



# **Business Rates**

## **Policy Framework for Mandatory & Discretionary Reliefs**

## VERSION CONTROL

Version	Version Date	Author	Description
1	31/05/2016	David Barnes	Introduction of revised framework (to take effect from 2017-18)
2	20/02/2017	David Barnes	Draft Revised framework (to take effect from 2017-18) which provides additional rate relief to small Charities, Voluntary and Community organisations occupying small premises with a rateable of up to £6,000.

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## **1.0 Introduction**

- 1.1 This document sets out the Councils framework on awards of Mandatory and/or Discretionary Rate Relief for Business Rates.
- 1.2 Although each application will be considered on its own merits, this document provides a framework within which officers may exercise delegated authority to deal with business ratepayers consistently and fairly.
- 1.3 Welsh Government periodically introduces relief schemes for particular categories of ratepayer, for example the Small Business Rate Relief Scheme and the Wales Retail Relief Scheme. This framework is not intended to cover such schemes since the qualification criteria are set by the Welsh Government.
- 1.4 Discretionary Rate Relief for Charitable, Voluntary and 'Not for Profits' organisations will be awarded on a continual basis, subject to a minimum of 12 months and one full financial year notice if any ratepayer is impacted by a future change to this framework policy. In other words, if notice of a change which results in an increase in the amount payable is not given by 31st March, relief would continue at the same level for a further two years.
- 1.5 This policy framework also deals with the emergence of new organisations that are structured and set-up as 'not for profit'. The framework introduces more clarity around qualification rules for Community Interest Companies and Social Enterprises to demonstrate they exist as 'not for profits' where the premises are used for charitable, philanthropic or religious purposes, or concerned with recreation, education, social welfare, science, literature or the fine arts.

## **2.0 Summary of Legislative Framework**

- 2.1 The law relating to reliefs for Mandatory and/or Discretionary Rate Relief is contained in the Local Government Finance Act 1988, specifically:
- 2.2 **Section 43** relates to occupied property and requires Mandatory Rate Relief where the ratepayer is a charity or trustee for a charity and the property is used wholly or mainly for charitable purposes. This section also includes provisions for Community Amateur Sports Clubs (CASC).
- 2.3 **Sections 47 and 48** permit Discretionary Rate Relief for charities and other organisations of prescribed type. Section 47 also includes provisions for CASC
- 2.4 **Section 69** of the Localism Act 2011 amended Section 47 to permit local authorities to grant discretionary relief in any circumstances, if it is reasonable for the authority to do so, having regard to the interests of council tax payers in its area.

### **3.0 Mandatory Rate Relief**

- 3.1 In order to qualify for Mandatory Rate Relief an organisation must not be conducted for profit and the property they occupy must be wholly or mainly used for charitable purposes, or those of a Community Amateur Sports Club. If the property is empty it must appear that when next in use the property will be wholly or mainly used for charitable purposes.
- 3.2 Organisations typically qualifying for Mandatory Rate Relief are: charities registered under Section 3 of the Charities Act 1983; those excepted from such registration; charity shops, provided that they are wholly or mainly used for the sale of goods donated to the charity and proceeds from sale are used for the charity only; registered Community Amateur Sports Clubs (CASC).
- 3.3 Entitlement to Mandatory Rate Relief is at the level of 80% of the gross rates payable. The cost of awarding Mandatory Rate Relief is funded entirely by Welsh Government.

### **4.0 Discretionary Rate Relief – Charitable, Voluntary groups, Sports clubs and ‘Not-for-profits’ organisations**

- 4.1 In cases where ratepayers are registered Charities or registered as a Community Amateur Sports Club (CASC) and thereby entitled to 80% Mandatory Relief, the Council **will not** usually consider awarding additional Discretionary ‘top-up’ relief for those Charities or CASC’s who occupy premises with a rateable value of £6,001 or greater.
- 4.2 In cases where ratepayers are registered Charities or registered as a Community Amateur Sports Club (CASC) and occupy small premises with a rateable value of up to £6,000, in addition to entitlement to 80% Mandatory Relief, the Council will usually award additional Discretionary ‘top-up’ relief of 20%.
- 4.2 In cases where Voluntary, Sports Clubs and ‘not-for-profit’ organisations are not registered with the Charity Commission or as a CASC, Discretionary Rate Relief for those organisations who occupy premises with rateable values of £6,000 or less, will usually be annually awarded Discretionary Rate Relief at a level of 100%, apart from golf clubs who may receive an annual award at a level not exceeding 40%.
- 4.3 Voluntary, Sports Clubs and ‘not-for-profit’ organisations who occupy premises with rateable values in excess of £6,001 may receive an annual Discretionary Rate Relief award at a level not exceeding 80%, apart from golf clubs who may receive an annual award at a level not exceeding 40%.
- 4.4 To qualify for Discretionary Rate Relief, the ratepayer will usually be a sporting club/society or other not for profit Community Interest Company or Registered Social Enterprise, occupying premises wholly or mainly and used for the sole purpose of philanthropic or religious purposes, or concerned with recreation, education, social welfare, science, literature or the fine arts

