

Bath & North East Somerset Council

Business Rates Discretionary Relief Policy

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1. Introduction

1.1. Bath and North East Somerset Council acknowledge the vital role businesses play in the local economy and are aware of the challenges they encounter. Additionally, the council appreciates the contributions of voluntary, charitable, and non-profit organizations to the local authority, recognising that they too may be subject to business rates.

1.2 In delivering this policy, the council aims to:

- Set guidelines for the factors that should be considered when considering granting or denying relief.
- Ensure all applicants are treated equitably and consistently.
- Treat each case on its own merits and in accordance with the guidance.
- Ensure fair and consistent treatment of individuals, irrespective of age, sex, gender, disability, or sexual orientation, while protecting their rights under data protection and human rights laws.

1.3. The business rates system, also referred to as non-domestic rates (NDR), encompasses both mandatory and discretionary powers. These powers enable councils, acting as the billing authority, to reduce the business rates charged or collected under specific conditions. This policy outlines the factors to consider when granting discretionary reliefs.

Mandatory reliefs are not included in this policy.

1.4. Discretionary relief may be awarded to:

- Charities and community amateur sports clubs in receipt of mandatory relief (top up).
- Non-profit making organisations.
- Properties within a rural settlement.
- Partially occupied properties.
- Organisations suffering severe hardship.
- Organisations that do not fit into the above criteria and the council considers it reasonable.
- Organisations as directed by central government policy.

1.5. The council will thoroughly evaluate each discretionary business rate relief application based on its individual merits, taking into account the contribution the applying business or organisation makes to our local economy and community.

2. Applications and evidence

2.1 All discretionary reliefs (which are not central government funded) must be applied for by contacting the Business Rates Team on 01225 477777 or emailing Businessrates@bathnes.gov.uk

2.2 It is crucial that ratepayers submit all requested evidence. Failure to do so will result in the claim being assessed based solely on the information provided, which may lead to no relief being granted, even if the business or organisation is eligible.

2.3 Please continue to pay business rates while awaiting the outcome of your application.

2.4 Where the cost of a grant will be fully reimbursed by central government (under Section 31 of the Local Government Act 2003) a relief may be granted without the need for an application form.

3. Award process

3.1 The council aims to review applications and notify applicants of its decision within 28 days (or as soon as practicable) from the date of receipt of the application or provision of supporting evidence.

3.2 Applications are assessed by the Revenue Team Leader and Revenue Manager.

3.3 When a relief is awarded, the council will write to the business/organisation to notify them of the:

- The amount of relief granted and the date from which it has been granted.
- Where relief is granted for a set period, the date the relief will end.
- The new chargeable amount of business rates.
- The details of any planned review dates and the notice the council will provide in advance of a change to the level of relief granted.
- Requirement that the ratepayer should notify the council of any change of circumstances that may affect entitlement to the relief granted.

3.4 If it is decided not to award relief, the council will provide the business or organisation with a clear explanation of the decision and ask if they would like to request a review (see section 5).

3.5 Discretionary reliefs are generally awarded only for the financial year in which the application is made. A new application will be necessary for each financial year, unless businesses are notified otherwise. Where an organisation in receipt of a relief, is awarded a council grant (for example voluntary and community sector funding), multi-year awards may be made. In the case of small awards, where the financial assistance offered through the relief is below £10,000 per annum, multi-year awards may be considered.

3.6 Backdating of the relief beyond the current financial year will only be considered where there has been a decision by the valuation office agency (VOA) which has resulted in a retrospective change to the rateable value. Applications must be made within six months of any amendment to the rating list value or reconstitution of a hereditament (e.g., a split or merger of a business premises).

Discretionary relief is to be granted from the beginning of the financial year in

which the decision is made or when liability begins whichever is the later. Following the NDR Act 2023 gaining royal assent, the restriction preventing billing authorities from deciding to award discretionary relief more than six months after the end of the relevant financial year has been removed. This means that from 1 April 2024 the Council have discretion to award backdated relief in respect of the financial year 2023/24 onwards. The restriction on backdating prior to the 2023 financial year remains.

Though Section 47 discretionary relief covers various reliefs, the Council will only backdate reliefs in line with VOA changes and those that are fully funded by central government. Where a cost is borne by the Council, the restriction on backdating relief remains that of six months after the end of the relevant financial year.

3.7 Charity Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.

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 **local criteria** will be taken into consideration:

(a) the organisation **must** be able to demonstrate that it helps to deliver the visions and values and improvement priorities/corporate objectives of Bath and North East Somerset Council

(b) in addition, the Council will normally restrict the award of discretionary relief to organisations less able to meet their rating liability, and therefore will apply a financial test to each application as follows:

The organisation’s gross income/turnover during the financial year should not exceed ten times the rateable value of the property occupied, or £30,000, whichever is greater; and

(c) Membership of the organisation/participation in activity is open to all to join at a nominal membership fee and/or nominal entrance fee.

