

Policy for the award of Discretionary Business Rate Relief to Charities and Not for Profit Organisations

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1. **Scope of this Policy**

This policy relates to the discretionary power London Borough of Barking & Dagenham has to award business rate relief under Section 44A, Section 47 and Section 49 of the Local Government Finance Act 1988.

1. **Policy Principles**

The Council recognises that the Voluntary and Community Sector makes a major contribution to the local economy and to the health and well being of the residents, who live and work in Barking and Dagenham. Providing discretionary business rate relief is one way the Council can help support this sector.

This policy has been agreed by the Council to ensure that all ratepayers making application for this relief are treated in a fair, consistent and equal manner.

1. **This Policy includes:**

* The Council’s Legal Requirements
* State Aid
* Cost to the Council
* The Application Process
* Reapplications
* Eligibility Criteria & Decision Making Process
* Hardship Relief
* Section 44A Partially Occupied Property
* The Appeals Process
* Museums

1. **The Council’s Legal Requirements**

Section 43 (6) of The Local Government Finance Act 1998 (LGFA) requires Local Authorities to grant 80% mandatory business rate relief to the following categories of rate payer:

* Registered Charities (registered on the Charity Commission) for premises which are wholly or mainly used for charitable purposes.
* Registered Community Amateur Sports Clubs ( registered as such under the Corporation Tax Act 2010 ) for premises which are wholly or mainly used for the purpose of the club itself, or for the purpose of the club and other CASCs

4.1 Mandatory Relief provides 80% reduction in business rates, and this is fully funded by Central Government.

4.2 Local Authorities may then grant in accordance with Section 47 of the LGFA & at its discretion, further “top up” business rate relief to this category of ratepayer. The maximum relief Charities & CASCs can receive in this respect is an additional 20%.

4.3 Local Authorities can also consider granting Discretionary Business Rates relief if the organisation is a non-profit making body and the property is used for charitable purposes; concerned with education, social welfare, science, literature or the fine arts; or used wholly or mainly for recreation by a not-for-profit club or society.

4.4 Where an application for discretionary business rate relief does not meet the legal requirement (for example if an organisation is established solely for profit) the application cannot be considered.

1. **State Aid**

5.1 There are European Union (EU) Regulations which restrict the award of State Aid and under certain circumstances the award of discretionary business rate relief could be considered to be State Aid. State Aid is unlawful.

5.2 The circumstances in the EU Regulations that need to be considered will be where the organisation engages in commercial activities or competes with commercial bodies because of an activity it carries out. For example a not for profit training organisation that provides training to services or businesses.

* 1. If the organisation undertakes any commercial activity it must be commercially

insignificant and localised so that there is no potential impact on the inter-community trade, otherwise the regulations governing State Aid will apply.

1. **Cost to the Council**

6.1 Discretionary Business Rate Relief if granted is funded partially by the Council, partially by the Government and partially by the Greater London Authority (GLA). The percentage split is as follows:

|  |  |  |
| --- | --- | --- |
| **Council** | **GLA** | **Government** |
| 30% | 20% | 50% |

1. **The Application Process**

7.1 Applications must be made by the registered ratepayer. Whilst your application is being considered you should continue to pay your normal instalments**.**

7.2 Where the ratepayer is an organisation the application must be made by a person with the authority to act on behalf of said organisation. The Council may ask for evidence that the person making the application is entitled to act in that capacity.

7.3 Applications for discretionary business rate relief must be submitted by 30 September of a financial year in order to be considered for the relief in respect of the previous financial year (Section 47 Local Government Finance Act 1988). Applications made after the deadline will not be considered. Applications for Hardship Relief or Partially Occupied Premises (Section 44a) relief will be considered on an ad hoc basis.

7.4 All applications must be received using the Council’s standard application form (Appendix A) which is also available on the Council website.

7.5 In addition to the standard application form, applicants are required to supply supporting information including Audited Accounts and Articles of Association. If any organisation fails to provide the additional information their application will not be considered. If you are unable to provide any of the above then a detailed explanation outlining your reason(s) must be provided.

# Reapplications

Where an application is refused either initially or following an Appeal, further applications will not be considered unless:

1. The use of the property changes
2. The objectives of the organisation change
3. There have been other changes that may affect the Council’s decision.
4. **Eligibility Criteria & Decision Making Process**

9.1 Discretionary Business Rate Relief is not a matter of right; the Council is entitled through this policy to determine different levels of relief according to the nature and circumstances of individual organisations and the benefits they deliver to the wider community.

