Discretionary Rate Relief Policy
Document Control

Document Title: Non-Domestic Rates

Relief Policy: document incorporating areas of local discretion

July 2017

Summary

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Review of Policy

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Document Approvals
This document requires the following approvals.

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<th>Name</th>
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1. Introduction

The Council recognises the importance of supporting local businesses and organisations to promote the provision of local facilities, economic growth, employment and investment to improve prosperity across the Borough and in particular support the most disadvantaged communities.

Councils have the power to grant discretionary rate relief to organisations that meet certain criteria. Public funds are not however unlimited, a proportion of the costs of relief granted is borne by council tax payers. In making decisions the Council must be confident that money invested in this way will be repaid in economic and/or community benefit.

The powers for granting discretionary rate relief by Councils is provided in Section 44a, Section 47 and Section 49 of the Local Government Finance Act 1988 which has been amended by Section 69 of the Localism Act 2011 to incorporate wider powers to grant relief under local discretion.

This policy document outlines the areas of local discretion and the Council’s approach to the various discounts. There is also a summary provided of the reliefs which are awarded by Government under national initiatives.

2. Mandatory Rate Relief

The Local Government Finance Act 1988 requires the Council to grant Mandatory Rate Relief of 80% of the business rates to the following categories of business rates payers:

- Registered charities where the property is wholly or mainly used for charitable purposes
- Registered Community Amateur Sports Clubs (CASCs) for any club with the appropriate registration with HMRC.
- Rural shops – (not applicable in Rochdale Borough)

3. Discretionary Rate Relief Scheme

Section 47 of the Local Government Finance Act 1988 requires the Council to maintain a Discretionary Rate Relief Scheme to award up to 100% business rates relief to certain organisations which operate within locally specified criteria. These organisations being for Rochdale Borough Council:

a) A further award to registered charities up to 100%, known as discretionary “top-up” relief, where the property is wholly or mainly used for charitable purposes.

b) A further award of 20% on top of mandatory relief to registered Community Amateur Sports Clubs (CASCs).

c) Other non-profit making organisations and the property is used for charitable purpose concerned with education, social welfare, science, literature or the fine arts; or is used wholly or mainly for recreation by a not-for-profit club or society
In determining applications the Council may
- Grant relief up to a maximum of 100% of the business rates due;
- Grant relief for a sum less than 100% of the business rates due; or
- Refuse any application for additional relief.

Detailed below are the criteria applied.

3.1. Charities

Mandatory rate relief of 80% is granted to charities in the following circumstances:
- 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

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.

In determining the application the following matters will be taken in to consideration:
- ‘Top-Up’ relief of 20% is only awarded to local charities who can clearly demonstrate financial hardship.
- Unless a special case for hardship can be proved, ‘Top-Up’ relief to national charities including charity shops or other premises should not be granted.
- Local charity to be defined as set up with a sole purpose of assisting local residents of Rochdale Borough Council and whose main office is situated within the Rochdale Borough.
- Academy, Free, Grant Maintained, Faith and Trust Status schools are classified as charities and therefore receive 80% mandatory relief. Top-up relief for schools and educational establishments who receive central or local government support should not be granted unless a special case for hardship can be proved.

3.2 Registered Community Amateur Sports Clubs and other Non Profit Making Sports & Leisure Clubs

Community Amateur Sports Clubs (CASC’s) receive 80% Mandatory Relief for any club with the appropriate registration with HM Revenues and Customs. To qualify as a CASC the club must be set up with a formal constitution (for example its rules or memorandum and articles of association). The club's written constitution must require the club to meet certain conditions, and the club must also be able to show that it actually meets these conditions in practice. The conditions are that:
- the club must be open to the whole community
- the club's main purpose must be to provide facilities for eligible sports, and to encourage people to take part in them
- the club must be organised on an amateur basis
The club must also be able to show that:

- it is set up and provides its facilities in an eligible area
- it is managed by fit and proper persons

CASCs which qualify for the mandatory business rates relief can also apply to the Council for a top up discretionary rate relief up to a maximum of 20%. Other non-profit making sports and leisure clubs who do not qualify for mandatory relief can apply for discretionary relief.

