

Cheshire West and Chester Council

Business Rates – mandatory and discretionary rate relief policy (as amended November 2014, December 2016 and March 2018)

Introduction

- 1.1. Cheshire West and Chester Council (“the Council”) recognises the importance of local facilities for residents of the borough. The Council is responsible for the development and delivery of the priorities contained within the Council Plan, which are based upon the issues that local people have advised are the most important to them. This policy aims to support the priorities linked to the local economy and to creating thriving communities.
- 1.2. The Council recognises that there are organisations and businesses within the borough that make an important contribution to achieving these priorities but operate on the margins of viability. Business Rates can be a significant element of an organisation’s overheads. This policy details how the Council can support such organisations through the mandatory and discretionary reliefs that are available to reduce Business Rates.
- 1.3. Each award of discretionary relief reduces the level of Business Rates income to the Council, so it is important that the Council can be confident that each award will contribute to the achievement of its priorities through economic and/or community benefit. The guidelines around the award of discretionary relief contained in this policy are designed to provide the Council with this confidence.
- 1.4. An application process is necessary to ensure fairness and to enable the Council to assess the contribution the application will make towards its priorities. The Council aims to make the process as straightforward as possible. The Council’s decisions will not be influenced by ethnic origin, race, gender, sexual orientation or religion. The Council will treat all applicants with fairness, respect and courtesy at all times.

Types of relief

- 2.1. The Local Government Finance Act 1988 requires local authorities to grant **mandatory rate relief** to the following categories of Business Rates payer:
 - Charities
 - The following businesses where they fall within a designated rural settlement – Post Office, general store, specialist food shop, public house, petrol filling station
 - Registered Community Amateur Sports Clubs (CASCs)

- 2.2. The Local Government Finance Act 1988 also gives local authorities the power to grant **discretionary rate relief** as follows:
- To top up the mandatory relief granted to charities
 - To support other non-specified businesses situated in a designated rural settlement (subject to a maximum rateable value of the property)
 - To top up the mandatory relief granted to registered CASCs
 - To support other non-registered sports clubs
 - To support other non-profit making organisations
- 2.3. The Localism Act 2011 amended the Local Government Finance Act 1988 to allow local authorities to grant **discretionary rate relief** to any ratepayer in its area.

Methodology and levels of relief

- 3.1. This section of the policy sets out the methodology to be used by the Council in determining an application for discretionary rate relief. It also sets out the level of relief that can be granted (both mandatory and discretionary).

Charities

- 3.2. Where the ratepayer is a charity and the property occupied is wholly or mainly used for charitable purposes, mandatory relief of 80% will be granted.
- 3.3. The Council can increase the level of relief to registered charities by allowing discretionary rate relief of up to a further 20%. **Schedule 1** of the policy details the types of charity that are eligible for rate relief and the recommended level. The following should also be taken into account in the case of specific types of charity.
- 3.4. In the case of community schemes and support services, the Council will base its award of discretionary relief on the level of evidence of community benefit provided, as follows:

Level of Evidence	% Discretionary Relief
Clear evidence of community benefit from the occupation	20
Some evidence of community benefit from the occupation	10
No evidence of community benefit from the occupation	0

- 3.5. In the case of charity shops, they shall be treated as wholly or mainly used for charitable purposes if the property is wholly or mainly used for the sale

of donated goods and the proceeds from the sale of those goods (after the deduction of costs) are applied to the purposes of the charity.

- 3.6. In the case of a Housing Association that is treated as a charity, the Council will not grant a discretionary top-up to the mandatory relief, due to the significant funding streams available (primarily rents) to the organisation.

Sports clubs

- 3.7. If a sports club is registered by Her Majesty's Revenue and Customs (HMRC) as a Community Amateur Sports Club or it is a registered charity, mandatory relief of 80% will be granted.
- 3.8. This will be topped-up by up to 20% discretionary rate relief subject to the application of the sports club matrix (**schedule 2** of the policy).
- 3.9. All other not for profit sports clubs will be eligible for up to 100% discretionary rate relief subject to the application of the sports club matrix at schedule 2, as long as the following condition is met – that the property “is wholly or mainly used for the purpose of recreation and all or part of it is occupied by a club, society or other organisation not established or conducted for profit” (Local Government Finance Act 1988). The matrix will not be applied in the case of private golf clubs.

