

REVENUES AND BENEFITS SERVICE

Policy on Discretionary Rate Relief

2015/16

Introduction

Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988. The changes came into effect from the 1st April 2012 and extend the existing provision relating to the granting of discretionary rate relief. The decision to grant or not grant relief is purely a matter for the authority. This policy is supported by the aspiration of Herefordshire Council to support Herefordshire organisations with relief where appropriate. The existing provisions allow for the following:-

1. Mandatory Rate Relief– Registered Charities, Educational Establishments and Community Amateur Sports Clubs

Mandatory rate relief is available where the ratepayer is a charity or the trustees for a charity and the property is wholly or mainly used for charitable purposes. Relief under this category will not normally apply to a Friendly Society or Provident Society, Social Enterprises or Credit Unions unless they can provide a letter showing they are entitled to exemption from taxes under Section 505 of the Income and Corporation Taxes Act 1988.

- Mandatory 80% relief will be awarded to qualifying charities/organisations.

Community Amateur Sports Clubs (CASCs) – the scheme was introduced in April 2002 and enables many local amateur sports clubs to register with HM Revenue & Customs (HMRC) and benefit from a range of tax reliefs including gift aid.

Registered CASCs are entitled to 80% relief on any non-domestic property that is mainly used for the purposes of that club.

2. Discretionary Rate Relief

Decisions to grant rate relief must be based on the criteria set out in this policy. The Council's Chief Finance Officer or Deputy 151 Officer will determine all awards of discretionary rate relief.

Registered charities – Discretionary relief of up to 20% may be granted in addition to 80% mandatory relief providing the aims of the organisation meet the criteria of operating solely for the benefit of the residents of Herefordshire

All other non-profit making organisations including Social Enterprises – Discretionary Relief of up to 100% of the rate liability is available (determined by paragraph 3) where the property is not an excepted property (an excepted property is one occupied by a Local Authority, Fire Service, Police or Parish Councils).

Criteria –

- All or part of the premises is occupied for the purposes of one or more organisation.
- The organisation(s) should not be established or conducted for personal profit
- The objects of the organisation(s) should be charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts

3. How qualification for Discretionary Rate Relief is determined:

Discretionary Rate Relief will be awarded where organisations link into Herefordshire Council's Priorities which are to:-

- Keep children and young people safe and give them a great start in life
- Enable residents to live safe, healthy and independent lives
- Invest in projects to improve roads, create jobs and build more homes

In order to meet these priorities Herefordshire Council seeks to encourage individuals, communities and organisations to do more for themselves and their local area.

If any of the following apply, this will reduce the amount of discretionary rate relief to be awarded.

- Membership restriction. (this will include where membership rates are set at a high level as to exclude the general community.) – **Reduced by 33% (1/3)**
- An organisation runs a bar and the gross income from bar sales exceeds **£10,000** per annum.- **Reduced by 33% (1/3)**
- The percentage of members who live in Herefordshire is less than 80% unless there are valid reasons for this e.g. a club situated on the border. (additional evidence will be required)- **Reduced by 33% (1/3)**

The amount of relief will also be based on the following factors:-

- The organisation is not established or conducted for personal profit and must be able to demonstrate a direct benefit to the County of Herefordshire or to the public at large within the county;
- The level of assets and annual income of the organisation;
- Where the organisation is a social enterprise they will need to demonstrate that an “asset lock” is in place;
- Criteria contained in the “Discretionary Rate Relief Charter for Herefordshire” – see Annex A.

4. Rural Rate relief

The Council is required to maintain a Rural Settlement List which identifies all rural settlements within its area. A qualifying rural settlement must have a population of less than 3000.

Rural rate relief applies to the following types of property and is subject to the following rateable value thresholds:

- The sole post office or general store with a rateable value up to £8,500;
- A food shop with a rateable value up to £8,500 (this does not include properties where food is consumed on the premises or takeaways);
- The sole public house or filling station with a rateable value up to £12,500.

Mandatory 50% rural rate relief will be awarded to qualifying rural properties.

In addition to this the Council will also award discretionary rural rate relief as follows:

- 50% discretionary rural rate relief will be awarded to post offices and general stores;
- 25% discretionary rural rate relief will be awarded to filling stations;
- 25% discretionary rural rate relief will be awarded to Public Houses where they can prove they meet the council priorities in accordance with section 3 of this policy and the criteria contained in the “Discretionary Rate Relief Charter for Herefordshire – Annex A;
- No discretionary rural rate relief will be awarded to food shops.

