
Discretionary Business Rate Relief Policy

Guidelines for the Award of Discretionary Business Rates Relief

1. INTRODUCTION AND SCOPE

- 1.1 Discretionary Rate Relief (DRR) is granted in accordance with Section 43 and Section 44a of the Local Government Finance Act 1988 (LGFA 1988) and Section 47 and 49 of the LGFA 1988 as amended by the Localism Act 2011.
- 1.2 Clause 69 of the Localism Act 2011 amended Section 47 of the LGFA 1988 to allow billing authorities the discretion to fund their own local discounts. Since April 2012, the Council has been able to grant Business Rates 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, as well as to support local shops or community services.
- 1.3 The introduction of the Business Rates Retention scheme in 2013 meant that Local Authorities now have a financial stake in the income generated from Business Rates in their area. Since April 2017, the Council has participated in the 100% Business Rates Retention pilot scheme.
- 1.4 This means that Mandatory and Discretionary Relief is financed 99% by the Council and 1% by the Greater Manchester Combined Authority. The Government has pledged that Greater Manchester authorities will suffer no financial detriment as a result of participating in the 100% pilot scheme. This extends to the awarding of mandatory and discretionary rate reliefs.
- 1.5 In view of the direct cost of awarding Business Rates relief, the Council has determined that its DRR policy is reviewed annually to ensure that awards of DRR are appropriate and maximise benefits to Oldham residents.
- 1.6 This policy document outlines the areas of local discretion and the Council's approach to the various awards. This approach has regard to the impact:
 - Of granting DRR (including Section 44a Relief and Hardship Relief) on the Council's wider financial position and Council Tax payers;
 - On the organisations and businesses that currently receive or may apply for relief in the future;
 - For Oldham residents and any regeneration benefits to the borough.
- 1.7 The principal consideration when making an award is that any relief granted is in the best interests of the residents and taxpayers of Oldham and produces a local benefit. It will also be reflective of and complementary to the co-operative ethos of the Council.
- 1.9 The Government has introduced several rate relief schemes in recent years, some of which are available for specified years only. The criteria and funding for these schemes are detailed within Government guidance issued to Local Authorities. The Government funded schemes in relation to 2024/25 can be found in section 11.

2 CHARITABLE RELIEF (CHARITIES)

2.1 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).

2.2 The Council does not have any discretion regarding the award of Mandatory Rate Relief; however, the Council must be satisfied that the statutory criteria has been met. For this purpose, the Council will use guidance provided in both the LGFA 1988, and by reference to other enactments and case law.

2.3 The Council will refer to the Charity Register for evidence of charitable status however absence from the register does not mean an organisation has not been established for charitable purposes as certain organisations are exempt from registration under the Charities Act 1993.

2.4 In cases where a charity is in receipt of mandatory rate relief of 80%, the Council has discretion to grant up to 20% additional rate relief known as a DRR top up.

2.5 The Council will consider applications for a DRR top up from charities 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 Oldham and produces a local benefit as the Council must contribute to the cost of each award. As such, top up will be awarded generally to the following type of registered charities:

- Scouts, guides, cadets and other clubs/associations for young people;
- Community schemes encompassing organisations providing support for those over the age of retirement, community transport, those based on volunteering and residents' associations;
- Organisations providing support in the form of advice, training for employment, counselling;
- Organisations that provide services that address the consequences of ill health and disability;
- Charitable sporting clubs (also see CASCs);
- Locally based leisure and cultural organisations;
- Armed forces veteran's associations;
- Locally based charities;
- Charity shops (operated by either locally based or national charities);
- Local childcare providers registered as charities

3 REGISTERED COMMUNITY AMATEUR SPORTS CLUBS (CASC) RELIEF

- 3.1 Mandatory rate relief of 80% is granted to registered community amateur sports clubs (CASCs). To qualify as a CASC, a sports club must fulfil all the following criteria. It must be:
- Open to the whole community;
 - Run as an amateur club;
 - Non-profit making and
 - Aiming to provide facilities for, and encourage people to take part in, eligible sport.
- 3.2 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 DRR top up.
- 3.3 The principal consideration is that any relief is in the best interests of the residents and taxpayers of Oldham. However, in determining the application the following matters will be taken into consideration:
- How the CASC supports and links into the Council's corporate vision and priorities;
 - A club 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 fulfil 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.
- 3.4 If the organisation applying for a DRR 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 18s or over 60s
 - 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.
- 3.5 It should be noted that sports clubs 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 if the principal objectives of the organisation meet the eligibility criteria detailed at 3.1. 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.