The Council will consider applications for a discretionary rate relief top up from CASCs and discretionary relief for non-profit making sports and leisure clubs based on their own merits, on a case by case basis.

The Council will consider applications that can demonstrate;

- The contribution that the organisation makes to the Rochdale Borough
- Membership: fees should not be considered to be excessive, should be open to everybody, and 75% of members must be Rochdale Borough residents
- Every effort should be made by the organisation to encourage open membership, from groups such as young people, disabled persons, ethnic minorities, armed and ex armed forces personnel and unemployed people: In particular;
  - membership should consist of at least 25% of people from such groups
  - the facilities should be made available to local communities other than members
  - differential fee structures to encourage such groups to apply
- Schemes of education or training for such groups must exist
- For other non-profit making sports and leisure clubs the level of discretionary award may depend on bar takings as well as the membership requirements above.

The Council will take into account whether the building is accessible to disabled people or if reasonable attempts are being made to make it accessible.

### 3.3. Non Profit Making Organisations (other than charities, CASC's, or other sports and leisure clubs) and Community Interest Companies (CIC)

Non Profit Making Organisations who are not classed as registered charities or CASC's, can apply for Discretionary Rate Relief which can be paid at any rate up to 100%. Such organisations would include; philanthropic, religious, concerned with education or social welfare, science, literature, fine arts, or wholly or mainly for recreation by a not-for-profit club or society.

Community Interest Companies (registered with the Office of the Regulator of Community Interest Companies) can apply for Discretionary Rate Relief which can be paid at any rate up to 100%.
The Council will consider applications for discretionary rate relief from organisations based on their own merits, on a case by case basis.

The Council will consider applications from organisations that can demonstrate;

- The activities of the organisation must support at least one of the Council’s priorities.
- The organisation must promote its services for the benefit of Rochdale Borough residents.
- Membership of the organisation must be open to all members of the community, regardless of ability, subject to the physical capacity of the premises.
- Membership rates should not be considered to be excessive so as to exclude the general community. Comparisons will be made with similar organisations to ensure a level of consistency.
- Organisations must actively encourage membership from groups such as young people, older age groups, persons with a disability, ethnic minorities, armed and ex-armed forces personnel and unemployed people. This should be be demonstrated by either:
  a) differential fee structures for such groups; or
  b) provision of schemes of training or education for such groups; or
  c) a membership which consists of at least 25% of people from such groups.
- The facilities of the organisation should, where practical, be made available to people, bodies, or groups other than members, e.g. from schools, casual public sessions, etc..., subject to licensing requirements.
- The organisation must be affiliated to a local or national organisation where one exists.
- At least 75% of the membership must be made up of Rochdale Borough residents.
- The organisation must provide a copy of their constitution and a copy of the last 2 years audited annual accounts where available.

3.4. **Period of Award**

The period of the award will normally be for the financial year that the application was made and will be reviewed on an annual basis thereafter.

3.5. **Changes in Liability**

The organisation must inform the Council of any change in circumstances, which might affect eligibility for relief.

4. **Part Occupied Relief**

The Council has discretion under Section 44a of the Local Government Finance Act 1988 to allow relief to be provided to a business that is partially
occupying a property for a short period of time (no more than 6 months), typically as part of a phased move in or phased move out.

The amount of relief that can be granted will be determined by the Valuation Office Agency, who will assign a rateable value to the unoccupied element of the property.

Relief will not be granted if an application is received after the property has become fully occupied or fully empty.

5. Hardship Relief

The Council has discretion under Section 49 of the Local Government Finance Act 1988, to give up to 100% relief in exceptional circumstances where hardship is being experienced. However, awarding relief can only be considered on condition that it would be reasonable to do so having regards to the interests of council tax payers in general.

