

NON-DOMESTIC RATES POLICY FRAMEWORK FOR MANDATORY, DISCRETIONARY AND HARDSHIP RATE RELIEF



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1. INTRODUCTION

- 1.1 The Local Government Finance Act 1988 and subsequent legislation requires local authorities to grant mandatory rate relief for premises occupied by charities and similar organisations that own or occupy them wholly or mainly for charitable purposes.
- 1.2 Whilst the Council is obliged to grant relief to premises that fall within the mandatory category, the Council also has powers under the Local Government Finance Act 1988 and Localism Act 2011 to grant discretionary relief to ratepayers subject to certain criteria being met.
- 1.3 The document sets out the legislative framework and criteria to be met within Ceredigion on the awarding of:
 - i. Mandatory Rate Relief
 - ii. Discretionary Rate Relief
 - iii. Hardship Rate Relief.
- 1.4 Although each application will be considered on its own merits, the approach has regard to the impact:
 - i. of granting Discretionary and Hardship Rate Relief on the Council's wider financial position and Council Taxpayers;
 - ii. on the organisations and businesses that currently receive or may apply for relief in the future;
 - iii. on the residents of Ceredigion if relief is awarded and the economic benefits to the area.
- 1.5 The introduction of the Policy will provide Members and Officers with a framework for the administration and control of the reliefs while dealing with Business Ratepayers consistently and fairly.

2. MANDATORY RATE RELIEF

- 2.1 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.
- 2.2 The following types of organisations typically qualify for Mandatory Rate Relief:
 - i. Charities registered under the Charities Act 1993 as amended, is conclusive evidence of charitable status.
 - ii. Organisations which, under the 1993 Act, are excepted from registration or are exempt charities are also eligible for Mandatory Rate Relief e.g.
 - a) Church Commissioners;
 - b) Organisations registered with the Friendly Societies Acts 1974;
 - c) Scouts and Guides Associations;

- d) Voluntary Schools within the meaning of the Educations Acts 1944 and 1980
 - iii. Charity shops provided they are wholly or mainly used for the sale of goods donated to the charity and proceeds from the sale of goods are used for the charity only
 - iv. A Community Amateur Sports Clubs registered for the purposes of schedule 18 to the Finance Act 2002
- 2.3 Under Section 43 the Local Government Finance Act 1988 providing the above criteria are met the Council is obliged by law to grant 80% Mandatory Rate Relief. This is fully funded by the Welsh Government.
- 2.4 The Council has the discretion to award up to 20% Discretionary Rate Relief to certain organisations that qualify for 80% Mandatory Rate Relief. Please see section 3 – Discretionary Rate Relief for the qualifying conditions.
- 2.5 An application must be made in writing using the Council’s approved application form. The Mandatory Rate Relief form is available on the Council’s website or issued to ratepayers requesting the relief.
- 2.6 The effective date of entitlement for Mandatory Rate Relief will be the latter of:
- i. The date of occupation of the premises; or
 - ii. The date of registration as a charity
- In the case of a Community Amateur Sport Club it will be the latter of:
- i. The date of occupation of the premises; or
 - ii. The date of registration by HMRC
- 2.7 Ceredigion will conduct an annual check to confirm entitlement and on a set three yearly cycle a full review will be undertaken. However, there is a requirement that the organisation/business should notify the authority of any change in circumstances that may affect entitlement to relief.

3. DISCRETIONARY RATE RELIEF

- 3.1 Organisations that have been awarded 80% Mandatory Rate Relief under Section 43 of the Local Government Finance Act 1998 (as outlined in section 2), may apply for an additional 20% Discretionary Rate Relief ‘top-up’. The additional Discretionary Rate Relief ‘top-up’ will not be granted to the following organisations:
- i. Universities or other Educational establishments;
 - ii. Charity shops
- 3.2 Not-for-profit sporting organisations that apply for Discretionary Rate Relief will be granted 100% relief.

- 3.3 Registered Community Amateur Sports Clubs are eligible for 80% Mandatory Rate Relief and if they apply for Discretionary Rate Relief they will be granted 20% relief.
- 3.4 Charity shops will be eligible for 80% Mandatory Rate Relief if they are wholly or mainly used for the sale of goods **donated** to a charity and the proceeds of sale of goods (after any deduction of expenses) are applied for the purposes of a charity. Charity shops will **not** be awarded Discretionary Rate Relief.
- 3.5 Village Halls can apply for Discretionary Rate Relief which will be granted in accordance with the following criteria:
- i. If registered as a charity will be granted 80% Mandatory Rate Relief and an additional 20% discretionary rate relief.
 - ii. If not registered as a charity will be granted 100% Discretionary Rate Relief.
- 3.6 Children or Youth organisations providing educational or recreational opportunities for the younger generation of Ceredigion will be granted Discretionary Rate Relief in accordance with the following criteria:
- i. If registered as a charity will be granted 80% Mandatory Rate Relief and an additional 20% Discretionary Rate Relief.
 - ii. If not registered as a charity will be granted 100% Discretionary Rate Relief.
- 3.7 Organisations whose main object is concerned with the social welfare of individuals within Ceredigion will be granted Discretionary Rate Relief in accordance with the following criteria:
- i. If registered as a charity will be granted 80% Mandatory Rate Relief and an additional 20% Discretionary Rate Relief.
 - ii. If not registered as a charity will be granted 100% Discretionary Rate Relief.
- 3.8 Applications from organisations other than those above will be considered on merit by a panel consisting of a Cabinet Member, Corporate Lead Officer Finance and Procurement, Corporate Manager Revenues and Financial Assessment and/or Local Taxation Manager.
- 3.9 An application must be made in writing using the Council's approved application form which is available on the Council's website or issued to ratepayers requesting the relief. Please note that organisations that are applying for both 80% Mandatory Rate Relief and 20% Discretionary Rate Relief will only need to complete one application form but will need to indicate that they are applying for both reliefs.

