



## **National Non-Domestic Rates (Business Rates)**

### **Local Discretionary Rate Relief Policy** (operated under The Local Government Finance Act 1988)

## **1. Background**

In accordance with section 47 of the Local Government Finance Act 1988 and in addition to any national relief schemes, the council can exercise discretion to provide additional reductions to the amounts of Business Rates due to be paid by ratepayers.

A proportion of any discretionary award is directly financed by the council therefore awards should only be made after considering the council's wider financial stance, taxpayers of the borough as a whole and the priorities outlined in the council's Corporate Strategy alongside Deal 2030.

Consideration will be given to the organisations and businesses that apply for relief and their role in supporting residents of the Wigan Borough and the local economy. Unfortunately, it is not possible to award discretionary relief to all applicants.

## **2. Discretionary Rate Relief Scheme**

The Local Government Finance Act 1988 requires the Council to maintain a Discretionary Rate Relief Scheme, with the option to award Business Rates relief of up to 100% to organisations which operate within specified criteria.

This includes:

- Charitable bodies (receive mandatory 80% relief) – the Council has further discretion to 'top up' this relief to 100% of the rates due.
- Registered Community Amateur Sports Clubs (CASCs) (receive mandatory 80% relief) – the Council has further discretion to 'top up' this relief to 100% of the rates due.
- Non-profit making organisations – the Council has discretion to grant 'standard' discretionary rate relief of between 0-100% of the Business Rates due.

The council will consider applications from charitable bodies, CASCs, non-profit making organisations and ratepayers of retail premises under the discretionary scheme.

In determining applications, the Council may grant discretionary relief of:

- up to 20% of the rates due from ratepayers in receipt of 80% mandatory charitable relief;
- up to a maximum of 100% of the rates due from non-profit making organisations;

The council may also refuse an application for any amount of discretionary relief.

Throughout the application process, ratepayers must ensure payments are made as per their most recently issued bill whilst any discretionary application is being considered.

### **2.1 Charitable bodies (charities)**

A 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 and objectives (including charity shops, where the goods sold are mainly donated and the proceeds are used for the purpose of the charity).

Registration under the Charities Act 1993 is evidence of an organisation's charitable status.

Bodies which, under the 1993 Act, are excepted from registration or are exempt charities, are also eligible for mandatory relief. Providing the above criteria is met, 80% mandatory rate relief is applicable.

In cases where a charity is in receipt of mandatory rate relief of 80%, in accordance with this policy the Council has discretion to grant up to further 20% additional rate relief. This is called discretionary rate relief top up.

The Council will consider applications for a discretionary rate relief top up on a case-by-case basis, with each application judged on its own merits.

Applications will be considered by a Business Manager within the Collections and Recovery service or a nominated individual, in consultation with other services within the council and the Deputy Chief Executive or The Assistant Director of Finance (or nominated individual) where necessary.

The principal consideration is that any relief awarded is in the best interests of the taxpayers of the Wigan borough and compliments the council's Corporate Strategy and Deal 2030.

In determining an application for discretionary relief, the following matters will be taken into consideration:

- How the charity supports and links into the council's Corporate Strategy and/or Deal 2030;
- The purpose of the charity and the specific activity carried out within the building for which the relief is requested; and
- Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and the financial position of the charity. The surplus of funds and the distribution / use of such funds will also be considered.

## **2.2 Registered Community Amateur Sports Clubs**

A mandatory rate relief of 80% is granted to registered Community Amateur Sports Clubs (CASC). To qualify as a CASC, a sports club must fulfil the following criteria:

- Be open to the whole community; and
- Run as an amateur club; and
- Be a non-profit making organisation; and
- Aim to provide facilities for, and encourage people to take part in, eligible sport.

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

The Council will consider applications for a discretionary rate relief top up on a case-by-case basis, with each application judged on its own merits.

Applications will be considered by a Business Manager within the Collections and Recovery service or a nominated individual, in consultation with other services within the council and the Deputy Chief Executive or The Assistant Director of Finance (or nominated individual) where necessary.

