

RE-FORMATTED APPENDIX A: DISCRETIONARY RATES RELIEF FOR CITY EXECUTIVE BOARD - WEDNESDAY 17 DECEMBER 2014

Agenda No Item

9. Discretionary Rates Relief for Businesses Policy



INVESTORS
IN PEOPLE



This page is intentionally left blank

Oxford City Council Discretionary Rate Relief Policy

01/04/2015 to 31/03/2018



Contents

- 1. Introduction and scope (page 3)**
- 2. The Discretionary Rate Relief Scheme (page 4 and 5)**
- 3. Charitable bodies (charities) (page 6)**
- 4. Registered community amateur sports clubs (page 7)**
- 5. Non-profit making organisations (page 8)**
- 6. Membership and entry fees (page 9)**
- 7. Period of Relief (page 10)**
- 8. Applications (page 11)**
- 9. Applications for other Reliefs (page 12 and 13)**
- 10. Approval (page 14)**
- 11. Policy Review (page 14)**
- 12. Communications (page 14)**
- 13. Appendix (page 15)**

1. Introduction and scope

This policy document outlines the areas of local discretion and Oxford City Council's (The Council) approach to the various awards. This approach has regard to the impact:

- On the Council's wider financial position and how that affects Council tax payers
- On the organisations and businesses that currently receive or may apply for Relief in the future
- On Oxford City residents if Relief is awarded and the regeneration benefits to the City
- of funding made available by Central Government to provide full financial support for the awarding of Retail Relief, New Build Empty Property Relief and Long Term Empty Property Relief

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

2. The Discretionary Rate Relief Scheme

Discretionary Rate Relief is granted in accordance with:

- Section 43 of the Local Government Finance Act (LGFA) 1988; and
- Section 47- 49 of the Local Government Finance Act (LGFA) 1988 as amended by the Localism Act 2011

Clause 69 of the Localism Act amended section 47 of the Local Government Finance Act (LGFA) 1988 to allow local billing authorities to fund their own local discounts entirely as it sees fit within the limits of the primary legislation and European rules on state aid. These powers can be used to encourage new business and investment, regeneration projects, as well as to support local shops or community services.

The cost of awarding discretionary rate relief is split between Central Government (50%), the County Council (10%) and the City Council (40%). However in certain circumstances Central Government fund 100% of the cost of awarding relief as detailed in Appendix A.

The powers under Section 47 of the LGFA 1988 can also be used to grant specific Reliefs that Central Government initiate, namely Retail Relief, New Build Empty Property Relief and Long Term Empty Property Relief.

Guidance was given to local authorities in 1990 and 2002 recommending that the authority should have readily understood policies for deciding whether or not to grant relief, and for determining the amount of relief to certain organisations which operate within specified criteria. This criteria covers:

- Charitable bodies already in receipt of Mandatory Relief at 80% – the Council has further discretion to ‘top up’ this Relief to 100% of the Rates due.
- Registered community amateur sports clubs already in receipt of Mandatory Relief at 80% – the Council has further discretion to ‘top up’ this Relief to 100% of the Rates due.
- Non-profit making organisations – the Council has discretion to grant Discretionary Rate Relief of between 0-100% of the Rates due.
- Property that is in a qualifying rural settlement and is a qualifying food shop, general store, Post Office, sole public house or sole petrol station already in receipt of Mandatory Relief of 50% – the Council has discretion to ‘top up’ this Relief to 100% of the Rates due. At present there are no qualifying rural settlements within the City.

The Council has approved that the level of Discretionary Relief will be 80% of the rates bill after allowing transitional relief (the same amount as Mandatory Relief), and that in normal circumstances it will not grant any Discretionary Relief to Charities over and above the 80% Mandatory Relief.

There are 2 specific categories of property for which 100% Discretionary Relief can be awarded on a time limited basis.

- New Build Empty Property
- Long Term Empty Property

There is also the award of £1,000 Retail Rate Relief in respect of qualifying retail premises, currently for a 2 year period 2014/15 and 2015/16. The City Council will automatically grant this Relief to qualifying businesses.

In making decisions about applications for Discretionary Rate Relief the Council may:

- Grant Relief up to a maximum of 100% of the Rates due
- Grant Relief for a sum less than 100% of the Rates due; or
- Refuse any application for Discretionary Rate Relief

Appendix A details how these reliefs are funded. It should be noted that Central Government will meet 100% of the costs of Transitional Relief, Retail Relief, Flooding relief Long Term Empty Property Relief and New Build Empty Property Relief.