Hardship may be financial or due to extraordinary external factors causing the failure of a business or preventing it from being re-let or reoccupied, but relief cannot be awarded purely because a business is failing. The main consideration is of the effect a loss of a business will have on local council tax payers, e.g. the loss of a major employer or the only provider of an essential service in an area.

As there is no statutory definition of hardship, the Council decides each case on its own merits. When deciding whether 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 council taxpayers, as the Council must bear the cost of any relief granted.

The period for the award to be determined on a case by case basis.

6. Local Business Rate Discount – Government funded temporary reliefs

In the Chancellor’s Budget Statements of 2016 and 2017 the Government has determined that local authorities can use their discretionary powers under Section 47 of the Local Government Finance Act 1988 to provide reliefs to support national initiatives. The reliefs granted will be reimbursed in full by Government by way of specific grants to local authorities.

6.1. Local Newspapers

£1,500 discount for office space occupied by local newspapers, up to a maximum of one discount per local newspaper title and per hereditament, and up to state aid limits, for 2 years from 1 April 2017.
6.2 Support for Pubs

£1,000 discount for pubs that have a rateable value of below £100,000. To be eligible, the pub must be open to the general public. Further details and the full eligibility criteria are available in Appendix 1. The discount is available for 1 year from 1 April 2017.

6.3 Supporting Small Businesses

This is a 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 Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited to the greater of:

a) a percentage increase p.a. of 5%, 7.5%, 10%, 15% and 15% in the financial years 2017/18 to 2021/22, all plus inflation. Unlike the transitional relief scheme, for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief, or

b) a cash value of £600 per year (£50 per month). This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.

In the first year of the scheme (2017/18), this means all ratepayers losing some or all of their small business rate relief or rural rate relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter. This means that ratepayers who are currently paying nothing under small business rate relief and are losing all of their entitlement to relief (i.e. moving from £6,000 rateable value or less to more than £15,000) would under this scheme be paying £3,000 in year 5.

6.4 Discretionary Relief Scheme

The Government has established a £300m discretionary fund over 4 years from 2017/18 to support businesses who have experienced a large increase in their rateable value following the 2017 revaluation and were most affected by the change. The £300m will cover 4 years from April 2017, as follows:

<table>
<thead>
<tr>
<th>National Allocation (£300m)</th>
<th>2017/18</th>
<th>2018/19</th>
<th>2019/20</th>
<th>2020/21</th>
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<tr>
<td>£175m</td>
<td>£85m</td>
<td>£35m</td>
<td>£5m</td>
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<table>
<thead>
<tr>
<th>Rochdale Allocation (£444k)</th>
<th>2017/18</th>
<th>2018/19</th>
<th>2019/20</th>
<th>2020/21</th>
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<tr>
<td>£259k</td>
<td>£126k</td>
<td>£52k</td>
<td>£7k</td>
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Government based its local allocations on the following:

a) the rateable property has a rateable value for 2017/18 that is less than £200,000, and
b) the increase in the rateable property’s 2017/18 bill is more than 12.5% compared to its 2016/17 bill (before reliefs).

To qualify for relief, the following conditions must all apply:

- the rateable property has a 2017 rateable value less than £200,000;
- the 2017 rateable value has increased by more than 12.5%;
- the rateable property must have been on the Valuation Office Agency rating list on 1 April 2016 and 1 April 2017;
- the ratepayer must have been in continual occupation before 1 April 2017; and
- after all other reliefs have been applied, the increase in the billing amount is more than 5% of 2016/17.

