

Cheltenham Borough Council
Discretionary Rate Relief Policy
Cabinet 18 February 2025

1 Purpose of the policy

- 1.1 The Local Government Finance Act 1988 makes provision for local authorities to award business rate reliefs in certain defined circumstances. Relief falls into categories, mandatory and discretionary.
- 1.2 Whilst the Council is obliged to grant mandatory relief to eligible businesses it has powers to grant discretionary reliefs to ratepayers subject to certain criteria being met.
- 1.3 The purpose of this policy is to set out the circumstances in which the council will exercise its discretion to award business rates relief under Section 44A, Section 47 and Section 49 of the Local Government Finance Act 1988, as amended.

This policy includes the following:

- Section 2** Discretionary rate Relief under Section 47 of Local Government Finance Act 1988
- Section 3** Hardship Relief under section 49 of Local Government Finance Act 1988
- Section 4** Relief for partly occupied properties under section 44A of Local Government Finance Act 1988
- Appendix** Temporary relief schemes funded by Government

2 Discretionary Rate Relief

- 2.1 Section 47 of the Local Government Finance Act 1988, as amended, gives the Council discretion to award relief where certain conditions are met and where it would be in the interest of council taxpayers.
- 2.2 The granting of relief falls broadly into the following categories:
 - a) Discretionary relief top up for registered charities and community amateur sports clubs already receiving mandatory relief.
 - b) Discretionary relief for organisations or institutions not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.

- c) Discretionary Relief for clubs, societies and other organisations not established or conducted for profit and wholly or mainly used for purposes of recreation.
- d) Discretionary Relief granted to ratepayers under the Localism Act 2011 provisions eg Temporary relief schemes for specified businesses or in specified circumstances

2.3 The Council has adopted this policy, detailing the criteria by which applications will be considered and the level of relief, to ensure consistency in the granting of relief.

Policy for granting relief

- 2.4 Where mandatory relief has been granted the council will not normally grant top up discretionary relief (type a) but will consider more favourably, applications from organisations providing advice and support of a social welfare nature to vulnerable residents. The facilities must be available to Cheltenham residents should they be in need of the advice and support being provided.
- 2.5 Organisations applying for relief must be able to demonstrate that the activities it provides are for the benefit of and are being used by the local community. The extent to which Cheltenham residents benefit from the facilities will be considered.
- 2.6 Membership of the organisation must be open to all sections of the community without any discrimination. In general membership should not be exclusive or restrictive. If access is restricted it must be for justifiable reasons such as a recognised need to provide a facility to a specific sector of the community.
- 2.7 If the organisation charges a membership or entry fee they must not be set at such a level as to exclude the general community. Fees may be set at different rates for different classes of membership such as juniors, students, etc
- 2.8 Where the organisation runs a bar, eg a sports club, it should be ancillary to the facilities or services being provided. Consideration will be given to the extent to which a bar supports the overall operation and to the income generated.
- 2.9 Business rate payers making application must demonstrate the following:
 - a) The facilities or services meet local needs and provide a significant benefit to local residents.
 - b) The organisation actively encourages membership and facilities are either widely available, or, provided to particular groups in the community such as young people, women, older age groups, disabled people, under-represented or disadvantaged groups etc.
 - c) The facilities are made available to non-members and are being used by schools, casual public sessions, under-represented or disadvantaged groups in the community.
 - d) Where education or training is being provided it should develop the skills of local residents, especially disadvantaged groups and any fees being charged must not be at a value to exclude the general community.

- e) Services or facilities are being provided which relieves the Council of the need to do provide similar facilities or supplements those which it does provide e.g. additional sporting facilities.

Amount of Relief

2.10 The amount of relief that can be awarded is set out in the table below

	Type of Organisation	Discretionary Relief to be Granted
A	Registered charities and community amateur sports clubs already entitled to 80% mandatory relief.	20% to top up mandatory in specified circumstances only (See point 2.4 above)
B	Non-profit making institutions or organisations whose main objectives are charitable, philanthropic, religious, concerned with education, social welfare, science, literature or the fine arts	Maximum 80% discretionary relief will be awarded
C	Clubs, societies and other organisations set up for the purpose of recreation and not established or conducted for profit	Maximum 50% discretionary relief will be awarded
D	Discretionary Relief granted to ratepayers generally	Maximum relief not determined See Temporary relief in schemes appendix A

Relief will not be awarded

- 2.11 Relief will not be awarded to charities and charitable organisations, including private schools, no longer entitled to mandatory relief as a result of a change in Government policy.
- 2.12 Relief will not be awarded where organisations cannot demonstrate to the Council's satisfaction that their main purpose is, as defined by section 47 of the Local Government Finance Act 1988, or that they are not established or conducted for profit.
- 2.13 Relief will not be awarded to businesses not providing relevant or sufficient information to allow the application to be fully considered.