Not-for-profit organisations

- 3.10. For discretionary rate relief to be awarded to a not-for-profit organisation, “all or part of [the property] 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 objectives are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts” (Local Government Finance Act 1988).
- 3.11. The Council's guidelines for considering applications for relief from not-for-profit organisations are set out in **schedule 3** to the policy. The standard rate of relief provided to organisations that satisfy the criteria set out in the guidelines is 80%; however, there may be circumstances where the Council believes a different rate of relief would be appropriate.
- 3.12. Following are two exceptions where discretionary rate relief granted to a not-for-profit organisation will not be subject to the arrangements set out in schedule 3:
 - The Council's Community Interest Company (CIC) provides leisure facilities across the borough. The objective of this company is to

provide services which benefit all inhabitants of the borough and those visiting the borough including (without limitation) leisure centres, entertainment halls, playing pitches and golf courses with the intention of improving wellbeing and creating and delivering improved opportunities for all those within the area. Due to the unique and extensive service provided, discretionary relief of 100% will be granted to all its properties in the borough.

- British Legion and Ex-Servicemen's Clubs provide local communities with a mix of sport and social activities and generally some of the income generated is channelled through to the Royal British Legion through donations. In recognition of this provision, 20% discretionary rate relief will be granted to all of these organisations' properties in the borough.

Businesses within a designated rural settlement

3.13. For rate relief purposes, a business within a designated rural settlement falls into one of two categories as follows:

- Category A – the sole Post Office, general store, public house, petrol filling station or food shop
- Category B – any other business within a designated rural settlement

3.14. Properties that fall into category A will be granted 100% mandatory rate relief, subject to a maximum RV of the property as set out by central government.

3.15. Properties that fall into category B are not eligible for mandatory rate relief. However, if the rateable value is less than a value set out by central government, discretionary rate relief of up to 50% may be granted, subject to the conditions set out in **schedule 4** to the policy.

Applications under Localism Act 2011 amendment

3.16. The Localism Act 2011 amended section 47 of the Local Government Finance Act 1988 and gave local authorities power to grant discretionary rate relief in any circumstances, so long as the following conditions are met:

- Granting relief would be reasonable with regard to the interests of Council Tax payers in its area
- Regard is given to any relevant guidance issued by the Secretary of State (none has been issued as at September 2016)

3.17. Where an application for relief under the Localism Act 2011 relates to a property on a designated site within an Enterprise Zone that has been earmarked as a Business Rates discount site, the decision shall be made

with reference to the “sector” and “growth” tests as set out in the Enterprise Zone Business Rates Discount Eligibility Criteria document, an extract of which is attached as **schedule 5** to this policy.

- 3.18. For all other Localism Act 2011 applications, the condition as to whether granting relief is reasonable with regard to the interests of Council Tax payers is not straightforward to assess against. There are many variables which may differ in each example and there is no single set of rules that can be applied. Because of this, each case will be considered separately on its own merits. Some examples of what might be considered are:
- Will granting the relief lead to longer term expansion of the business, investment in the area and/or job creation?
 - How long is the organisation committing to the area for?
 - What is the cost to the Council of granting the relief?
 - What is the history of the building e.g. is it long-term unoccupied or previously exempt from Business Rates?
 - Is there any potential impact/unfairness on other ratepayers if relief is granted?
 - Is there a business case setting out all relevant answers to the above?
- 3.19. Each application will need to be examined by officers with the appropriate professional background. In most cases, this will mean officers from both Finance and Economic Growth working together to produce a report for the Portfolio Holder for Finance and Legal.