Ideally all recreation clubs should be encouraged to apply for Community Amateur sports Club (CASC) status, which would automatically entitle them to 80% relief.

3.8 Discretionary Relief - Non–Profit Organisations including Recreation – the Council’s Policy

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 **local criteria** will be taken into consideration:

(a) the organisation **must** be able to demonstrate that it helps to deliver the visions and values and improvement priorities/corporate objectives of Bath and North East Somerset;

(b) in addition, the Council will normally restrict the award of discretionary relief to organisations less able to meet their rating liability, and therefore will apply a financial test to each application as follows: The organisation's gross income/turnover during the financial year should not exceed ten times the rateable value of the property occupied, or £30,000, whichever is greater; and

(c) Membership of the organisation/participation in activity is open to all to join at a nominal membership fee and/or nominal entrance fee.

4. Granting, varying, reviewing and revocation of a relief

4.1 The council reserves the right to revise and revoke any discretionary reliefs at any time.

4.2 If changes are made to any awarded reliefs, the council will let the recipients know as soon as possible in writing and will include:

- The change (increase or decrease) to the relief, and the date the change will apply from.
- Where a relief is set to be reduced, the council will provide one financial year's notice.

5. Reviews

5.1 The council are always willing to review our decisions on request.

5.2 If you are a local business or organisation that has applied for discretionary relief and have been notified that the council are not inclined to award the relief, and you would like this decision to be reconsidered, please

email Businessrates@bathnes.gov.uk within one calendar month of the decision date, stating the reasons why you believe the decision should be reviewed.

5.3 Your application will be reviewed, and the council will confirm whether we uphold or overturn the original decision. At this point, the council may request additional evidence to support the review.

5.4 The council will notify you of the result of the review in writing, within one calendar month (or as soon as is practicable).

5.5 If you still disagree with the council's decision, whilst there is no formal right of appeal to any other body, applicants can seek a judicial review.

6. Changes in circumstances

6.1 If you are in receipt of a discretionary relief, you must notify us of any change(s) in circumstances that may affect the relief granted within 21 days of the change.

6.2 This is important where the change would result in the relief being reduced or cancelled e.g., the premises has changed its use or become unoccupied.

6.3 Following a report of a change of circumstances, the council will reconsider the award made and revise the relief if appropriate.

6.4 If this results in a reduction in relief awarded, the council will look to recover the amount from the date the change of circumstances occurred.

7. Details of available reliefs

7.1 Charities and community amateur sports clubs – request a discretionary application form by emailing Businessrates@bathnes.gov.uk or calling the team on 01225 477777.

Together S43 of the Local Government Finance Act 1988 & The Local Government Act 2003 allow **mandatory charitable rate relief (80%)** to be granted to a business premises occupier if it is a charity or trustees for a charity, and the premises is wholly or mainly used for charitable purposes or is a registered community amateur sports clubs (CASC) in the mandatory relief. Where an applicant is receiving the 80% mandatory relief, they can apply for a further 20% discretionary top up, if it can demonstrate it meets the below criteria:

- It is a charity or trustees for a charity and the property is wholly or mainly used for charitable purposes.
- It is a registered as a community amateur sports club and the property is used wholly or mainly for the purposes of that and other registered clubs.
- The organisation benefits residents of the local authority by the services or facilities it provides.
- Where membership is required, most members are from Bath and North East Somerset.
- Where membership is required, it is accessible to all residents and concessions are available to certain groups, for example those on a low income or your people under 18.
- The organisation has due regard to equality issues and actively encourages members from all groups and underrepresented groups.
- It would be reasonable for the council to make such a decision having regard to the interests of the taxpayers.
- The activities of the organisation align with the council's values and corporate strategy.

7.2 Non-profit making organisations, including recreation - request a discretionary application form by emailing Businessrates@bathnes.gov.uk or calling the team on 01225 477777.

S47 Local Government Finance Act 1988 allows the council to grant **discretionary relief (up to 100%)** where a property is not an excepted one and all, or part of it, is occupied for the purposes of one or more institutions, or other organisations, none of which is established or conducted for profit, and each of whose main objects are charitable, or are otherwise philanthropic or religious, or concerned with education, social welfare, science, literature, or the fine arts. Applications will be considered if an organisation can demonstrate it meets the below criteria:

- The organisation is a non-profit making association, group or club which is accessible and accountable to all users, beneficiaries and members (e.g., details of the constitution, membership and participation required).
- Where membership is required, most members are from the local area or the activities are a direct benefit to the residents in the local authority.
- It would be reasonable for the council to make such a decision having regard to the interests of the taxpayers.
- The activities of the organisation align with the council's values and corporate strategy.