The Council can also award up to 100% discretionary relief to any other business within a rural settlement occupying a property with a rateable value of £16,500 or less. The relief may be awarded where the property is used for purposes which benefit the local community and where it is in the interests of council taxpayers to grant the relief.

5. Hardship relief

Section 49 of the Local Government Finance Act 1988 allows a local authority to reduce or remit the whole or part of the rates payable in the following circumstances:

- a) where it is satisfied that the ratepayer would sustain hardship if relief is not given;
- b) it is in the interests of council taxpayers for relief to be given.

Up to 100% hardship relief may be given but central government guidance indicates that the following factors should be taken into account when considering applications:

- Although authorities may adopt rules for consideration of hardship cases, a blanket policy either to give or not to give relief should not be adopted; each case should be considered on its own merits;
- Reduction or remission of rates on grounds of hardship should be the exception rather than the rule;
- The test of hardship need not be confined strictly to financial hardship. All relevant factors affecting the ability of a business to meet its liabilities for rates should be taken into account;
- The interests of local taxpayers in an area may go wider than direct financial interests, for example where the employment prospects in the area 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 the village; and;

- Where the granting of relief would have an adverse effect on the financial interests of local taxpayers, the case for a reduction or remission of rates payable may still on balance outweigh the cost to the local taxpayers;
- Hardship Relief will not be awarded to empty properties;
- All hardship payments will be awarded for a set period and do not constitute continual payment.

In addition, the Secretary of State advised that hardship could apply to companies as well as individuals.

6. Part Occupied / Section 44

Introduction

The Council receives requests from ratepayers asking that the rateable value of a specific premise be split between the occupied and unoccupied portions and that the Council then only charge rates of the occupied portion. This is permitted under Section 44 of the Local Government Finance Act 1988.

The council has discretion to accept or refuse such a request. If the request is accepted then the Valuation Office Agency is asked to supply a certificate indicating the relevant values for the occupied and unoccupied portions and this certificate is binding to the Council.

The decision whether or not to recommend an apportionment to the Valuation Office is taken by the Revenue and Benefits Service Manager in conjunction with one of the Council's property inspectors.

The Law

Section 44A of the Local Government Finance Act 1988 allows the billing authority to charge on the basis of apportioned rateable values certified by the valuation officer where a non-domestic property is partly occupied and partly unoccupied so long as this situation exists for a "short period of time". The phrase "a short period of time" is not defined in law but is generally accepted to mean a maximum of one year. The law provides a discretionary power, but the decision whether to exercise that power must be taken before the valuation officers certificate is requested as the apportioned values are those upon which the charge must be levied once supplied.

The effect of the apportioned values applies for the **operative period**, which is defined as the period beginning with the day on which the hereditament became partly unoccupied and ending with the first day on which one or more of the following events occurs:

- The occupation of any of the unoccupied part of the property;
- The ending of the financial year in which the apportionment was required;
- The requiring of a further apportionment or;
- The complete occupation of the property;
- The complete vacation of the property.

The authority is required to terminate this relief in the event of a change in the proportions of the property occupied and unoccupied or at the end of a financial year, and then may, if appropriate, consider requesting the valuation officer to issue a further certificate.

7. All other types of Business

Section 69 of the Localism Act 2011 amends the 1988 Act to allow local authorities the discretion to award rate relief to all types of businesses. The Plain English Guide to the Act addresses this as follows:

“The Localism Act gives councils more freedom to offer business rate discounts - to help attract firms, investment and jobs. Whilst councils would need to meet the cost of any discount from local resources, they may decide that the immediate cost of the discount is outweighed by the long-term benefit of attracting growth and jobs to their area.”

General Requirement - Applications for rate relief under this section of the Policy will normally only be considered favourably where the Council is satisfied that an award will result in tangible benefits to local residents and in particular where the award will directly result in attracting businesses, investment or jobs to the local area.

Maximum Amount of Award under this section - The Council has the scope to award up to 100% rate relief in any one year for qualifying businesses under this section.

8. Appeals

Under the Local Government Finance Act 1992 there is no right of appeal against the Council's use of discretionary powers. However, the Council will accept a customer's request for a re-determination of its decision. If an application for discretionary rate relief has been refused applicants have the opportunity to request a re-determination. All requests must be made in writing, within one month of the Council's decision. Requests will be considered by a panel of two officers who were not involved in the original decision.

If an unsuccessful applicant decides to make a request for re-determination, they will still need to continue to pay their rates bill. If the request is successful, the rates bill will then be adjusted and any overpayment refunded accordingly.

9. State Aid

European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.