- 3.10 The effective date for organisations qualifying for Discretionary Rate Relief, whether or not they also qualify for Mandatory Rate Relief will be:
- i. Where the application is made on or before 30th September in the current rating year, the latter of:
 - 1st April in the previous year; or
 - The date of occupation of the premises.
 - ii. Where the application is made on or after the 1st October in the current rating year, the latter of:
 - 1st April in the current year; or
 - The date of occupation of the premises.
- 3.11 Ceredigion will conduct an annual check to confirm entitlement and on a set three yearly cycle a full review will be undertaken. However, there is a requirement that the organisation/business should notify the authority of any change in circumstances that may affect entitlement to relief.
- 3.12 Under Regulation 2 of the Non-Domestic Rating (Discretionary Relief) Regulations 1989, Ceredigion must give notice if they decided to vary or terminate the relief awarded under this Policy framework. One year's notice is required which must take effect at the end of the financial year. In other words, if notice of a change which could increase a bill is not given by 31st March, relief could continue at the same level (at least) for a further two years.

4. LOCALISM ACT 2011

- 4.1 Section 69 of The Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988 to allow local authorities to grant Discretionary Rate Relief in any circumstances where it feels fit having regard to the effect on the Council Tax Payers of its area.
- 4.2 Each application will be considered on its own merits and will take the following into consideration:
- i. The benefit to both the community and the Council Tax Payer that can be derived from granting Discretionary Rate Relief e.g. employment in the area and the amenities available to the local community.
 - ii. Other businesses in the area which provide the same or similar services or facilities.
 - iii. If the award of relief will have an anti-competitive effect on other businesses.
 - iv. Whether the business is essential to the local community e.g. the impact on the community
 - v. Discretionary Rate Relief would not be granted where there is little expectation of economic survival.

- 4.3 An application must be made in writing using the Council's approved form which is available on the Council's website or issued to ratepayers requesting the relief. You should provide sufficient information to enable the considerations outlined in 4.2 above to be made. The business must also provide the following information and documentation:
- i. Copies of your audited or certified profit and loss accounts and balance sheets for the last three years. If you have traded for less than three years, please send all available accounts. In addition, you may wish to send any other relevant information.
 - ii. An up to date statement prepared by your Accountant or Business Adviser, on the present financial standing of the business including estimated trading and profit and loss accounts and balance sheet (if this information cannot be provided, please supply copies of your business bank accounts for the period since your last audited accounts to date, together with an estimate of your business expenses covering the same period).
 - iii. A cash flow forecast on a monthly basis for the next 12 months.
- 4.4 Organisations/businesses must clearly demonstrate why it is in the interests of the Council Tax Payer for a Discretionary Rate Relief to be granted.
- 4.5 The interests of the Council Tax Payer plays an important part of any decision as 100% of any award will ultimately be paid via their Council Tax charge, hence the reason why the size and duration of any award will be restricted.
- 4.6 Each application will be considered by a panel consisting of a Cabinet Member, Corporate Manager Revenues and Financial Assessments and Local Taxation Manager.

5. HARDSHIP RATE RELIEF

- 5.1 The Council has discretion under Section 49 of the Local Government Finance Act 1988 to grant relief of up to 100% where hardship is experienced.
- 5.2 Hardship Rate Relief will be considered where the business is suffering from unexpected hardship which is outside of normal risks associated with the business. Any relief on the grounds of hardship will only be awarded in exceptional circumstances.
- 5.3 In order to qualify for the Hardship Rate Relief the Council must be satisfied that:
- i. The ratepayer would sustain hardship if it did not do so; and
 - ii. It is reasonable for the Council to do so having regard to the interests of the Council Tax Payers.
- 5.4 The Council will consider each application on its own merits and will take the following into consideration:

- i. The importance and value of the business to the local community e.g. would the employment prospects in the area worsen if the company went out of business or would the loss of the business result in a reduction in amenities of an area, for instance, loss of the only shop in the village.
- ii. What evidence is there of hardship? This need not be confined strictly to financial hardship: all factors affecting the ability of a business to meet its liability for rates will be taken into account.
- iii. What is the cause and expected duration of the hardship?
- iv. What measures have been already taken to alleviate/remedy the situation?
- v. Is the hardship likely to be a temporary condition e.g. would a one-off award of relief be sufficient to remove the hardship?
- vi. What is the extent of the hardship: is it likely that the business would be unsustainable even if the relief was awarded?