The following are not eligible for relief under this scheme:

- businesses who will benefit from the Supporting Small Businesses relief scheme;
- businesses whose increase in the amount they are paying in 2017/18 compared to 2016/17 is less than £50 per month (£600 per annum), to mirror the maximum protection for small businesses in the Supporting Small Businesses relief scheme;
- pubs who will benefit from the Support for Pubs relief scheme;
- if the ratepayer does not have employees based in the hereditament on which relief is being sought;
- ratepayers operating an intermittent business rate mitigation/avoidance scheme;
- ratepayers with an outstanding rateable value appeal with the Valuation Office Agency (as the Council will be unable to determine the financial impact on the business until the appeal is concluded);
- national companies, national charities and public bodies;
- property owners and/or occupiers with more than one property in the Borough, will only be able get this relief on one property; and
- hereditaments wholly or mainly being used as betting shops, payday loan shops, pawnbrokers or shisha bars.

Eligible businesses will receive a fixed relief award of £1,000 in 2017/18 and £500 in 2018/19. Future year relief awards will be subject to determination.
7. **Local Business Rate Discount – Council determined schemes**

7.1. On 15 December 2014 the Council’s Cabinet decided to introduce a local discount scheme with the aim of bringing back into use empty properties in Rochdale Town Centre to support and sustain the vitality and diversity of Yorkshire Street, the western end of Baillie Street, The Walk and South Parade. Under the scheme the 23 properties identified would receive a Local Business Rates Discount on the remaining liability (after the award of any Government reliefs) of 80% in 2015/16 and 50% in 2016/17. At the end of the 2 year period the discount will stop. Determination and award of any discount will be in accordance with the eligibility criteria determined by the Council’s Cabinet.

7.2. In March 2016, the Chief Executive used delegated powers to revise the Rochdale Town Centre scheme and create discount schemes for Heywood and Middleton Town Centres.

7.3. **Rochdale Town Centre**

- Existing scheme is to be extended for a third year. Discount to be 80% in year 1, 50% in year 2 and 30% in year 3.
- The 3 year period is to run from the date of occupation and not April to March each financial year.

7.4. **Heywood Town Centre**

- To support and sustain the vitality and diversity of the town centre area including Market Street, Market Place, Bridge Street and York Street within the defined town centre boundary (excluding units within the shopping centre).
- Discount on the remaining liability (after the award of any Government reliefs) to be 80% in year 1, 50% in year 2 and 30% in year 3.
- The 3 year period is to run from the date of occupation and not April to March each financial year.

7.5. **Middleton Town Centre**

- To support and sustain the vitality and diversity of Long Street, Wood Street, Market Place and Middleton Gardens within the defined town centre boundary (excluding units within the shopping centre).
- Discount on the remaining liability (after the award of any Government reliefs) to be 80% in year 1, 50% in year 2 and 30% in year 3.
- The 3 year period is to run from the date of occupation and not April to March each financial year.

7.6. On 12 February 2015 the Council’s Cabinet decided to give delegated powers to the Chief Executive, in consultation with the Leader of the Council, to grant a local business rate discount in appropriate cases. Any decision will consider the interest of the council tax payers in relation to any cost and benefit to the Council and the decision will support the strategic objectives of the Council. Particular consideration will be given to how the granting of relief can support the creation and/or safeguarding of jobs in the borough.
8. **Application and Appeals Process**

All applications for discretionary non domestic rate relief should be made in writing, where possible using the Council’s application forms. It is the responsibility of the organisation applying for relief to provide sufficient information and documentary evidence to support applications.

If an applicant is dissatisfied with the outcome of their application they can ask for a review of that decision by the Director of Resources.

9. **European Union State Aid**

State Aid law is the means by which the European Union (EU) regulates state funded support to businesses. Financial support from public bodies to businesses could have the potential to be anti-competitive and affect trade between member states of the EU.

EU State Aid rules generally prohibit government subsidies to businesses. Providing discretionary rate relief to ratepayers can in some cases be deemed to be State Aid.

There is, however, a general exception to the state aid rule where the aid is below a “de minimis” level. The De Minimis Regulations allow an undertaking to currently receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years). The De Minimis Regulation and limit is subject to update and changes in legislation.

