



## Business rates discretionary policy

<b>Document title</b>	Business rates discretionary policy
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<b>Approved by</b>	Leadership Team & Cabinet Member for Finance & Procurement
<b>Approved date</b>	19 March 2024
<b>Review frequency</b>	2 yearly
<b>Review date</b>	March 2026

# 1. Introduction

- 1.1. We recognise the importance of businesses to the local economy and understand the challenges that business face. We also recognise the contribution of voluntary, charitable and non-profit making organisations to the district, who may also be subject to business rates.
- 1.2. Our strategic plan sets out an ambition to develop prosperity by encouraging economic growth. This policy underpins that ambition by providing the council with the powers to help sustain businesses by reducing their business rates burden in specific circumstances. Our strategic plan also sets out an ambition to help people live healthy and active lives, which this policy supports by allowing the council to offer business rate relief to charities and amateur sports clubs.
- 1.1 In delivering this policy, we aim to:
  - Set guidelines for the factors that should be considered when deciding to award or refuse relief.
  - Ensure everyone making an application is treated in a fair and consistent manner.
  - Treat each case on its own merits and in accordance with the guidance.
  - Treat individuals consistently and fairly, regardless of age, sex, gender, disability and sexual orientation and ensure that individual's rights under data protection and human rights legislation are protected.
- 1.3. The business rates (also known as national non-domestic rates or NNDR) system includes mandatory and discretionary powers that allow councils (known as the billing authority) to reduce the business rates charged/collected in certain circumstances. This policy details provides guidance on factors to be considered when awarding 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 in to the above criteria and the council considers it reasonable.
  - Organisations as directed by central government policy.
- 1.5. We carefully consider every discretionary business rate relief application on its merits and consider the contribution an organisation that is applying for a relief 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 online at [www.lichfielddc.gov.uk/raterelief](http://www.lichfielddc.gov.uk/raterelief).**
- 2.2 If you need help applying online, please call our customer services team on 01543 308000, Monday – Friday, 9am – 5pm.
- 2.3 It is vital you provide all requested evidence - if you do not, we will assess your claim based on the information provided, which could result in no relief being granted, even if your business/organisation may be eligible.
- 2.4 **Please do not withhold payment of business rates whilst you await the outcome of an application.**
- 2.5 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 We aim to review applications and notify applicants of our decision within 28 days (or as soon practicable) from the date of receipt of an application/or provision of supporting evidence.**
- 3.2 Applications are assessed by revenues specialists in partnership with our finance team and all awards are approved by the Assistant Director of Finance and Commissioning, in consultation with the Cabinet Member for Finance and Commissioning.
- 3.3 When we award a relief, we 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 we will provide in advance of a change to the level of relief granted.
  - Requirement that they should notify the council of any change of circumstances that may affect entitlement to the relief granted.
- 3.4 If we decide not to award a relief, we will write to the business/organisation with a clear explanation of our decision and to ask whether they would like to request a review (see section 5).
- 3.5 Discretionary reliefs are typically awarded only for the financial year in which the application is made and a new application for discretionary relief 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).

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

- 4.1 We reserve the right to revise and revoke any discretionary reliefs at any time.**
- 4.2 If we make a change to any awarded reliefs, we 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, we will provide one financial year's notice.

## 5. Reviews

- 5.1 We are always willing to carry out an independent review of our decisions on request.**
- 5.2 If you are a local business/organisation that has applied for a discretionary relief application and you are notified that we are not minded to award a relief, and you would like us to look at this decision again, please email [revenues@lichfielddc.gov.uk](mailto:revenues@lichfielddc.gov.uk) within one calendar month of the decision date, stating the reasons why you feel our decision should be reviewed.

- 5.3 An independent officer, not involved in the original decision, will then review the case and confirm whether uphold or reject the original decision. At this point we may request further evidence to support the review. Review decisions will be approved by the Assistant Director of Finance and Commissioning, in consultation with the Cabinet Member for Finance and Commissioning.
- 5.4 We 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 our 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, we will reconsider the award made and revise the relief if appropriate.
- 6.4 If this results in a reduction in relief awarded, we 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 - apply for online at [www.lichfielddc.gov.uk/raterelief](http://www.lichfielddc.gov.uk/raterelief)**

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 the local residents of the district by the services or facilities it provides.
- Where membership is required, most members are from Lichfield District.
- 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 under-represented 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 ([www.lichfielddc.gov.uk/values](http://www.lichfielddc.gov.uk/values)) and strategic priorities ([www.lichfielddc.gov.uk/strategicplan](http://www.lichfielddc.gov.uk/strategicplan)) .