The principal consideration is that any relief awarded is in the best interests of the taxpayers of the Wigan borough and compliments the council's Corporate Strategy and Deal 2030.

In determining the application, the following matters will be taken into consideration (list is not exhaustive):

- How the CASC supports and links into the council's Corporate Strategy and Deal 2030;
- The membership and fee structure and whether the CASC is accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
- Membership numbers and the number and percentage of these members that are Wigan borough residents;
- If the CASC has due regard to equality issues and if it actively encourages members from under-represented groups, for example ethnic minority residents, people over 50 and people with disabilities;
- Whether facilities are available to the wider community regardless of ability.

We will also require, and use to consider the application, additional financial information including:

- If the CASC runs a bar or food provision, the level of income from this activity and how this money is used; and
- Whether the CASC operates at a local or national level and where appropriate, the local and national funding streams and financial position of the CASC. The surplus of funds and the distribution / use of such funds will also be considered.

### **2.3 Non-profit making organisations**

The Council has the power to grant discretionary rate relief of up to 100% of the rates due to other non-profit making organisations. Discretionary relief can be awarded to properties used by non-profit making organisations for recreational, charitable, philanthropic or religious purposes or in connection with education, social welfare, science, literature or the fine arts.

The Council will consider applications for discretionary rate relief from non-profit making organisations on a case-by-case basis, with each application judged on its own merits.

Applications will be considered by a Business Manager within the Collections and Recovery service or a nominated individual, in consultation with other services within the council and the Deputy Chief Executive or The Assistant Director of Finance (or nominated individual) where necessary.

The principal consideration is that any relief awarded is in the best interests of the taxpayers of the Wigan borough and compliments the council's Corporate Strategy and Deal 2030.

In determining the application, the following matters will be taken into consideration (list is not exhaustive):

- How the organisation supports and links into the council's Corporate Strategy and Deal 2030.;
- Whether the facilities provided include education and/or training for members as a whole or for special groups;
- The extent to which the facilities provided reduce the demand for Council services or produce savings;
- Any membership and fee structure and whether the facilities are accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
- If covered by a membership scheme, membership numbers and the number and percentage of these members that are Wigan Borough residents;
- If the organisation has due regard to equality issues and if its facilities are used by all members of the community, for example ethnic minority residents, people over 50 and people with disabilities.
- If the organisation takes on another premises, whether this enhances the charities objectives.

We will also require additional financial information including:

- If the organisation runs a bar or food provision, or receives any other income from other sales, the level of income from this activity and how this money is used;
- Whether the organisation operates at a local or national level and where appropriate, the local and national funding streams and financial position of the organisation. The surplus of funds and the distribution / use of such funds will also be considered.

## **2.4 Other National/Local Reliefs**

From time to time the government may introduce relief schemes in response to a specific incident (such as flooding) Where such schemes are introduced, the cost of additional relief is normally met by central Government without any impact on local Business Rates income. Any such schemes that are introduced, in so far as they fall to be administered under Section 47 of The Local Government Finance Act 1992, will be administered in accordance with

instructions and guidance set out by Government at that time.

Wigan Council may refuse an award of discretionary relief to any ratepayer where it considers it appropriate not to and/or were doing so would not be considered in line with the Council's Corporate Strategy and Deal 2030.

### **3. Hardship relief**

The Council is able to exercise its discretion under Section 49 of The Local Government Finance Act 1988 to provide either partial or full relief from Non-Domestic Rate payments in cases of hardship where it would be considered reasonable to do so. In determining an application for hardship relief, due regard to the interests of Council Tax payers of the borough will be given.

The Council will consider applications for hardship relief from individuals and organisations on a case-by-case basis, with each application judged on its own merits.

Applications will be considered by a Business Manager within the Collections and Recovery service or a nominated individual, in consultation with other services within the council and the Deputy Chief Executive or The Assistant Director of Finance (or nominated individual) where necessary.

The principal consideration is that any relief awarded is in the best interests of the taxpayers of the Wigan borough and compliments the council's Corporate Strategy and Deal 2030.