To administer De Minimis it is necessary for the Council to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. The Council will ensure compliance with the legal requirements and any permitted exemptions. Each case will be considered based on the organisation’s individual circumstances in full consideration of the EU State Aid rules.

Business ratepayers who apply for or receive any discretionary rate relief (Section 44a, Section 47 or Section 49) will be required to make a declaration if they have or are receiving EU State Aid. This is particularly likely to affect large retail chains where the cumulative discretionary rate relief may cause them to exceed the €200,000 de minimus limit. A sample letter and declaration form is provided at Appendix 2.

10. **Policy Review**

This policy will be reviewed periodically, taking into account Council policies and priorities and any changes in Government legislation and proposals.

11. **Other National Business Rate Reliefs**
11.1. **Small Business Rates Relief (SBRR)**

This relief is intended to help small businesses, as defined by the size of the rateable value (RV) of the property occupied. A business is eligible if only one property is occupied and the rateable value is below £18,000.

Eligible businesses will receive relief at 100% on properties up to £12,000 RV and a tapered level of relief from 100% to 0% for properties from £12,001 RV up to 18,000 RV.

However, if a property is occupied with a RV of £18,001 but below £51,001, another form of SBRR is payable, which entitles the occupier to have their bill calculated using the small business multiplier, and this is regardless of the number of properties occupied.

11.2. **Empty Property Rate Relief (EPRR)**

There is an exemption from paying business rates on empty commercial or retail property for three months after the property becomes vacant.

However, there are exceptions to this:
- Industrial premises, such as warehouses, are exempt for a further three months, making six months in total
- Listed buildings are exempt until they become occupied again
- Buildings with a RV under £2,600 are exempt until they become occupied again
- Properties owned by charities are exempt if the property's next use is likely to be wholly or mainly for charitable purposes
- Community amateur sports club buildings are exempt if their next use is likely to be wholly or mainly for a sports club

After the exemption period ends, liability for the full business rate bill recommences and another period of empty rate exemption cannot be granted unless the property has been occupied for at least six weeks.

11.3. **Transitional Relief (TR)**

Transitional relief is designed to reduce the impact of any significant changes in the RV of a property, either up or down, following a national revaluation of properties.

It is a complicated scheme, but basically, the arrangements help to phase in the effects of these changes by limiting the increases in bills. To help pay for the limits on increases in bills, there also has to be limits on those properties where revaluation leads to reduced bills. The increase or decrease is phased in until the correct value is reached.
Support for Pubs – Eligibility Criteria

This section describes in principle the Pubs Relief Scheme. The scheme will be available to eligible occupied properties with a rateable value of less than £100,000. The majority of pubs are independently owned or managed and will not be part of chains. Where pubs are part of a chain, relief will be available for each eligible property in the chain, subject to meeting State Aid requirements (see section 9 in this policy).

There is no definitive description of a traditional pub or public house in law which could be readily used to determine eligibility. The objective has been to adopt an approach that makes the design and eligibility of the scheme easy to implement by in a clear and consistent way, is widely accepted by the industry and which is consistent with the Government's policy intention.

The Government’s policy intention is that eligible pubs should:

- be open to the general public
- allow free entry other than when occasional entertainment is provided
- allow drinking without requiring food to be consumed
- permit drinks to be purchased at a bar.