How relief is provided

- 2.14 Business ratepayers applying for discretionary rate relief must complete the council's application form and provide any additional information requested.
- 2.15 Discretionary relief will be granted from the date liability commences or the beginning of the financial year in which the application is received, whichever is later.
- 2.16 All recipients of relief must notify the council within 21 days of any change in circumstances which may affect their entitlement. If the business ratepayer failed to notify the council of a change affecting entitlement relief may be revoked retrospectively
- 2.17 Discretionary relief will be recalculated or cancelled to reflect any change in circumstances that affect entitlement, changes to entries in Rating List, or where any conditions cease to be met.
- 2.18 Periodic reviews will be undertaken and a new application may be required.
- 2.19 The order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.
- 2.20 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect on a date determined by the Council. A decision may be revoked at any time.

Subsidy control

- 2.21 Rate Relief for charities and non-profit making bodies is not normally considered a qualifying subsidy because the recipients are not in market competition with other businesses. However, if the organisation is engaged in commercial activities, competes with commercial bodies or has a commercial partner then rate relief could constitute subsidy and will be subject to the Government set limits.

Decision Making

- 2.22 Applications will be determined by the Head of Revenues and Benefits where the value of relief to be awarded is no more than £20,000.
- 2.23 The Deputy Chief Executive will determine applications where the value of relief to be awarded is between £20,000 and £100,000. Where relief would exceed this sum Cabinet will be required to approve any such award.
- 2.24 There is no statutory appeal process against any decision made by the council under section 47 of the Local government Finance Act 1988, although, as with any decision made by a public authority, the decision can be reviewed by Judicial Review. However, ratepayers dissatisfied with the initial decision will have a right to request a re-consideration.

- 2.25 The request must be made within 28 days of being notified of the initial decision. The Deputy Chief Executive will consider requests where the relief is up to £20,000 and the Cabinet Member for Finance and Assets in cases where the value of relief being considered is between £20,000 and £100,000.
- 2.26 Cheltenham Borough Council will not tolerate any business falsifying their records or providing false evidence. A ratepayer who falsely applies for any relief or provides false information or makes false representation in order to gain relief will face prosecution and any relief awarded will be revoked.

3 Hardship Relief

Legal Requirements

- 3.1 Section 49 of the Local Government Finance Act 1988 provides a Local Authority with the discretion to reduce or remit payment of rates under the grounds of hardship.
- 3.2 The Council can use its discretion to reduce or remit the payment of rates where it is satisfied that the customer would sustain hardship if it did not do so, and, that it is reasonable to award relief, having taken into account the interests of the Council Taxpayers.

General Conditions

- 3.3 The Council will consider applications from businesses on their own merits and on a case by case basis.
- 3.4 Relief under this provision will only be granted in exceptional circumstances.
- 3.5 Applications must be on the Council's official application form and be signed by the ratepayer or authorised company representative.
- 3.6 The ratepayer must demonstrate that hardship exists and provide details of what are believed to be the responsible factors. Evidence must be provided to support the application and any additional information requested must also be supplied.
- 3.7 The ratepayer is expected to have taken appropriate action to mitigate or alleviate their hardship by, for example:
- taking independent professional business advice
 - reviewing their pricing structure or its approach to income generation
 - re-negotiating with creditors, including any financial institutions; service providers, landlord regarding rent
 - having a business plan in place to address the hardship
- 3.8 Applications may shared with relevant Council departments or partners, as appropriate, to ascertain whether grants or other support may be available.

- 3.9 There must be a benefit to the local community and this will normally outweigh any financial cost of granting the relief.
- 3.10 Relief will only be awarded for a short period of time and not on an on-going basis. It will only be awarded in respect of the financial year in which the application is made and will end no later 31 March.
- 3.11 Relief of up to 100% of the rate liability may be awarded but the Council will normally expect applicants to pay a portion of their rate liability.
- 3.12 The ratepayer must notify the Council of any change in circumstances during the period for which relief has been awarded, financial or otherwise. In all cases Hardship Relief will end in the following circumstances:
- At the end of a financial year
 - If there is a change of liable person
 - The property becomes empty or unoccupied
 - The ratepayer enters any form of Insolvency proceedings, including but not limited to winding up, liquidation, administration or bankruptcy.
 - The ratepayer seeks and enters into a restructuring plan
 - The ratepayer's financial circumstances change
- 3.13 Hardship Relief will be calculated as a percentage of the Business Rates bill. Should the Business Rates bill reduce within the period Hardship Rate Relief is granted, the relief will be reduced proportionately. If the Business Rates bill increases within the period Hardship Relief is granted, i.e. an increase in rateable value, the amount awarded will not automatically be increased. In such cases, the Council, will reconsider the application and may award additional relief.