Decision making

- 4.1. Decisions on the majority of applications are delegated to the Director of Finance. The guidance set out in schedules 1-5 of the policy will be used to inform decisions. The exceptions to this are set out in 4.2-4.3 below.
- 4.2. For applications made under the Localism Act 2011 (excluding those relating to an Enterprise Zone), the Director of Finance will produce a report with the recommended outcome for the Portfolio Holder for Finance and Legal, who will be the decision maker.
- 4.3. If it is considered that an application cannot be decided upon with reference to this policy and that special circumstances apply, the Portfolio Holder for Finance and Legal will make the decision following consultation with the Director of Finance.

State Aid

- 5.1. In some situations, the offer of discretionary rate relief could fall under the definition of state aid. If this is the case, relief will be granted under the de minimis regulation (European Commission Regulation 1407/2013) and will be capped at a maximum of €200,000 over a rolling three year period.
- 5.2. The applicant will be asked to sign a declaration confirming whether they have received any other relief/payments under the de minimis regulation in the current fiscal period or the previous two fiscal periods.
- 5.3. Responsibility for not exceeding the amount of state aid specified in the de minimis regulation lies with the organisation receiving the aid. Any state aid received in excess of the de minimis threshold can be clawed back.

Appeals

- 6.1. Business Rates legislation does not provide ratepayers with recourse to appeal a decision made by the Council in respect of discretionary rate relief. However, in the interests of natural justice it is regarded as good practice for local authorities to establish a mechanism to allow appeals to be heard.
- 6.2. If a ratepayer wishes to appeal against a decision initially made by an officer under this policy, the application will be reconsidered by the Director of Finance whose decision will be final.
- 6.3. If a ratepayer wishes to appeal against a decision initially made by either the Director of Finance or the Portfolio Holder for Finance and Legal, the application will be reconsidered by the Appeals Committee.

Periodic reviews

- 7.1. A decision to grant discretionary rate relief can remain valid for one or more financial years. The Council has adopted to review applications every three years (pending legislative changes that would make the cost of continuing relief on the same basis prohibitive).
- 7.2. This allows ratepayers to agree spending plans with a degree of certainty about their rates payable. It also provides the Council with the opportunity to adjust levels of rate relief within a reasonable timeframe.
- 7.3. If the Council does amend its policy, all businesses that will see a change to their reliefs will be given a minimum of 12 months' notice to allow them to plan for the change.

Schedule 1

Registered Charities and Community Amateur Sports Clubs

Ref	Group	Proposed Level of Discretionary Rate Relief (%)
A	Scouts, guides, cadets and youth clubs	20
B	Community schemes - Clear evidence of community benefit - Some evidence of community benefit - No evidence of community benefit	20 10 0
C	Support services, care and support services, YMCA - Clear evidence of community benefit - Some evidence of community benefit - No evidence of community benefit	20 10 0
D	Zoos and museums	20
E	Charity sports clubs (including Community Amateur Sports Clubs)	20
F	Charity shops	20
G	Foundation and voluntary aided schools	20
H	Housing Associations	0
I	Private schools, private hospitals, universities, colleges and academies	0

Notes

1. The granting of rate relief is conditional on the organisation providing services and/or facilities wholly or mainly for the local community.
2. Group E – relief of up to 20% will be granted subject to the sports club matrix attached as schedule 2.