4 NON-PROFIT MAKING ORGANISATIONS INCLUDING COMMUNITY INTEREST COMPANIES (CIC)

4.1 The Council has the power to grant discretionary rate relief of up to 100% to 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; and
- Provides a valuable service to the community; and
- Is open to all sections of the community and operates in such a way that it does not discriminate against any section of the community; and
- It is not conducted or established for the primary purpose of accruing profit.

4.2 The Council will consider applications for a DRR top up 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 in the best interests of the residents and Council Tax payers of Oldham and produces a local benefit as the Council must contribute to the cost of each award. As such, top up will generally be awarded to the following type of non-profit making organisations:

- Scouts, guides, cadets and other clubs/associations for young people;
- Community schemes encompassing organisations providing support for those over the age of retirement, community transport, those based on volunteering and residents' associations;
- Organisations providing support in the form of advice, training for employment or counselling;
- Organisations that provide services that address the consequences of ill health and disability;
- Locally based leisure and cultural organisations;
- Armed forces veteran's associations.

4.3 If the organisation applying for DRR 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, 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 under 18s or over 60s;
- Membership is encouraged from groups who face social barriers, , 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.

4.4 Where the applicant organisation requires membership, at least 50% of the members should reside within the boundaries of the Borough of Oldham (evidence of this will be required).

5 LOCAL CHILD CARE PROVIDERS

5.1 The Council will consider applications for DRR from local childcare providers based on their own merits on a case-by-case basis. The principal consideration is that any relief is in the best interests of the residents and taxpayers of Oldham and produces a local benefit as the Council must bear a percentage of the cost of any relief granted. Criteria in relation to an award are:

- A local childcare provider is in receipt of Mandatory Rate Relief of 80% as a registered charity, in these cases the Council has the discretion to grant up to 20% additional rate relief.
- In cases where a local childcare provider is not in receipt of Mandatory Rate Relief the Council has the discretion to consider granting an award up to 100% of rate relief.
- If a local childcare provider applies for relief, they must not charge fees that would be considered unaffordable by most Oldham residents. The provider must also not restrict attenders with admittance policies that are deemed unfair.
- If a nursery charges unreasonable fees or if they make significant profits that are not reinvested into the business that they are unlikely to be awarded DRR.
- In reviewing an application from a childcare provider, there will be consultation with the Early Intervention and Families team to determine if providing relief would meet the aim of supporting local childcare provision.

6 RURAL RATE RELIEF

6.1 Organisations or businesses which operate within a designated rural settlement (with a population of 3,000 or less) may be eligible for Rural Rate Relief. Eligible organisations/businesses must be located in one of the settlements identified in the Council's rural settlement list, which is reviewed periodically:

- Current areas designated as rural settlements are:

Delph	Denshaw	Diggle	Dobcross
Grasscroft	Grotton	Scouthead	Woodhouses

6.2 Rural Rate Relief is open to any type of business within a classified rural settlement that satisfies the following criteria:

- The only qualifying village shop or post office with a rateable value of up to £8,500
- The only qualifying public house or petrol station with a rateable value of up to £12,500
- Within the boundaries of a qualifying rural settlement.

7 LOCALISM RELIEF

- 7.1 The Council is now able to grant Business Rates discounts entirely as it sees fit within the limits of the primary legislation and the UK Subsidy Control regime. The Council will place particular focus on using these powers to support the regeneration objectives of the Council, encouraging new business and investment in the Borough.
- 7.2 In reviewing an application from a business requesting DRR under these powers, there will be consultation with the Council's Business and Investment Team to determine if providing relief would support the economic objectives of the borough.
- 7.3 Applicants will also be signposted to the Council's Business and Investment team for support and for advice on other options available to the business prior to an award being considered.

8 HARDSHIP RELIEF

- 8.1 The Council has the power to reduce or remit the Business Rates charged in certain circumstances where the business is enduring temporary financial difficulties beyond their control. This is known as Hardship Relief.
- 8.2 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.
- 8.3 Loss of profitability due to increased competition would not generally be considered as Financial Hardship.
- 8.4 Hardship Relief is a temporary measure which should not be used to artificially sustain a failing business. Hardship Relief will be awarded where the applicant organisation is facing temporary financial difficulties and where the community would be significantly disadvantaged if the business were to close due to these temporary financial constraints.