For these purposes, it should exclude:

- restaurants
- cafes
- nightclubs
- hotels
- snack bars
- guesthouses
- boarding houses
- sporting venues
- music venues
- festival sites
- theatres
- museums
- exhibition halls
- cinemas
- concert halls
- casinos

The proposed exclusions in the list above is not intended to be exhaustive and it will be for the Council to determine those cases where eligibility is unclear. The Council already has a good understanding of the licensed premises in our areas and will be able to readily form a view on eligibility in the majority of cases.
The stated intent of the Government policy is that it demonstrates the characteristic that would lead it to be classified as a pub, for example being owned and operated by a brewery. The Council may also consider other methods of classification, such as the planning system and the use classes order to help us decide whether a property is a pub or not. However, permission for a particular use class will not necessarily mean that the property meets the definition of a pub.
Dear Sir or Madam,

European Union State Aid

Discretionary rate relief awards are required to comply with the European Union law on State Aid. In this case, this involves returning the attached declaration to this authority if you have received any other De Minimis State Aid, including any other discretionary rate relief you are being granted for premises other than the one to which this letter relates, and confirming that the award of discretionary rate relief does not exceed the €200,000 an undertaking can receive under the De Minimis Regulations EC 1407/2013.

In terms of declaring previous De Minimis aid, we are only interested in public support which is De Minimis aid (State Aid received under other exemptions or public support which is not State Aid does not need to be declared).

If you have not received any other De Minimis State Aid, including any other discretionary rate relief you are being granted for premises other than the one to which this letter relates, you do not need to complete or return the declaration.

If you wish to refuse to receive discretionary rate relief granted in relation to the premises to which this letter relates, please complete the attached form and return it to the address above. You do not need to complete the De Minimus declaration. This may be particularly relevant to those premises that are part of a large retail chain, where the cumulative total of discretionary rate relief received could exceed €200,000.

Under European Commission rules, you must retain this letter for 3 years and produce it on any request by the United Kingdom public authorities or the European Commission. (You may need to keep this letter longer than 3 years for other purposes). Furthermore, information on this aid must be supplied to any other public authority or agency asking for information on ‘De Minimis’ aid for the next three years.
‘DE MINIMIS’ DECLARATION

BUSINESS RATES ACCOUNT NUMBER: _______________________________

The value of the business rates retail relief to be provided to:

___________________________________________________ (name of business)

by Rochdale Borough Council is:

£_____________________ Euros €_________________ (amount of rate relief)

This award shall comply with EU law on State Aid on the basis that, including this award, shall not receive more than €200,000 in total of De Minimis aid within the current financial year or the previous two financial years. The De Minimis Regulations 1407/2013 (as published in the Official Journal of the European Union L352 24.12.2013) are available at http://eur-ex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF.

Please list all previously received De Minimis aid below, including the total amount of this and any other discretionary rate relief you are being granted.

<table>
<thead>
<tr>
<th>Amount of De Minimis aid</th>
<th>Date of aid</th>
<th>Organisation providing aid</th>
<th>Nature of aid</th>
</tr>
</thead>
<tbody>
<tr>
<td>€</td>
<td>1 April 2014 – 31 March 2015</td>
<td>Local authorities (for the Retail Relief total you do not need to specify the names of individual authorities)</td>
<td>Retail Relief</td>
</tr>
<tr>
<td>€</td>
<td>1 April 2015 – 31 March 2016</td>
<td></td>
<td>Retail Relief</td>
</tr>
</tbody>
</table>

I confirm that I am authorised to sign on behalf of:

___________________________________________________ (name of business);

and shall not exceed its De Minimis threshold by accepting this Retail Relief.

SIGNATURE: ____________________________________ DATE: _____________

NAME: ______________________________________________

POSITION: ___________________________________________

ADDRESS: _________________________________________________________
# REFUSAL OF DISCRETIONARY RATE RELIEF FORM

<table>
<thead>
<tr>
<th>Name and address of premises</th>
<th>Business rates account number</th>
<th>Amount of Relief</th>
</tr>
</thead>
<tbody>
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</table>

I confirm that I wish to refuse discretionary rate relief in relation to the above premises.

I confirm that I am authorised to sign on behalf of:

______________________________________________________ (name of business)

SIGNATURE: ___________________________ DATE: _____________

NAME: ________________________________________

POSITION: _______________________________________

ADDRESS:
_________________________________________________________________
_________________________________________________________________