Schedule 2

Sports clubs' rate relief matrix

Club characteristics	Evidence	Relief (%)
<p>1. Constituted group Does the constitution demonstrate that the club is open to all sections of the community and is organised on an amateur non-profit making basis?</p>	Copy of club's constitution	10
<p>2. Policies and procedures Does the club have suitable child protection and equity policies? Does the club have codes of practice for coaches/officials, parents/carers and junior members? How are these adopted by the club and communicated to the target audience?</p>	Copies of the following: <ul style="list-style-type: none"> • Child protection policy • Equity policy • Code of practice for coaches/officials • Code of practice for parents/carers • Code of practice for junior members 	10 2 2 2 2 2
<p>3. Membership Is membership open to all sections of the community regardless of age, race, gender, ability, religious views etc? Does the club have a specific pricing policy that caters for different groups (i.e. the young, veterans, deprived communities, students)? Does the membership comprise of Cheshire West and Chester residents?</p>	Cross reference constitution submitted re 1 Copy of membership list/pricing policy Completion of additional evidence	10 2 2 6
<p>4. External bookings Are facilities advertised and made available to individuals/organisations other than members?</p>	Copies of external booking forms/bookings diary	5
<p>5. Reinvestment of generated income Are all the profits of the club reinvested in the activities of the club and its premises?</p>	Copy of the income and expenditure accounts for the club (and bar if applicable)	5
<p>6. Affiliation Is the club affiliated to a recognised national governing body for their sport? Or where a governing body is not present, have reasonable efforts been made to seek alternative, comparable means of affiliation?</p>	Copy of current affiliation letter or number	5

<p>7. Insurance Does the club have appropriate public liability insurance? Does the club, where its coaches/officials fall outside of this, ensure that individuals obtain personal professional indemnity or public liability insurance?</p>	<p>Copy of club insurance document and/or proof of individual liability insurance holders (i.e. membership letter/number) and a breakdown of what these policies cover</p>	<p>10</p>
<p>8. Competitive opportunities Does the club hold regular competitions for its members (intra or inter club)?</p>	<p>Copies of current or most recent season's fixture lists/tables</p>	<p>5</p>
<p>9. Coaching provision Does the club hold regular structured coaching/training? Does the club ensure suitable qualified coaches are leading those sessions? Do the training sessions adhere to the sport-specific coach:participant ratios? Are the coaches aware of their roles and responsibilities?</p>	<p>Copies of the following:</p> <ul style="list-style-type: none"> • Examples of lesson plans/resources used to deliver the sessions • Certificates of qualified coaches • Coach/Assistant Coach task descriptions • Completion of additional evidence 	<p>10 1 criteria = 2 2 criteria = 4 3 criteria = 6 All = 10</p>
<p>10. Health and safety Does the club have emergency procedures in place for dealing with an accident/incident? Does the club conduct risk assessments for each of the venues that might be used during the course of a season (not including away fixtures)?</p>	<p>Copies of the following:</p> <ul style="list-style-type: none"> • Guidelines for dealing with an accident/incident • Risk assessments 	<p>10 5 5</p>
<p>11. Further club development Does the club have formal links to schools or other local community groups? Does the club have an active development plan? Does the club communicate regularly with its members?</p>	<p>Copies of the following:</p> <ul style="list-style-type: none"> • School-club link agreement or documented communication with at least one school • Development plan • Newsletter, website screenshots and/or mailings (letter or email) 	<p>10 3 5 2</p>
<p>12. Clubmark accreditation Has the club been awarded a Clubmark or equivalent accreditation?</p>	<p>Copy of accreditation certificate</p>	<p>10</p>

Note: this matrix is not to be used for calculating rate relief for private golf clubs. They are not entitled to discretionary rate relief in accordance with Cheshire West and Chester policy guidelines.

Schedule 3

Criteria for awarding discretionary rate relief to not-for-profit organisations

The two overarching questions that will be considered when evaluating applications for discretionary rate relief from not-for-profit organisations are as follows:

- Does the organisation provide a clear community benefit to residents within Cheshire West and Chester? This question will be considered with reference to the Council's priorities at the time of the application.
- Does the cost of awarding relief represent value for money for Council Tax payers i.e. do the benefits justify the cost?