Recreational clubs should also be able to demonstrate:

- Membership is open to all sections of the community and should not be exclusive or restrictive and have due regard to equality issues and actively encourage members from all groups and under-represented groups.
- Any membership fees are set at a level that does not exclude the general community.
- The organisation does not meet the community amateur sports club requirement.

The council will consider the financial circumstances of organisations applying for discretionary relief. Relief may be declined if the council believes the organisation has access to alternative funding options and/or does not require the financial support provided by the relief. This relief cannot be granted to any premises occupied by the council, any town or parish council, or any other precepting authority (excepted premises).

7.3 Premises within rural settlements - request a discretionary application form by emailing Businessrates@bathnes.gov.uk or calling the team on 01225 477777.

The Local Government and Rating Act 1997 allows **discretionary relief of up to 100%** to be granted where a business property is in a rural settlement, its rateable value is £16,500 or less, and the business can demonstrate it is of a significant benefit to the local community, with the majority of local residents directly benefiting from its services or facilities. The following matters will be taken into consideration:

- Granting the relief is essential to the viability of the business and will allow it to continue to trade/prevent the business from failing.
- The business can demonstrate it is essential to the community and any reduction or withdrawal of the service or facility will have a serious detrimental effect on the rural settlement.
- It would be reasonable for the council to make such a decision having regard to the interests of the taxpayers.
- The activities of the organisation align with the council's values and corporate strategy.

7.4 Partly occupied hereditaments - request a discretionary application form by emailing Businessrates@bathnes.gov.uk or calling the team on 01225 477777.

The full amount of non-domestic rates is due whether a property is wholly occupied or only partly occupied. However, the council has discretion to award relief, in certain cases, in respect of the unoccupied part where this for a short period under Section 44a of LGFA 1988. The following matters will be taken into consideration:

- The reasons it is partly occupied.
- The period it will be partly occupied.
- It if would be appropriate for the valuation office agency (VOA) to re-assess the premises, if the change were made long-term.
- It would be reasonable for the council to make such a decision having regard to the interests of the taxpayers.

Applicants need to submit the following as part of their application:

- A detailed plan that clearly shows the occupied and unoccupied parts including the size of each area.
- Details of the period the area is likely to be temporarily unoccupied.
- Details of plans for the unoccupied parts.
- It may be necessary for a council officer to visit the premises to verify the information given.

The council will refer the matter to the VOA to apportion the rates according to the unoccupied parts. The relief granted will be based on the VOA's certificate (as required by the legislation). The Revenues Team leader will determine the period the relief will apply, based on information provided as part of the application.

Any relief granted will be for a maximum of six months. Applications will not be considered for retrospective periods when full occupation has taken place.

7.5 Hardship relief - request a discretionary application form by emailing Businessrates@bathnes.gov.uk or calling the team on 01225 477777.

Under Section 49 of the Local Government Act 1988, the council can use its discretion to grant partial or full rate relief in cases of hardship, where it is reasonable to do so, considering the interests of council taxpayers. An applicant must be able to demonstrate that:

- The reasons the business is suffering financial hardship and that the business will be able to continue to trade if the relief is granted.
- If the business were to close, it would worsen the employment prospects in the area.
- A reduction in the non-domestic rates is significant to the future viability of the business.
- The business has no access to alternative funding options and can demonstrate it requires the financial support provided by the relief.
- It is in the interests of the taxpayers to grant the relief (e.g., the loss of a service for which they are the sole provider for in the area).

Applicants will need to provide:

- A cash flow forecast for the next 12 months, along with a comprehensive business plan.
- Details of any state aid, grants or other funding in the last three years.
- Evidence of how the business benefits the local community.
- Any additional information deemed necessary so the council can make an informed decision.

Reductions on the grounds of hardship will be the exception rather than the rule and are not confined to financial hardship.

7.6 Localism Act 2011 relief - request a discretionary application form by emailing Businessrates@bathnes.gov.uk or calling the team on 01225 477777

Under Section 69 of the Localism Act 2011, which amends Section 47 of the Local Government Act 1988, the council can grant discretionary relief in any circumstance it deems appropriate, considering the impact on local taxpayers. Applications will be considered from any ratepayer who wishes to apply and is unable to do so under other parts of the legislation, such as Section 49 (hardship). The council will evaluate all businesses owned by the ratepayer and whether they can rely on income or profit from other branches or businesses. An applicant must be able to demonstrate that:

- The business/organisation is not entitled to mandatory relief (charity relief).
- The business/organisation is not an organisation that could receive relief as a non-profit making organisation or club.
- The business/organisation is in occupation of the premises they are applying for.
- The premises and organisation are of significant benefit to residents in the local community.
- The premises and organisation are not in receipt of/does not have access to central government fully funded discretionary relief schemes (e.g., retail relief, small business rates relief).
- The premises and organisation relieve the council of providing similar facilities.