Factors taken into account when considering applications

- 3.14 The following factors will be taken into account when determining whether relief should be awarded:
- a) Whether the business is likely to survive without assistance through hardship relief
 - b) Whether the closure of the business would deprive the local community of a service or facility which is considered essential or of major importance
 - c) What action, if any, the business has taken to improve the position or seek assistance from other external sources.
 - d) The extent to which the business provides employment in the local area, the number of people employed, and likely to become unemployed if the business closes.
 - e) The presence of an improvement plan and the likelihood that it will succeed.
 - f) The presence of including reserves and assets which could be utilises to improve the position
 - g) The factors causing the hardship should be of a limited duration and should be beyond the control of the ratepayer. It should be reasonable to expect that conditions will improve
 - h) The effectiveness of granting the relief. In particular whether the future of the business is likely to be unsustainable even if relief is granted

- i) Any other relevant factor

3.15 The Council may consider not awarding relief in the following circumstances:

- a) Where it appears that the business is failing due to general market forces.
- b) Where it appears that the business is suffering hardship due to inadequate financial management
- c) Where it appears that the business is suffering financial hardship due to excessive speculation
- d) Where business rates have become due or increased as a result of a change in Government policy resulting in the business no longer being entitled to other reliefs
- e) Where the owners/directors are making excessive drawings from the business
- f) Where expenses are considered by the council to be excessive
- g) Where it appears that the business is likely to survive without assistance through hardship relief
- h) Where sufficient or requested information has not been supplied

Subsidy Control

3.16 Hardship relief for businesses engaged in commercial activities, which compete with other commercial bodies or have a commercial partner, would constitute a qualifying subsidy and will be subject to the Government set limits.

Decision Making

- 3.17 Applications will be determined by the Head of Revenues and Benefits where the value of relief to be awarded is no more than £20,000.
- 3.18 The Deputy Chief Executive will determine applications where the value of relief to be awarded is between £20,000 and £100,000. Where relief would exceed this sum Cabinet will be required to approve any such award.
- 3.19 There is no statutory appeal process against any decision made by the council under section 49 of the Local government Finance Act 1988, although, as with any decision made by a public authority, the decision can be reviewed by Judicial Review. However, ratepayers dissatisfied with the initial decision will have a right to request a re-consideration.
- 3.20 The request must be made within 28 days of being notified of the initial decision. The Deputy Chief Executive will consider requests where the relief is up to £20,000 and the Cabinet Member for Finance and Assets in cases where the value of relief being considered is between £20,000 and £100,000.
- 3.21 If an unsuccessful applicant requests a reconsideration they will need to continue to pay their rates bill. Once the reconsideration has been carried out, the ratepayer will be informed, in writing, of the decision.

- 3.22 Cheltenham Borough Council will not tolerate any business falsifying their records or providing false evidence. A ratepayer who falsely applies for any relief or provides false information or makes false representation in order to gain relief will face prosecution and any relief awarded will be revoked.

4 Relief for properties partly occupied for a temporary period

General Explanation

- 4.1 A ratepayer is liable for the full business rates whether a property is wholly occupied or only partly occupied.
- 4.2 Section 44a of the Local Government Finance Act 1988 provides councils with discretion to apply rate relief in certain circumstances where part of a property is unoccupied, provided it will remain so for a short time only.
- 4.3 In these circumstances the council has the discretion to request that the Valuation Office Agency apportions the rateable value of the property between occupied and unoccupied parts for the specified period.