9 SECTION 44A RELIEF (PARTLY OCCUPIED PROPERTIES)

- 9.1 The Council has discretion to consider requests from ratepayers asking that the rateable value of premises that is charged Business Rates is split between the occupied and temporarily unoccupied portions and that the Council then only charges rates of the occupied portion. This is permitted under Section 44a of the LGFA 1988.
- 9.2 The Council has the discretion to accept or refuse such a request. If the request is accepted, then the Valuation Office Agency (part of Her Majesty's Revenues

and Customs (HMRC) is asked to supply a Certificate indicating the relevant values for the occupied and unoccupied portions and this Certificate is binding on the Council.

- 9.3 The definition of ‘temporary period’ is not prescribed with the law and therefore Oldham Council has the discretion to decide the period of relief that should be awarded.
- 9.4 The law provides discretionary power, but the decision whether to exercise that power must be taken before the Valuation Officer’s Certificate is requested, as the apportioned values are those upon which the charge must be levied once supplied. Discretionary power does not alter the general rule that occupation of part of a premise constitutes occupation of the whole of the premises.
- 9.5 The effect of the apportioned values applies to the **operative period**, which is defined as the period beginning with the day on which the premises became partly unoccupied and ending with the first day on which one or more of the following events occur.
- The occupation of any of the unoccupied part of the premises;
 - The ending of the financial year in which the apportionment was required;
 - The requiring of a further apportionment;
 - The complete occupation of the premises; or
 - The complete vacation of the premises.
- 9.6 The Authority is required to terminate this relief in the event of a change in the proportions of the premises occupied and unoccupied or at the end of a financial year, and then may, if appropriate consider requesting the Valuation Office to issue a further Certificate.
- 9.7 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.
- 9.8 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.
- 9.10 The use of Section 44a is intended to apply to those premises where there are practical difficulties in either occupying the premises or vacating the premises. Therefore, it is not intended that all premises which temporarily become partly unoccupied should have their liability reduced.
- 9.11 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 purpose of applying for Rate Relief.
- 9.12 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) or where a ratepayer is incrementally moving out of the premises and leaving the borough.

9.13 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.

9.14 In determining the application, favourable consideration will be given (but not limited to) where:

- There is a partial occupation of a warehouse, factory or commercial premises to facilitate relocation of the company into the borough or to extend the current portfolio and associated occupation levels in the borough; or
- Where fire, flood or other disaster prevents full use of the premises.

9.15 Favourable consideration would not normally be given:

- For a period that has now passed;
- For consecutive periods;
- To support a business moving its operation outside of the borough;
- Where the owner sublets part of the premises on a commercial basis;
- Where the part occupation is likely to continue for more than 3 months (6 months if industrial premises);
- Where there appears to be no effort to let, sell or occupy the empty part; or
- Where part occupation is seasonal or cyclical in nature.
- Where part occupation is due to refurbishment of the premises.

(N.B. This is not an exhaustive list.)

9.16 At all times consideration will be made for the regulations contained within Section 44a of the Local Government Finance Act 1988 and any relevant case law.

10 MAKING AN APPLICATION

10.1 Applicants will be encouraged to submit applications for DRR online at www.oldham.gov.uk

10.2 All Applications for Discretionary Rate Relief top up must be supported by, and include:

- The organisation's main purposes and objectives, as set out in, for example, a written constitution, a memorandum of association, or 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 instead. (It is recommended that applicant organisations submit audited accounts dating back further than two years if such information is available.)
- Details of how the organisation meets the criteria outlined in these guidelines.

Localism Relief

- 10.3 Where applications seek rate relief in respect of new business set up etc., information provided should also include business plans and other information that demonstrate the regeneration or economic benefit to Oldham.

Section 44A Relief

- 10.4 The following information will be required to support written requests for Section 44a relief:
- 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.
- 10.5 If an application is received without the necessary supporting information, the application will be considered ineligible.
- 10.6 The Council will inform applicants in writing of any decision. This notification will also confirm the period for which relief has been awarded and a revised bill will be issued.
- 10.7 Unsuccessful applicants will be notified and provided instructions on how they can appeal the decision.
- 10.8 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 this information is not provided, no reminders will be issued, and the relief will be removed.
- 10.9 The Council can depart from its general policy if it sees fit to do so, taking into account the facts of each case and the interests of residents and Council Taxpayers.