9.2 The Council will consider each individual case in accordance with the criteria set out below. This criteria is not restrictive however it should be noted that the Council’s ability to grant discretionary business rate relief may be limited to other factors.

9.3 Any successful award of relief will be for one financial year only with effect from 1st April until the following 31st March.

9.4 Recipients of the relief are required to notify the Council of any changes of circumstances which may have an impact upon the award granted.

9.5 The Council has limited budget for awarding discretionary business rate relief and seeks to use its limited budget to support the voluntary & community sector in providing much needed services and support for our residents.

9.6 Discretionary consideration will be given to applications for relief where the applicant is an excepted charity i.e. voluntary school.

9.7 However, not all Registered Charities and CASCs will qualify for discretionary business rate relief. The following businesses will not be considered for relief regardless of their charitable status:

* Administration offices for national charities
* Overseas aid organisations
* Charity shops and cafes operated by national charities or associated organisations
* Housing Associations
* Buildings used for worship or promotion of religious belief
* Organisations operating a restrictive membership policy

9.8In addition the following organisations and establishments are not eligible for discretionary rate relief:

* Organisations which exist solely for profit making purposes**.**
* Empty properties
* Car parking spaces
* Social Clubs
* Organisations that have an audited income of over £500,000 per annum including any reserves

9.9 Applicants must fulfil all of the following criteria to qualify for any application to be considered (evidence may be required).

* Primary beneficiaries of the organisation’s services must be Barking and Dagenham residents.
* A link must be demonstrated to the Council’s priorities
* The organisation must adhere to the Equality Act 2010

9.10 Applications in the first instance will be assessed by the Chief Finance Officer (CFO) and a response will be issued to the applicant within 60 days of the closing application date (30 September).

9.11 Officers and members who have an interest in any aspect of an application for relief must not participate in the decision making process and must declare their interest to the CFO. Should the CFO have an interest in the application for relief he/she must not participate in the decision making process and must delegate this to the Deputy Chief Finance Officer (DCFO)

1. **Hardship Relief**

10.1 The Council may award hardship relief to businesses where it feels that such assistance may help a business that is in financial difficulty. The intention of this relief is to temporarily aid the business enabling it to become financially stable.

10.2 Applications for hardship relief can be made at any time during the financial year. All applications must be made in writing detailing the reason for the application and the amount of relief requested. In addition applicants must include two years of Audited Accounts.

10.3 It is recognised that some organisations may not currently keep records of sufficient detail to provide the information that is normally requested to support an application. Where the Council is satisfied that the information is genuinely not available, and that the organisation has co-operated to provide all available information, the Council will consider the application based on the information provided. Only one application will be considered in this way, and future applications must provide all information that is required.

10.4 Hardship relief will not be granted where the applicant has more than one trading business.

10.5 Hardship relief will not be granted where the applicant has failed to adequately insure their business or premises, resulting in the application for hardship.

1. **Section 44A Partially Occupied Property**

11.1 Where a property has become partially unoccupied for a temporary period of time

the Council may consider awarding a discretionary relief. The application process for this relief is the same as previously detailed in this policy. However, the business need not be a registered charity, remaining criteria for eligibility still applies.

11.2 Applications for section 44A can be made at any time during the financial year. All applications must be made in writing detailing the reason for the application and the amount of relief requested. In addition detailed plans must be provided to clearly show the occupied and unoccupied parts of the property in question and an action plan for future reoccupation.

# Appeals process

12.1 Appeals must be received by the Council within 30 working days of the date the refusal letter is sent, appeals after this date will not be considered.

12.2 Appeals may be made for decisions regarding discretionary business rate relief, hardship relief and Section 44A (partially occupied) relief.

12.3 All appeals must state the reason for the appeal and supply any supporting evidence.

12.4 An Appeals Panel will be convened consisting of three Councillors, one of which will be the Finance Portfolio holder. The decision of the appeals panel will be fully documented, is final and no further appeals will be considered.

12.5 The decision of the Appeals Panel will be communicated to the Ratepayer within 10 working days of the convened meeting.

# Museums

13.1 The London Borough of Barking and Dagenham has one museum which it considers to be a valued asset of the borough. The Council is committed to continuing to support the Valance House Museum, and especially its free access to residents