How Relief is provided

- 4.4 The part occupation must be for a temporary period only. Rate relief will not be awarded where the partial occupation is due to the normal day to day operation of the business, for example where a warehouse has dispatched a large order and no longer needs to store stock or a business occupied premises larger than needed leaving an area unused.
- 4.5 Awarding relief 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.
- 4.6 A ratepayer must make an application for this relief to the Council and will be required to provide the following information:
- A plan of the property clearly showing the dimensions of the occupied and unoccupied area. The plan must be of a sufficient quality to enable the Valuation Office Agency to apportion the rateable value of the property between the occupied and unoccupied areas.
 - An explanation of why part of the property is temporarily not being used
 - The period relief is being requested for (see point below for limits)
 - An explanation of any short term practical or financial difficulties in either occupying or vacating the premises.
 - Details of the plans to use the property to full capacity, or move to other premises, with timescales
 - Access to the premises so that the Council can inspect the occupied and unoccupied parts, if deemed necessary
 - Any additional information requested

- 4.7 Applications must be made, all information provided, and if necessary a site visit made, during the period that relief is being claimed for. The council will not consider applications for retrospective periods.
- 4.8 Applications will not be considered until all of the required information has been received and if required a site visit has been made.
- 4.9 Upon receipt of an application the council may request that the Valuation Office Agency issues a certificate apportioning the rateable value for the property, splitting it between occupied and unoccupied parts. Relief will not be awarded unless a certificate is issued.
- 4.10 Partially occupied relief will end when the soonest of the following occurs:
- The financial year comes to an end
 - The end of a specified award period
 - Where part or all the unoccupied parts become occupied
 - Where the whole of the property becomes unoccupied
 - Where the liability for the property changes.
- 4.11 Any relief awarded will be determined by a recalculation of business rates for the relevant period based on the apportioned rateable value issued by the Valuation Office Agency.
- 4.12 The business ratepayer must notify the council within 21 days of any change in circumstances which may affect their entitlement to this relief.
- 4.13 Relief will be recalculated or cancelled to reflect any change in circumstances that affect entitlement, changes to entries in Rating List, or where any conditions cease to be met.
- 4.14 Cheltenham Borough Council will not tolerate any business falsifying their records or providing false evidence. A ratepayer who falsely applies for any relief or provides false information or makes false representation in order to gain relief will face prosecution and any relief awarded will be revoked.

Decision Making

- 4.15 Applications will be considered by members of the business rates team and where the requirements in this policy have been met the application will be made to the Valuation Office Agency.
- 4.16 The award of any relief will be determined by the Head of Revenues and Benefits where the value is no more than £20,000.
- 4.17 The Deputy Chief Executive will determine relief to be awarded where the value is between £20,000 and £100,000. Where relief would exceed this sum Cabinet will be required to approve any such award.

- 4.18 There is no statutory appeal process against any decision made by the council under section 44A of the Local government Finance Act 1988, although, as with any decision made by a public authority, the decision can be reviewed by Judicial Review. However, ratepayers dissatisfied with the initial decision will have a right to request a re-consideration.
- 4.19 The request must be made within 28 days of being notified of the initial decision. The Deputy Chief Executive will consider requests where the relief is up to £20,000 and the Cabinet Member for Finance and Assets in cases where the value of relief being considered is between £20,000 and £100,000.
- 4.20 If an unsuccessful applicant requests a reconsideration they will need to continue to pay their rates bill. Once the reconsideration has been carried out, the ratepayer will be informed, in writing, of the decision

Appendix A

Temporary business Rate Reliefs

A1 General Explanation

- A1.1 From time to time, additional measures are proposed by the Government to provide assistance to businesses. These can be either national schemes or locally defined schemes.
- A1.2 As these schemes are usually only applicable for a temporary specific period they are not embedded in legislation and councils are expected to use discretionary powers under Section 47 of the Local Government finance Act 1988 (as amended) to grant relief in accordance with any guidance provided.
- A1.3 The Government will fully reimburse Councils for the cost of the temporary reliefs in this appendix, they are awarded in line with the guidance.

A2 Retail Hospitality and Leisure Relief Scheme 2025/26

- A2.1 The 2025/26 Retail, Hospitality and Leisure Relief scheme will provide eligible occupied, retail, hospitality and leisure businesses with 40% relief of the chargeable business rates liability. Businesses may claim the relief up to a limit of £110,000 per business across all eligible properties in England.
- A2.2 Properties that are eligible for Retail, Leisure and Hospitality Relief will be occupied and wholly or mainly used as shops, restaurants, cafes, drinking establishments, cinemas, live music venues, assembly for leisure, hotels, guest and boarding premises or self-catering accommodation. The full guidance provided by the Ministry of Housing, Communities and Local Government (MHCLG) is available here.
<https://www.gov.uk/guidance/business-rates-relief-202526-retail-hospitality-and-leisure-scheme>
- A2.3 The relief will be awarded to business ratepayers that meet the eligibility criteria in the guidance.
- A2.4 The level of relief is 40% of the chargeable amount, to be applied after mandatory reliefs and other discretionary reliefs. There is no rateable value threshold limit.
- A2.5 The relief is subject to a cash cap preventing any business from receiving more than £110,000 of relief across all of its properties in England. Ratepayers that occupy more than one property will be entitled to relief for each eligible property up to maximum £110,000 cash cap to the business. Where a business has a qualifying connection with another business it will be treated as one for the purposes of this cash cap.
- A2.6 Businesses may be required to declare that they will not exceed the cash cap if relief is awarded.