## 7.2 Non-profit making organisations, including recreation - apply for online at [www.lichfielddc.gov.uk/raterelief](http://www.lichfielddc.gov.uk/raterelief)

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 Lichfield District or the activities are a direct benefit to the residents in the Lichfield District.
- 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 ([www.lichfielddc.gov.uk/values](http://www.lichfielddc.gov.uk/values)) and strategic priorities ([www.lichfielddc.gov.uk/strategicplan](http://www.lichfielddc.gov.uk/strategicplan)).

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 claiming discretionary relief. Relief may be declined if, in the council's opinion, 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 - apply for online at [www.lichfielddc.gov.uk/raterelief](http://www.lichfielddc.gov.uk/raterelief)

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 ([www.lichfielddc.gov.uk/values](http://www.lichfielddc.gov.uk/values)) and strategic priorities ([www.lichfielddc.gov.uk/strategicplan](http://www.lichfielddc.gov.uk/strategicplan)).

#### 7.4 Partly occupied hereditaments - apply for online at [www.lichfielddc.gov.uk/raterelief](http://www.lichfielddc.gov.uk/raterelief)

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, Benefits & Corporate Debt Recovery Service Manager 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 - apply for online at [www.lichfielddc.gov.uk/raterelief](http://www.lichfielddc.gov.uk/raterelief)

The council can use its discretion to grant partial or full rate relief in cases of hardship where it would be reasonable to do so having due regard to the interests of council taxpayers, under Section 49 of the Local Government Act 1988. 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 we 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 - apply for online at [www.lichfielddc.gov.uk/raterelief](http://www.lichfielddc.gov.uk/raterelief)

Under Section 69 of the Localism Act 2011, amended Section 47 of the Local Government Act 1988, the council can grant discretionary relief in any circumstance it feels fit, having regards to the effect on the taxpayers in the district. Applications will be considered from any ratepayer who wishes to apply and is unable to do so under any other part of the legislation, such as Section 49 and hardship. The council will consider all the businesses owned by the ratepayer, and if they could 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 Lichfield District.
- 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 Lichfield District.
- 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 ([www.lichfielddc.gov.uk/values](http://www.lichfielddc.gov.uk/values)) and strategic priorities ([www.lichfielddc.gov.uk/strategicplan](http://www.lichfielddc.gov.uk/strategicplan)) .

Relief will be considered initially for a short period only.

## 7.7 Government fully funded reliefs

From time-to-time central government introduces new fully funded relief types for hereditaments that meet certain criteria, through a Section 31 Grant. Where such reliefs are introduced and they place no financial burden on the council, the relief may be granted by the Assistant Director of Customer, Resident & Business Services, or the Assistant Director of Finance and Commissioning, in consultation with the Cabinet Member for Finance and Commissioning. Such reliefs will be applied in accordance with guidance issued by the relevant government department which will be published on [www.lichfielddc.gov.uk](http://www.lichfielddc.gov.uk).

Applications are not always required for such reliefs, depending on the government guidance. Where such a relief is introduced, we will write to any qualifying ratepayers to notify 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 We are committed to reducing fraud in all its forms.

- 8.2 If you falsely declare your circumstances or provide a false statement or evidence in support of an application for discretionary rate relief, you may have committed an offence under the Fraud Act 2006.

## 9. Legislative backdrop

- 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 non-profit 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 Discretionary reliefs are funded 50% funded by central government, 40% by the district council, 9% by county council and 1% funded by the fire service.
- 9.9 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.
- 9.10 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 Assistant Director of Finance and Commissioning, in consultation with the Cabinet member for Finance and Commissioning.

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



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

## 11. Equality, diversity and inclusion

- 11.1 We are 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 give the fairest outcomes to everyone regardless of race, gender reassignment, age, disability, pregnancy and maternity, religion or belief, sex or sexual orientation, marital or civil partnerships status and/or disability.
- 11.3 This policy has been subject to an equality impact assessment to ensure that there is no discrimination in the way that it has been designed, developed or how it will be delivered and that, wherever possible, equality is promoted.

## 12. Review

- 12.1 This policy is reviewed periodically, considering other council policies and priorities and changes in legislation.

ENDS