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

Where the relief to any one business is greater than the equivalent of 200,000 euros over three years, then permission will be needed from the European Commission. In such cases the matter will be referred to the Department for Communities and Local Government for advice and then referred to the Council for consideration.

DISCRETIONARY RATE RELIEF CHARTER FOR HEREFORDSHIRE

Introduction

Herefordshire Council recognises that the voluntary and community sector (VCS) makes a major contribution to the economy, health and wellbeing of the people who live and work in Herefordshire. This covers both children's and adult's services. The County needs a healthy voluntary and community sector to provide:

- **Local community based services** – many VCS organisations (including social enterprises) are community based and may therefore be better able to work with harder to reach groups;
- **Choice** – by supporting VCS organisations (including social enterprises) the Council hopes to provide a greater choice for local people in terms of the services they are able to access and being responsive to changing local need;
- **Opportunities for people to participate** – as volunteers as well as service users
- **Specialist services** – many VCS organisations develop expertise in the particular needs of a client group

Herefordshire is also committed to protecting facilities and services in rural areas, as they improve the resilience of communities and support those who are more vulnerable and isolated. These services provide:

- **A Social hub** – a focal point for the community and a place for people to meet; find out what's going on locally and to interact socially. This is particularly important for the sections of the community that might otherwise be socially excluded, particularly the elderly living alone, or those with disabilities;
- **Facilities for those with limited transport options** – very local facilities provide a lifeline for those unable to travel further afield, due to lack of public transport, poverty or limited mobility;
- **Employment** – rural retail services provide employment opportunities and are often flexible opportunities which provide employment to young people and those seeking part time work;
- **Support for local producers** rural retail services provide a valuable outlet for local producers;

The Council also recognises that the Discretionary Rate Relief (DRR) is paid for in part, by council tax payers and therefore the Council has a duty to ensure that public funds are spent wisely, with due transparency and accountability. By awarding DRR, the Council is effectively awarding grant aid to those organisations, so they can use their resources towards achieving the aims of this charter rather than paying the rates that would otherwise be due

Aim

The aim of the Discretionary Rate Relief scheme is to support organisations to run and further develop facilities, services or activities which directly benefit Herefordshire residents and meet the priorities of the Council.

Council's Priorities and how your organisation can help

The council's priorities are to:

- Keep children and young people safe and give them a great start in life;
- Enable residents to live safe, healthy and independent lives;
- Invest in projects to improve roads, create jobs and build more homes.

In order to meet these priorities Herefordshire Council seeks to encourage individuals, communities and organisations to do more for themselves and their local area.

Priority	How your organisation can help
Keeping children and young people safe and giving them the best start in life	<ul style="list-style-type: none">• Provide services and activities which support vulnerable children and their families;• Engage with children and young people about what things they would like to take place;• Make your services and activities accessible and open to children and young people.
Enabling residents to live safe, healthy and independent lives	<ul style="list-style-type: none">• Provide services and activities which support people to live independently and stay healthy;• Engage with more vulnerable residents about what things they would like to take place;• Make your services and activities accessible and open to the more vulnerable and socially excluded;• Enabling communities to help themselves through improved local coordination of activities which support vulnerable and socially excluded residents
Investing in projects to improve roads, create jobs and build more homes	<ul style="list-style-type: none">• Support local producers;• Offer local employment, training and volunteering opportunities;• Reduce journey times by increasing access to local services.

Evidence needed for eligibility

VCS Organisations will need to describe how they deliver and intend to develop activities to meet the Council's priorities and to what level they believe these services/ activities will directly benefit Herefordshire residents;

Organisations will need to commit to provide and update information on their services and activities as advised by Herefordshire Council.

It is known that many VCS organisations already deliver activities that satisfy the priorities; however there is an expectation that "additionality" will be evidenced by doing and offering more in their communities.

Types of Relief available

There are two types of business rate relief – Mandatory and Discretionary.

Mandatory Rate Relief is funded nationally and granted to the following categories of Business Rates payer:

1. Registered charities;
2. Village Post Offices, general stores, specialist food shops, public houses and petrol filling stations – if they are in a designated rural settlement;
3. Registered Community Amateur Sports Clubs (CASCs)

Discretionary Rate Relief - Local authorities also have the power to grant discretionary rate relief as follows:

- To make a further award on top of Mandatory Rate Relief to those categories listed above and also:
- In respect of sports grounds and clubs;
- To other non-profit making organisations including asset locked social enterprises, such as Community Interest Companies
- To other rural businesses situated within a designated rural settlement