5.5 An application for Hardship Rate Relief must be made in writing using the Council's approved form which is available on the Council's website or issued to ratepayers requesting the relief. You should provide sufficient information to enable the considerations outlined in 5.4 above to be made. The business must also provide the following information and documentation:

- i. Copies of your audited or certified profit and loss accounts and balance sheets for the last three years. If you have traded for less than three years, please send all available accounts. In addition, you may wish to send any other relevant information.
- ii. An up to date statement prepared by your Accountant or Business Adviser, on the present financial standing of the business including estimated trading and profit and loss accounts and balance sheet (if this information cannot be provided, please supply copies of your business bank accounts for the period since your last audited accounts to date, together with an estimate of your business expenses covering the same period).
- iii. A cash flow forecast on a monthly basis for the next 12 months.

5.6 The period and amount of the award will be on a case by case basis. However, the award will be limited to the period that there is clear evidence of hardship and up to a maximum of one billing/financial year. Applicants will be required to reapply annually.

5.7 Each application will be considered by a panel consisting of a Cabinet Member, Corporate Manager Revenues and Financial Assessments and Local Taxation Manager.

5.8 The Welsh Government meets 75% of the cost of Hardship Rate Relief, with the Council Tax Payers meeting the remaining 25%.

6. FINANCIAL IMPLICATIONS OF MANDATORY AND DISCRETIONARY AWARDS

- 6.1 Mandatory Rate Relief is awarded at 80% of the rate liability. The full cost of the award is funded by the Welsh Government.
- 6.2 Discretionary Rate Relief has different funding arrangements and the table below shows the costs which will be met by the Welsh Government and costs that will be met by the local Council Tax Payers.
- 6.3 Where any relief is allowed under the Localism Act 2011 the full cost is borne by Ceredigion and falling totally on the local Council Tax Payers.

Type of Relief	Maximum Relief	Proportion of the cost met by:	
		Welsh Government	Council Tax Payer
Mandatory	80%	100%	0%
Discretionary 'Top Up'	Up to 20%	25%	75%
Discretionary Rate Relief only	Up to 100%	90%	10%
Localism Act	Up to 100%	0%	100%
Hardship Rate Relief	Up to 100%	75%	25%

7. ADMINISTRATION AND COMMUNICATION PROCESS

- 7.1 Except for Mandatory Rate Relief, relief is not a matter of right. The Council is entitled through its Policy to determine different levels of Discretionary and Hardship Rate Relief according to the nature and circumstances of individual Organisations and Businesses. It should also be noted that the Council's ability to grant relief may be limited by other factors, notably the budget available.
- 7.2 The following section outlines the procedure followed by officers in granting, amending or cancelling relief.
- 7.3 As explained in the previous sections Mandatory, Discretionary and Hardship Rate Relief must be applied for in writing on the Council approved application forms. These are available on the Council website or issued to ratepayers requesting the relief.
- 7.4 Organisations/Businesses are required to provide the completed application form, along with any such evidence, documents, accounts, financial statements etc. necessary to allow the Council to make a decision. Where

insufficient information is provided, despite a reminder, then no relief will be granted.

7.5 In all cases, the Council will notify the rate payer of the decision made.

7.6 Where an application is successful, the following will be notified in writing:

- i. the amount of relief granted and the date from which it has been granted;
- ii. the date of which any relief granted will end;
- iii. the new chargeable amount;
- iv. the details of any planned review dates and the notice that will be given in advance of any change to the level of relief granted; and
- v. the requirement that the applicant should notify the authority of any change in circumstances that may affect entitlement to relief.

7.7 Where relief is not granted or limited to a lower amount of relief, then the following information will be notified writing:

- i. an explanation of the decision within the context of its statutory duty; and
- ii. an explanation of the appeal rights (see below)

8. RIGHTS OF APPEAL

8.1 An appeal against a decision by the Authority to reject or restrict the award of Discretionary or Hardship Rate Relief must be made in writing within 21 days from the date of notification of decision. The appeal must clearly set out the grounds of appeal and supply all relevant supporting documentation. Where the original decision was made in ignorance of all the facts the decision will be reviewed by the original panel. Otherwise an appeal application will be considered by the appeal panel which consists of Members of the Cabinet

9. STATE AID

9.1 Relief from paying non-domestic rates could amount to state aid. It is lawful where it is provided in accordance with the Commission Regulation (EU) 1407/2013 on de minimis aid. The de minimis regulation allows an undertaking to receive up to €200,000 'de minimis' aid over a rolling three year period. If you are receiving, or have received, any 'de minimis' aid granted during the current or two previous financial years (from any source), you should inform the billing authority immediately with details of the aid received.