3. Charitable bodies (charities)

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
- The 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)

Registration under the Charities Act 1993 is conclusive evidence of charitable status. Bodies which, under the 1993 Act, are exempted from registration or are exempt charities are also eligible for Mandatory Relief. Providing the above criteria are met, 80% Mandatory Rate Relief is granted.

In cases where a charity is in receipt of Mandatory Rate Relief of 80% the Council has further discretion to 'top up' this Relief to 100% of the Rates due.

Costs are split between Central Government (50%), the County Council (10%) and the City Council (40%) as shown at Appendix A.

4. Registered Community Amateur Sports Clubs (CASC)

A Mandatory Rate Relief of 80% is granted to registered CASCs. To qualify as a CASC, the club must fulfill 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

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.

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 granted in the best interests of the residents and taxpayers of Oxford City and produces a local benefit as the Council must bear a percentage of the cost of any Relief granted. However in determining the application the following matters will be taken in to consideration:

- How the CASC supports and links into the Council's corporate vision and priorities.
- A CASC 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 fulfill the requirements
- Although clubs should be open to all without discrimination, single sex clubs may be permitted where such restrictions are not discriminatory in intent but a genuine result of physical restraints (such as changing room facilities) or the requirements of the sport. In such cases, the organisation will be required to provide proof of such limiting factors
- Membership and fee structure

It should be noted that sports clubs and other organisations 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 above. 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.

5. Non-profit making organisations

The Council has the power to grant Discretionary Rate Relief of up to 100% to other 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

Or be otherwise beneficial to the community.

An organisation must be able to demonstrate how it:

- meets local needs and benefits local people; an
- provides a valuable service to the community; and
- is open to all sections of the community
- 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.

The Council will consider applications for a Discretionary Rate Relief from Non-profit making organisations based on their own merits, on a case by case basis. However the principal consideration is that the Relief is granted in the best interests of the residents and taxpayers of Oxford City and produces a local benefit as the Council must contribute to the cost of each award as shown at Appendix A.

6. Membership and entry fees

If the organisation applying for Discretionary Rate Relief 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 18's or over 60's
- 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

7. Period of Relief

Discretionary Rate Relief

Discretionary Rate Relief will usually be granted for a period of one financial year. Successful applicants will be sent a letter confirming that their application for Discretionary Rate Relief has been granted. This letter will also explain that Relief has been granted for twelve months only.

The granting of Relief will be reviewed annually and those in receipt of Discretionary Rate Relief will be asked to supply or confirm relevant information for the purpose of the review.

If a Ratepayer in receipt of Discretionary Rate Relief ceases to meet the eligibility criteria outlined in this policy, they will cease to receive Discretionary Rate Relief. The Council will give such Ratepayers twelve months written notice prior to the withdrawal of Discretionary Rate Relief. The ratepayer may request reconsideration against this decision.

8. Applications

Discretionary Rate Relief

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

- The main purposes and objectives of the Business, as set out in, for example, a written constitution, a memorandum and/or articles of association, or a 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 certified as being a 'true and fair view' by the company secretary or company accountants may be used
- Details of how the Business meets the criteria outlined in the guidelines below:

As a guide, to be eligible for Discretionary Rate Relief, a charity/organisation must not normally have enough financial resources available in unrestricted funds to continue to operate for more than 12 months, nor should it have sufficient financial resources in unrestricted reserves to continue to operate for more than 12 months, unless a business plan exists detailing how these additional reserves are to be used to benefit the local community.

In such cases, the applicant must be able to prove that it offers a service which the city's residents depend on, and which they would be unlikely to find elsewhere in the city.

Application forms will be available on our website at:

<http://www.oxford.gov.uk/PageRender/decB/Discounts and Exemptions occw.htm>

All completed application forms should be returned to the Business Rates Team at Oxford City Council.

By email:

brates@oxford.gov.uk

By post:

Oxford City Council
Business Rates
109-113 St Aldates
Oxford
OX1 1DS

9. Applications for other Reliefs

Hardship Relief

The Council has the power to reduce or remit the Business Rates charged in certain circumstances where the Ratepayer is enduring temporary financial difficulties. This is known as Hardship Relief. The Council may grant 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

Hardship Relief is a temporary measure which should not be used to artificially sustain a failing business. Hardship Relief will be awarded where the ratepayer is facing temporary financial difficulties and where the community would be significantly disadvantaged if the business were to close.

Successful applicants will be sent a letter confirming that their application for Hardship Relief has been granted including the period and amount of Relief.

Application forms for Hardship Relief must 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 certified as being a 'true and fair view' by the company secretary or company accountants may be used. It is recommended that applicants submit audited accounts dating back further than two years, if such information is available.

