interests of the taxpayers of Wirral as the Council must bear the cost of any relief granted.
- 6.5 Applicants will be encouraged to submit requests for Discretionary Hardship Relief through the use of an online Discretionary Rate Relief claim form.
- 6.6 Applications for Discretionary Hardship Relief be accompanied by full set of audited accounts relating to the two years preceding the date of application. Where audited accounts are not available for the current financial year, projected figures should be provided instead. It is recommended that applicant organisations submit audited accounts dating back further than two years, if such information is available.
- 6.7 Discretionary Hardship Relief is awarded as a temporary measure in accordance with the applicant organisations circumstances and the anticipated length of the financial difficulties.
- 6.8 The Council delegates the decision making power for Discretionary Rate Relief awards to the Head of Customer Services and the Section 151 Officer.
- 6.9 The initial recommendations to award or refuse a Discretionary Rate Relief top up will be made by the staff from the Business Rates section.
- 6.10 Applicants will be informed in writing of the outcome of their application as possible.
- 6.11 The granting of relief will be reviewed annually and those in receipt of Discretionary Rate Relief may be asked to supply or confirm relevant information for the purpose of the review.
- 6.12 The Council recognises that there will be occasions when the applicant body does not appear to satisfy the criteria generally applied but where the Council may choose to award relief. The Council has the ability to depart from its general policy as to granting relief if it sees fit to do so, taking into account the facts of each case and the interests of residents and Council Taxpayers.

## **7. PART OCCUPATION RELIEF**

- 7.1 Section 44(a) of the Local Government Finance Act 1988 enables the council to grant relief on business premises that are partly occupied, as long as this situation is for a short time
- 7.2 The length of this period is at the council's discretion and will be considered on the basis of each application for his relief.
- 7.3 The situation must be happening at the present time, so retrospective claims cannot be considered.

- 7.4 Applications for Part Occupied Relief can be made via the online Discretionary Rate Relief Form
- 7.5 Applications for Part Occupied Relief top up must be supported by, and include
- A plan of the property clearly marking the areas that are occupied and unoccupied.
  - The reasons why the property is unoccupied
  - A plan will also be required to show it is intended to bring the unoccupied part back into use and within what timescales.
- 7.6 The Council delegates the decision making power for Part Occupied Relief awards to the Head of Customer Services and the Section 151 Officer.
- 7.7 The initial recommendations to award or refuse a Part Occupied Relief will be made by the staff from the Business Rates section.
- 7.8 Applicants will be informed in writing of the outcome of their application as possible.

## **8. SUPPORTING SMALL BUSINESS SCHEME**

- 8.1. Within the Spring Budget on 8 March 2017 the Government announced further support to small businesses affected by the 2017 Revaluation; this is to be known as 'Support to Small Business' relief. This relief will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their Small Business Rates Relief and are facing large increases in their bills. For businesses that qualify their increase in rates will be limited to no more than £600 per annum.
- 8.2. The Council will make the award automatically without the completion of an application form. The award is for 5 years or until they reach the level of charges they would have reached without the scheme.
- 8.3. A change of ratepayer will not affect eligibility for the scheme unless the property becomes vacant or occupied by a charity. Normal European State Aid de-minimis rules apply to the award.
- 8.4. Small Business Support will be awarded under Section 47 of the Local Government Finance Act 1988. The authority will be fully reimbursed for the costs of granting this relief under Section 31.

## **9. SUPPORT FOR LOCAL NEWSPAPERS**

- 9.1. From 1 April 2017 the Government has provided funding to local authorities to provide a discount of £1,500 per year to office space occupied by local newspapers. The relief is specifically for local newspapers and is not available to magazines.

- 9.2. To qualify the property must be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters. The amount of relief is limited to a maximum of one discount per newspaper title and per property.
- 9.3 The relief is fully funded by Central Government. This discount will cease at the 31<sup>st</sup> March 2025 unless extended by legislation.

## **10. BUSINESS RATE RETAIL DISCOUNT SCHEME**

- 10.1 The Government announced in the Budget on 29 October 2018 that it will provide a business rates Retail Discount scheme for occupied retail properties with a rateable value of less than £51,000 in 2019-20 and no rateable value limit for 2020-21. In the event that this is extended for 2021-22, the Authority will follow the government guidelines if it is fully funded by Section 31 Grant or referred to Members if not fully funded.
- 10.2 The value of discount will be as determined by the government and must be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied.
- 10.3 Where an authority applies a locally funded relief, for instance a hardship fund, under section 47 this must be applied after the Retail Discount.
- 10.4 The criteria for the relief has been outlined by the government as follows
- 10.5 Properties that will benefit from the relief will be occupied hereditaments with a rateable value of less than £51,000, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments. The government guidance on this is:

### **i. Hereditaments that are being used for the sale of goods to visiting members of the public:**

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/ caravan show rooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

### **ii. Hereditaments that are being used for the provision of the following services to visiting members of the public:**

- Hair and beauty services (such as: hairdressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/ TV/ domestic appliance repair
- Funeral directors
- Photo processing
- Tool hire
- Car hire

**iii. Hereditaments that are being used for the sale of food and/ or drink to visiting members of the public:**

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

10.6 To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

10.7 The list below sets out the types of uses that the Government does not consider to be retail use for the purpose of this relief.

**i. Hereditaments that are being used for the provision of the following services to visiting members of the public:**

- Financial services (e.g. banks, building societies, cash points, bureaux 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)
- Post office sorting offices

10.8 The list set out above is not intended to be exhaustive. However, it is provided by Government as a guide to the types of uses that it considers for this purpose to be retail. The Council will determine on a case by case basis whether particular properties/businesses not listed are broadly similar in nature to those above and, if so, to consider them to be retail. Conversely, properties that were not broadly similar in nature to those listed above will not be considered to be retail.

10.9 Retail discount relief will be awarded under Section 47 of the Local Government Finance Act 1988. The authority will be fully reimbursed for the costs of granting this relief under Section 31.

## **11 APPEALS**

11.1 There is no statutory right of appeal regarding Discretionary Rate Relief decisions however the council will review decisions if requested to do so by the ratepayer.

11.2 Such a request should include the reasons for requesting the review and evidence in support of that request.

11.3 Such a request must be made within one calendar month of the date the original decision was issued.

11.4 The review will be carried out by officers of the Council who did not make the original decision.

## **12. INTEREST OF MEMBERS AND OFFICERS**

12.1 Members and officers who have an interest in any aspect of an application for relief must not participate in the decision making process and must declare their interest.

## **13. POLICY REVIEW**

13.1 The Council will review the Discretionary Rate Relief policy on an annual basis but the Council reserves the right to review and revise the policy at any time as a result of information gained as a result of operating the policy or in response to Government initiatives.

13.2 Any further amendments to the above scheme for 2021/22 can be approved by the Section 151 Officer in conjunction with the Policy and Resources Committee.