11 Temporary Government funded Relief schemes

- 11.1 The Government has introduced several rate relief schemes in recent years, some of which are available for specified years only. The application process and eligibility criteria are individual to each relief scheme. The Council follows Government guidance in administering and awarding these reliefs.
- 11.2 The schemes available for 2024/25, and the applicable government guidance can be found using the links below.

Retail, Hospitality and Leisure Relief Scheme.

<https://www.gov.uk/guidance/business-rates-relief-202425-retail-hospitality-and->

leisure-scheme

Newspaper Relief

<https://www.gov.uk/government/consultations/the-case-for-a-business-rates-relief-for-local-newspapers>

Supporting Small Businesses Relief

<https://www.gov.uk/government/publications/business-rates-relief-2023-supporting-small-business-relief-local-authority-guidance>

Business Rates Heat Network Relief

<https://www.gov.uk/government/publications/business-rates-heat-network-relief-local-authority-guidance-2023-24/business-rates-heat-network-relief-local-authority-guidance-2023-24>

12 ASSESSMENT OF THE AWARD

- 12.1 The Council delegates the decision-making power for DRR awards to the Exchequer Client Manager (Revenues) and the Assistant Director for Revenues and Benefits (or equivalent post holders).
- 12.2 Any officer or Member involved in the decision-making process for DRR must declare if they have an interest in or association with any organisation which is applying for relief.
- 12.3 In making decisions about applications 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 additional relief.
- 12.4 When considering an application for Section 44A relief, a visit may be made to the premises to confirm the accuracy of the submitted plan. Independent evidence may also be requested, and this may be in the form of surveyors' reports, dated photographs, solicitors' letters and estate or letting agents' records (list not exhaustive).
- 12.5 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.
- 12.7 All awards of Discretionary Rate Relief will typically be awarded as a temporary measure for a limited period e.g., one financial year.
- 12.8 The maximum period for which the Council will consider backdating Discretionary Rate relief is the start of the preceding financial year. The Council will only consider backdating relief prior to the start of the preceding financial year if the applicant can reasonably demonstrate why they were unable to apply in a timely manner.

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- 12.9 As a guide, for a charity, CASC or Non-Profit organisation to be eligible for DRR top up, the organisation must not 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.
- 12.10 In exceptional cases, DRR will be granted to organisations which have enough financial resources in unrestricted funds to continue to operate for more than 12 months. This may include charities or community organisations which require large amounts of available resources to sustain the service they deliver to the community. In such cases, the organisation must be able to prove that it offers a service which the Borough's residents depend on, and which they would be unlikely to find elsewhere in the Borough.

13 APPEALS AGAINST DECISIONS

- 13.1 Any organisation requiring a review of a decision may submit a request by email to DiscretionaryRateRelief@oldham.gov.uk
- 13.2 Oldham Council can review a Discretionary Rate Relief, Hardship Relief or Section 44a decision in the event of a dispute or in light of any new information. Final decisions on appeals will be made by the Section 151 Officer (Director of Finance) and the Cabinet Member for Finance and Corporate Resources.
- 13.3 If the Ratepayer is further dissatisfied the only remaining route to challenge the decision would be by judicial review in line with Section 138 of the Local Government Act 1988. Such a review would only consider whether the decision-making process had been followed correctly; it may not necessarily change a decision.

14 STATE SUBSIDY

- 14.1 From 1st January 2021, the United Kingdom left the EU Single Market and Customs Union and is no longer subject to the De Minimis Regulations. The Government has introduced its own rules regarding state subsidies. Discretionary rate relief is considered a subsidy under the rules, but the matters that must be considered all relate to the effect of the subsidy on international trade. In making an award the Council must consider the award of relief:
- affects international trade;
 - is prohibited under World Trade Organisation (WTO) rules;
 - are in line with those agreed by the UK-EU Cooperation and Trade Agreement
 - are unlikely to trigger a dispute under WTO trade rules
- 14.2 It is expected that in most cases an award of discretionary relief would not breach State Subsidy rules. However, for cases where the Council believes a breach may be possible the recipient of the relief will be asked to complete and return a state

subsidy declaration. If this is not completed and returned the application will be refused.

15 POLICY REVIEW

- 15.1 The Council will review the Discretionary Rate Relief policy on an annual basis, but the Council reserves the right to review and revise the policy at any time as a result of information gained through operating the policy or in response to Government initiatives.
- 15.2 The Cabinet Member for Finance and Corporate Resources in conjunction with the Director of Finance are authorised by Cabinet to agree any revisions to the policy.