### **4. Relief for partly occupied properties**

Section 44A of the Local Government Finance Act 1988 permits the council to require the Valuation Officer to apportion the rateable value of a property between the occupied parts and unoccupied parts, and to certify that appointment. The council can only consider this in circumstances where it appears to the authority that part of it is unoccupied but will remain so for a short time only.

The use of Section 44a is intended to apply to those properties where there are practical difficulties in either occupying or vacating the property. Therefore, it is no intended that all properties which temporarily become partly unoccupied should have their liability reduced.

This is a discretionary provision and the full rates will remain payable on the partly occupied property if the council chooses not to exercise its power in this respect.

As well as being confident that the unoccupied part of the property will remain so for a short time only, the principal consideration for determining whether to award relief will be that any relief is in best interests of the taxpayers of the Wigan borough, as the Council must bear part of the cost of any relief granted.

Favourable consideration will be given (but not limited to) where:

- There is a partial occupation of a warehouse, factory or commercial property to facilitate relocation of the company into the borough or to extend the current portfolio association occupation levels within the borough; or

- Where fire, flood or other disaster but not pandemic prevents full use of the property.

Favourable consideration would **not** normally be given (but not limited to):

- For a period that has now passed;
- For consecutive periods;
- To support a business moving its operation outside of the Wigan borough;
- Where the owner sublets part of the property on a commercial basis;
- Where the part occupation is likely to continue for more than three months (6 if an industrial property)
- 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; or
- Where the unoccupied area is subject to maintenance, modernisation or other building works

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

The period of relief will end on the day that there is a change in the extent of the partial occupation or 31<sup>st</sup> March in the financial year in which relief is applied for or the premises become completely occupied or unoccupied. You must tell the Business Rates section immediately if there is any change to the partial occupation.

## **5. Local Business Rate Discount**

Section 69 of The Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988 and allows the Council to grant locally determined Business Rate discounts (in addition to the already available discretionary rate reliefs).

The new power recognises that the current Business Rates scheme is broadly prescribed by central government and its aim is to provide increased flexibility to local authorities to support organisations, recognising the variations in economic conditions across and within local authority boundaries.

The Council is proposing to not use its discretion at this time and does not currently operate any specific scheme under these new powers.

## **7. Applications and review process**

All applications for discretionary discounts should be made in writing using the Council's application/online forms. The Council will also require evidence to support applications, the details of which will be included on each application form. Any additional information required should be submitted when requested, failure to provide the requested information may result in your application being refused.

Applications may be considered against any national reliefs that are available in the first instance.

If a ratepayer is not satisfied with the decision they can request, in writing, within 21 days for the decision to be reviewed. If they are still not satisfied with the decision after the review has

taken place they retain the right to make a complaint under the Council's Corporate Complaints Procedure.

The council may request further information from a ratepayer in connection with any request to reconsider a decision.

## **8. Award periods**

All areas of discretionary relief will normally be granted for up to 12 months and if necessary, will be subject to an annual review process. The Council reserves the right to review the award should the circumstances of the organisation change during the period of the award.

## **9. Subsidy Allowances/State Aid**

State Aid refers to forms of assistance from a public body, or publicly funded body, given to selected undertakings (any entity which puts goods or services on the given market), which has the potential to distort competition and affect trade between member states of the European Union.

Previous State Aid rules have now been withdrawn following Brexit.

The Council will be mindful of these new rules and will ensure compliance with all legal requirements and any permitted exemptions. Each case will be considered based on the organisation's individual circumstances in full consideration of the subsidy allowances. Details of the allowances are below: -

<https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities/technical-guidance-on-the-uks-international-subsidy-control-commitments>

Please note that it up to the organisation to advise if they comply with Subsidy allowances and to inform the council to makes it decision in awarding any relief.

## **10. Policy Review**

This policy will be reviewed as necessary or sooner if there were a change in legislation that would affect its operation.

## **11. Conclusion**

The above policy is aimed to embrace the Council's corporate direction and uses the values contained within the Corporate Strategy and Deal 2030 to assist in the decision-making process for awarding discretionary relief.