The Council acknowledges that not-for-profit organisations can vary significantly in size and scope and that there is no standard set of questions that can be asked when considering the two overarching questions above. Based on the Council's experience of applications to date, applicants may need to answer some or all of the questions below:

- Is access to the organisation's services open to all or is access restricted?
- How many members/service users does the organisation have? How many of these are residents of Cheshire West and Chester?
- What does the organisation charge for its services? Are services charged at a "market rate" or are they discounted to encourage accessibility? Is the level of charges likely to exclude residents from more disadvantaged backgrounds?
- Does the organisation actively target particular groups e.g. young people, long-term unemployed, older people, people with disabilities?
- Does the organisation offer training, education, employment or volunteering opportunities to help local residents develop their skills? Are these opportunities aimed at particular groups as mentioned above?
- How many people from the local area does the organisation employ, on either a paid or voluntary basis?
- Are the premises made available for wider community use e.g. by schools?
- Does the organisation provide services that either relieve the Council of the need to do so, or supplement/enhance services that the Council provides?
- Is the organisation in partnership with or have close links with any other local or national groups or organisations?
- Does the Council support the organisation in any other way e.g. through grants? If so, would the granting of relief represent a duplication of funding?
- How is the organisation funded? What level of funding is from activities outside the organisation's core aims and objectives e.g. bar sales, retail? Does the rates liability represent a significant percentage of revenue?
- Regardless of whether relief is granted or not, are the services provided by the organisation sustainable over the medium-long term?

Organisations will be asked to provide evidence to support their application. Such evidence can take many forms but may include (but is not limited to) annual accounts, constitutions, articles of association, programmes of events, charging structures.

Schedule 4

Category A - sole rural businesses

Certain types of business that are the sole example of that business within a designated rural settlement can receive mandatory rate relief, as shown in the table below.

Criteria	Mandatory Relief (%)
Sole Post Office or village store with a rateable value of up to £8,500*	100
Sole public house or petrol station with a rateable value of up to £12,500*	100

Category B - other rural businesses

Discretionary rate relief is available to other businesses situated within a designated rural settlement where the rateable value does not exceed £16,500*, as shown in the table below.

Criteria	Mandatory Relief (%)	Discretionary Relief (%)
Higher level relief where the loss of service would be detrimental to local residents.	0	50
Lower level relief where the loss would have limited detrimental effect on local residents.	0	20

* These rateable values may be increased in line with central government up-rating at revaluation or other times as they occur.

Schedule 5

The following is an extract from the Business Rates Discount Eligibility Guidance document. The full document can be found on the Cheshire Science Corridor Enterprise Zone website (<http://cheshiresciencecorridorez.com/>).

Sector criteria

Science and innovation are key themes of the Cheshire and Warrington Local Enterprise Partnership (LEP) as identified within its Strategic Economic Plan (SEP) and its Enterprise Zone (EZ) submission to Government. In order to maintain this theme and to promote the growth of these high growth and value sectors, businesses wishing to qualify for Business Rates discount must satisfy the following key sector criteria and be either:

- directly operating within science-based industries, or
- directly supporting the wider science based industry supply chain.

There is no formal Government definition of what constitutes a 'science' business, but it is anticipated that most eligible businesses will operate within the following 2007 Standard Industrial Classification (SIC) codes:

- Section C – manufacturing
- Section D - electricity, gas, steam and air conditioning supply
- Section M - professional, scientific and technical activities

Businesses operating within other SIC codes may still be eligible for Business Rates discount if they can clearly demonstrate that their primary purpose is to support the science sector. For example through:

- Providing products or services in the direct supply chain of science based companies
- Providing service sector support activities to science based businesses (e.g. financial, insurance, legal, accountancy and management and consultancy activities)
- Education, training, research and development facilities to support learning, innovation, knowledge transfer and growth across the science sector

Growth criteria

Businesses already located in the Cheshire and Warrington Local Enterprise Partnership area must also satisfy a 'growth test' to be eligible for the full Business Rates discount. If the business is new to the LEP area then it will be exempt from the below 'growth test'.

The growth test is intended to mitigate the impacts of displacement and will require businesses to demonstrate/evidence their short-medium term growth potential. As a minimum, businesses are expected to be able to demonstrate/evidence their ability to achieve a minimum 20% increase in at least one of the following criteria (or a 20% increase across a combination of them) over a 5 year period to meet the objectives of the 'growth test':

- To occupy larger business premises
- To increase permanent employment
- To increase turnover/profits