Section 44a Relief (partly occupied properties)

The Council has discretion under section 44a of the Local Government Finance Act to award Rate Relief where part of a property is unoccupied for a temporary period. The definition of 'temporary period' is not prescribed with the law and therefore Oxford City Council has the discretion to decide the period of Relief should be awarded. The amount of Rate Relief that is awarded is determined by statute and is calculated by reference to the Rateable Value attributed to the unoccupied area by the Valuation Office Agency, part of Her Majesty's Revenue and Customs (HMRC).

Applications will only be considered in respect of unoccupied parts of a property that can be clearly defined and are reasonably segregated from the occupied part of the property.

No award shall be made where it appears to the Council that the reason that part of the property is unoccupied is wholly or mainly for the purposes of applying for Rate Relief.

Rate Relief under this section will not be awarded in respect of partly occupied

property where the partial occupation of the property may arise due to the ordinary day to day nature of the business (for example the operation of a warehouse).

The period of Relief will not exceed either 3 or 6 months depending on the type of property the claim has been made for, in line with the current legislation for part-occupied properties.

A Ratepayer making an application under section 44a should do so in writing and should include:

- A plan of the property showing the dimensions of the occupied and unoccupied area of suitable quality to enable the Valuation Office Agency to apportion the Rateable value of the property between the occupied and unoccupied areas. Applications will not be considered until such time as the plan is provided
- The period to which the application relates
- Contact details in order to inspect the site where necessary

Discretionary Rate Relief Using Powers Conferred by the Localism Act 2011

The Council is now able to grant Relief within the limits of the primary legislation and European rules on state aid. Central Government has initiated three Reliefs on a time limited basis to support businesses. These can be awarded under the powers of the Localism Act and the City Council will automatically grant relief to qualifying businesses. The granting of these Reliefs is in relation to specific categories of property and 100% funding for these Reliefs (Retail Relief, New Build Empty Property Relief and Long Term Empty Property Relief) is provided by Central Government.

Using the general exception from the state aid rule where the aid is below the “de minimis” level, the Council will limit awards to a maximum of €200,000 to any one business or corporate group over any three year period.

The Council will consider applications for a local discount under the Localism Act 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 Oxford City and produces a local benefit as the Council must contribute to the cost of each award. Costs are split between Central Government (50%), the County Council (10%) and the City Council (40%) as shown at Appendix A.

Applications could be considered, for example, where the property is used for purposes which are of benefit to the wider local community but do not fall in any other categories for relief, and it would be in the interests of the Council Tax payer to make an award, as the Council has to meet a proportion of the costs as shown at Appendix A. It could also be used to support regeneration projects within the City and bring empty properties back into use.

Information on reliefs available can be found on our website at:

[www.oxford.gov.uk/PageRender/decB/Discounts and Exemptions occw.htm#6](http://www.oxford.gov.uk/PageRender/decB/Discounts%20and%20Exemptions%20occw.htm#6)

10. Approval

The initial assessment to award or refuse Relief will be made by a Revenues Officer and agreed and signed off by the Service Manager or Head of Service.

Any officer involved in the decision-making process for Discretionary Rate Relief or Hardship Relief must declare if they have an interest in or an association with any Ratepayer applying for Discretionary Rate Relief.

Applicants will be notified in writing of any decision within 28 days. A revised Business Rates bill will be sent where appropriate.

Unsuccessful applicants will be notified that they can request a reconsideration of the decision.

These reconsiderations will be reviewed by the Revenues Manager and signed off by the Service Manager or Head of Service.

It should be noted that Retail Relief, New Build Empty Property Relief and Long Term Empty Property Relief will not be subject to an application and approval process as there is an automatic entitlement. The Revenues Inspector will visit empty properties on a regular basis to review occupation. However the Ratepayer will be required to declare receipt of any state aid to ensure it complies with 'de minimis' levels.

11. Policy Review

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 following any changes to legislation.

12. Communications

The Council will publicise Discretionary Rate Relief in the following ways:

- On our website
- In leaflets and explanatory notes that accompany the annual rates bill
- Ratepayer consultation meetings

13. Appendix A

Funding of Reliefs

With the introduction of the Business Rates Retention Scheme from 1st April 2013, local authorities now share in the gains and losses associated with changes in Business Rates income. The Government hopes that localising Business Rates in this way will incentivise Local Authorities to adopt strategies to promote businesses and generate additional Business Rates income. The introduction of Business Rates Retention has a major impact on the funding arrangements for all Reliefs available which are now financed as follows:

- 50% by Central Government
- 40% by Oxford City Council
- 10% by Oxfordshire County Council

This excludes Transitional, Retail, Flooding Relief, Long Term Empty Property Relief and New Build Empty Property Relief which are financed at 100% by Central Government.

This page is intentionally left blank