- The business/organisation provides facilities to certain groups (e.g., young, elderly, disabled) or provides significant employment or employment opportunities to residents in the local Authority.
- The organisation and premises provide services, opportunities or facilities that cannot be obtained elsewhere locally, or are not provided locally by any other organisation.
- The business/organisation can demonstrate that the assistance needed is for a short time only and the business is financially viable in the long term.
- It would be reasonable for the council to make such a decision having regard to the interests of the taxpayers.
- The activities of the organisation align with the council's values and corporate strategy.

Relief will be considered initially for a short period only.

7.7 Government fully funded reliefs

Occasionally, central government introduces new fully funded relief types for hereditaments that meet specific criteria through a Section 31 Grant. When such reliefs are introduced and impose no financial burden on the council, they may be granted by the Revenue Team Leader or Revenue Manager. These reliefs will be applied in accordance with guidance from the relevant government department.

Applications for such reliefs may not always be required, depending on government guidance. When a relief is introduced, the council will notify any qualifying ratepayers in writing, informing them of the relief, the application process (if applicable), the amount awarded, and the period the relief applies to.

Examples of such reliefs include retail, hospitality and leisure discount, supporting small business rate relief, and local newspaper relief.

8. Fraud

8.1 The council is committed to reducing fraud in all its forms.

8.2 Providing false declarations or statements or submitting false evidence in support of an application for discretionary rate relief, may constitute an offence under the Fraud Act 2006.

9. Legal Background

9.1 Discretionary rate relief is administered through the Local Government Finance Act 1988 (LGFA).

9.2 Mandatory charitable relief of 80% is given to charities, community amateur sports clubs and other nonprofit making organisations, subject to application and verification of their status. Section 47 of the Local Government Finance Act 1988 gives the council the discretion to award a further 20% mandatory relief.

9.3 Section 69 of the Localism Act 2011, as amended by section 47 of the Local Government Finance Act, allows councils the discretion to award rate relief to all types of businesses.

9.4 Section 44A of the Local Government Finance Act gives the council the discretion to reduce the rates on a property that is partly occupied for a short time only.

9.5 Section 49 of the Local Government Finance Act gives the council the discretion to reduce or remit all or part of the rate liability of any organisation, which in the council's opinion, is suffering from hardship.

9.6 From time to time, central government will direct councils to award a discount or relief using the powers contained in Section 47 of the Local Government Finance Act. The cost of these is fully reimbursed under Section 31 of the Local Government Act 2003.

9.7 Details of the funding arrangements for business rates and reliefs are contained in the Non-Domestic Rating (Contributions) Regulations 1992, (as amended), the Non-Domestic Rating (Rates Retention) Regulations 2013, and Section 31 of the Local Government Act 2003.

9.8 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2002 and the Localism Act 2011. Section 223 of the Local Government Act 1992 allows for delegation of decisions by the council to its cabinet, committees, sub-committees or officers.

9.9 Decisions relating to reliefs where central government have directed the council to use its powers under S47 Local Government Finance Act 1988, and which will be fully funded under S31 of the Local Government Act 2003, shall be made by the Revenue Team leader.

10. Subsidy

10.1 Discretionary relief is potentially subject to the Subsidy Control Act 2022. The purpose of the Subsidy Control Act 2022 is to implement a domestic subsidy control regime in the United Kingdom that reflects the UK's strategic interests and particular national circumstances, providing a legal framework within which public authorities make subsidy decisions.

10.2 To the extent that the council is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act 2022 allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the current year and two previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. BEIS COVID 19 business grants and any other subsidies received under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement should be counted under the £315,000 allowance.

10.3 In those cases where the ratepayer is likely to breach the MFA limit then the council will withhold relief.

Otherwise, the council may include the relief in bills and ask the ratepayers, on a self-assessment basis, to inform the council if they are in breach of the MFA limit.

10.4 MFA subsidies above £100,000 are subject to transparency requirements. This means that for every individual subsidy provided of more than £100,000, the council will include details of the subsidy on the subsidy control database.

11. Equality, diversity and inclusion

11.1 Bath and North East Somerset Council is committed to developing and delivering services in a way that ensure we treat people fairly and promote equality of opportunity and social cohesion within the wider community.

11.2 This policy aims to ensure the fairest outcomes for everyone, irrespective of race, gender reassignment, age, disability, pregnancy and maternity, religion or belief, sex, sexual orientation, marital or civil partnership status, and/or disability.

11.3 This policy has undergone an equality impact assessment to ensure it is free from discrimination in its design, development, and delivery, and to promote equality wherever possible.

12. Review

12.1 This policy is periodically reviewed, taking into account other council policies, priorities, and changes in legislation.