- 4.5 For the purposes of awarding Discretionary Rate Relief, 'not for profit' organisations will be considered as those not conducted or maintained for the purpose of making a profit and whose surpluses are used to further achieve their aims and objectives rather than distribute income to the organisations shareholders. For easy understanding these will typically be member or community serving organisations.
- 4.6 The key test to establish 'not for profits' will centre around whether they are genuinely run as 'not for profit', To aid decision making considerations will be made around:
- Assessing the memorandum and articles of association to determine the type of organisation, and that it is not for profit and/or for a social purpose associated with charitable, philanthropic or religious purposes, or concerned with recreation, education, social welfare, science, literature or the fine arts - ensuring these elements are built into this document with clarity and what happens to any traded surpluses
  - Consideration of the initial business plan and audited accounts to check whether traded surpluses are re-invested each year for advancement of their mission and social purpose.
  - Assessing on an annual basis, submitted audited accounts and any revisions to the memorandum and articles of association to ensure the application of surpluses are as detailed in their memorandum and articles and to monitor/prevent building up of excessive reserves.

## **5.0 Discretionary Rate Relief – other commercially operating organisations**

- 5.1 The Council can also provide discretionary relief in any circumstances in line with the Localism Act 2011. This is subject to the condition that, except in the limited circumstances specified, the Council may only grant relief if it would be reasonable to do so having full regard to the interests of council tax payers who would ultimately finance the full cost of providing rate relief in these circumstances.
- 5.2 The framework that will be adopted is for the Chief Officer – Community & Enterprise and Cabinet Member for Corporate Management consider any applications received for discretionary discounts falling outside the scope of the policy in section 1.03 to be considered on their own merits using the following criteria:
- Requests for reductions will be required in writing with a full business case and documentary evidence in support of the need for relief
  - The Councils finances allow for a reduction to be made
  - It must be in the interests of Council Tax payers and the wider public interest to grant a reduction
  - All other eligible discounts/reliefs have been considered prior to seeking discretionary rate relief

## **6.0 Discretionary Rate Relief – Small Businesses in receipt of Small Business Rate Relief**

6.1 Welsh Government provide 100% Small Business Rate (SBR) Relief to most businesses with a rateable value of £6,000 or less, and those with a rateable value between £6,001 and £12,000 receive ‘tapered relief’ from 100% to zero which is financed completely by Welsh Government.

6.2 The Welsh Government SBR scheme also contains provision for local authorities to award discretionary ‘top-up’ relief to small businesses not qualifying for 100% SBR reductions, although the cost of providing ‘top-up’ awards to small businesses is financed completely by the Council.

6.3 The policy framework is not to award additional ‘top-up’ discretionary relief beyond what businesses already receive in SBR.

## **7.0 Applications for Discretionary Relief**

7.1 Applications for reliefs should be made in writing using the prescribed forms available on the Councils website. Applications for Discretionary Relief should also provide the following information:

- Latest set of Audited Accounts;
- A copy of the organisation’s constitution
- Evidence of registration as a Community Amateur Sports Club (if relevant).
- For organisations that are exempt from registering as a charity – evidence of the exemption is required in the form of a letter from HMRC stating that they are exempt from tax under S505 of the Income and Corporation Tax Act 1988

7.2 Applications will be considered by the Chief Officer for Community & Enterprise in line with the policy framework as laid out in this document.

7.3 Entitlements to relief will usually commence from the beginning of a ratepayers liability in the billing year in which the application is made.

## **8.0 Communication with Applicants**

8.1 The Council will notify in writing all applicants for reliefs of its decision.

8.2 Where relief is granted, the notification will include:

- The amount of relief granted and the effective date of the award
- The period of the award, if it is limited;
- The new chargeable amount;
- A requirement that the applicant should notify the Council of any relevant change in circumstances.

8.3 Where applications are unsuccessful the Council will provide an explanation within the context of its statutory duty in order to properly inform ratepayers of the reason for the application being unsuccessful