- A2.7 The Retail Hospitality and Leisure Relief Scheme in 2025/26 is likely to amount to subsidy. Any relief provided under this scheme will need to comply with the UK's domestic and international subsidy control obligations.
- A2.8 Business ratepayers, on a self-assessment basis, must declare that by receiving the relief they will not exceed subsidy limits.
- A2.9 Businesses can refuse the relief up to 30 April 2025. Once refused the business will become ineligible and cannot withdraw their refusal.

A3 Supporting Small Business Relief 2023/24 – 2025/26

- A3.1 2023 Supporting Small Business Relief (SSB) will cap bill increases at £600 for any business losing eligibility for some or all Small Business Rate Relief at the 2023 revaluation.
- A3.2 The relief will be available in financial years 2023/24, 2024/25, 2025/26 for businesses that continue to meet the eligibility criteria unless their bill reaches the level it would have been without the relief.
- A3.3 The relief will be awarded to business ratepayers that meet the eligibility criteria in the guidance provided by the Department for Levelling Up, Housing and Communities (DLUHC). The full guidance is available here <https://www.gov.uk/government/publications/business-rates-relief-2023-supporting-small-business-relief-local-authority-guidance>
- A3.4 Eligible businesses will automatically receive the relief on their bill.
- A3.5 The 2023 Supporting Small Business Relief is likely to amount to subsidy. Any relief provided under this scheme will need to comply with the UK's domestic and international subsidy control obligations.
- A3.6 Business ratepayers likely to exceed subsidy control limits will be asked, on a self-assessment basis, to declare that by receiving the relief they will not exceed subsidy limits.

A4 Administration

- A.4.1 Cheltenham Borough Council will administer the schemes under Section 47 of The Local Government Finance Act 1988 as amended by The Localism Act 2011 and The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059).
- A.4.2 Eligibility for reliefs will be determined in accordance with the guidance provided by the Ministry of Housing, Communities and Local Government (MHCLG)
- A.4.3 Reliefs in this policy may be changed to reflect changes to Government guidance or to ensure successful operation of the schemes.

- A.4.4 Retail Hospitality and Leisure reliefs under the provisions in this policy will be awarded in respect of the financial year 2025/26 only and they will end on 31 March 2026.
- A.4.5 2023 Supporting Small Business Relief under the provisions in this policy, for business ratepayers losing some or all Small Business Rate Relief may be awarded in respect of the financial years 2023/24, 2024/25 and 2025/26
- A.4.6 All reliefs will be recalculated or cancelled to reflect any change in circumstances that affect entitlement, changes to entries in Rating List, or where any conditions cease to be met.
- A.4.7 Decisions relating to the granting of relief are be delegated to the Head of Revenues and Benefits and staff within the Business Rates Team.
- A.4.8 Relief may be granted automatically where information held on the business rate account confirms eligibility in line with the qualifying criteria and that cash caps or subsidy control limits will not be exceeded. In these cases businesses will be asked to notify the council if they are not entitled. In all other cases an application must be submitted with a cash cap and/or subsidy control declaration.
- A.4.9 Where reliefs have been awarded businesses must notify the Council within 21 days of any change of circumstances that could affect their entitlement to the relief.
- A.4.10 Businesses will be required to provide any information requested to support their application for a relief.
- A4.11 There is no statutory right of appeal against a decision made by the Council in respect of Retail Hospitality and Leisure Relief. However, the Council will reconsider the decision if the ratepayer is dissatisfied with the outcome.
- A.4.12 The request for a reconsideration must be made within 28 days of the business or agent acting on behalf of the business being issued with an award decision. The review will be carried out by the Deputy Chief Executive.
- A.4.13 If an unsuccessful applicant requests a reconsideration they will need to continue to pay their rates bill. Once the reconsideration has been carried out, the ratepayer will be informed, in writing, of the decision.
- A.4.14 Cheltenham Borough Council will not tolerate any business falsifying their records or providing false evidence. A ratepayer who falsely applies for any relief or provides false information or makes false representation in order to gain relief will face prosecution and any relief awarded will be revoked.