



B O S T O N
BOROUGH COUNCIL

POLICY FOR THE AWARD OF DISCRETIONARY RATE RELIEF

1. Background

Section 47 of the Local Government Finance Act 1988 empowers Local Authorities to grant discretionary rate relief to ratepayers under certain circumstances.

Awards of discretionary rate relief can be made to various categories of Ratepayer. These include:

- charities;
- organisations which are not established or conducted for profit whose main objectives are charitable and are either:
 - (i) established for philanthropic or religious purposes; or
 - (ii) concerned with education, social welfare, science, literature or the fine arts;
 - or
 - (iii) occupies the property as a club or society.
- small businesses in the Rural Settlement Area.

2. Purpose

The purpose of this policy is to specify how this Council will operate the Discretionary Rate Relief scheme and to indicate the factors that will be considered when deciding whether to make an award. The Council aim to treat all ratepayers equally when administering the scheme.

3. Objectives

The Council will make awards of discretionary rate relief to ratepayers who meet the qualifying criteria as specified in this policy. The Council will treat all applications on their individual merits, but will seek through the operation of this policy to meet its current stated corporate objectives.

4. Applying for Discretionary Rate Relief

In order to claim Discretionary Rate Relief, the ratepayer must provide the Council with all of the information necessary to consider the application. The application form is appended to this Policy document (Appendix 1).

- The Council reserves the right to consider applications, which provide all the necessary information, regardless of whether the application form has been submitted.
- Applications may only be made by the ratepayer personally or, where the ratepayer is a body corporate, a person authorised to act on behalf of the ratepayer.
- The council may request any reasonable evidence in support of an application for a discretionary rate relief. The Council will make such requests in writing. The ratepayer should provide the evidence within one month.
- If the ratepayer does not provide the required evidence, the Council reserves the right to either treat the application as withdrawn or to consider the application in the absence of the missing evidence. However, the Council may disregard any unsubstantiated statements or draw its own conclusions from other evidence available.
- The Council may in any circumstances verify any information or evidence provided by the ratepayer by contacting third parties, other organisations and the ratepayer.

Any award of Discretionary Rate Relief will be for a period of one year only. To renew an award, an applicant will need to complete a shorter Renewal Application Form, which is also appended to this document (Appendix 2). Every five years, a recipient of Discretionary Rate Relief will be required to complete a fresh substantive application form (Appendix 1).

Where applications including Renewal Applications are not completed in full and received by the Council by the due date, the Council reserve the right to make no award of Discretionary Rate Relief for the following year.

All applications including Renewal Applications must be received by 1 December of the preceding year. The Council will send out Renewal Application forms by no later than two months before the due date.

5 Period and amount of award

All awards of Discretionary Rate Relief will be for a period of one year only. However, the Council reserves the right to

- backdate the award to the start of the current financial year;
- backdate the award to some other specified date (such as the start of rate liability);
- commence the award from some specified future date.

The Council reserves the right to make an award of discretionary rate relief that does not fully remit a ratepayer's liability, if it considers it appropriate to do so under the terms of this policy or to meet its budgetary constraints.

6. Administering applications and making awards of discretionary rate relief

Officers will undertake the administration of applications for discretionary rate relief. The Section 151 Officer will decide whether to award discretionary rate relief and what amount should be granted subject to the parameters of this policy.

If in any financial year, the total amount of relief potentially to be granted under this policy exceeds the amount allocated by the Council for relief for that year, then the

amount of relief given to each applicant will be reduced by the percentage by which the amount allocated is less than the total amount of relief granted under this policy.

7. Matters to be considered in making awards

When deciding whether to make awards the Council will consider:

In all cases:

- Whether the application satisfies the legal requirements.

The Council cannot award relief to any organisation that does not meet the legal requirements of section 47 of the Local Government Finance Act 1988.

- Which corporate objectives would be met by the award of relief.

Relief is more likely to be awarded to organisations that can show they are helping the Council to achieve its corporate objectives.

- Whether the ratepayer also receives mandatory relief.

The cost to the Council of awarding discretionary rate relief to an organisation that already qualifies for mandatory relief is 40%.

Mandatory relief is given to organisations who are charities or CASC's

- Whether the ratepayer is in direct competition with other ratepayers in the immediate vicinity, within or without the Borough;

The Council would not want to give any organisation a competitive advantage by the award of rate relief.

- The specific benefit the ratepayer brings to the residents of the Borough

The Council wants to ensure that the award of discretionary rate relief is to the benefit of the wider population of Boston. It will therefore consider what benefits the ratepayer brings to the residents of Boston. Any ratepayer whose customer base comes from largely outside the Borough's boundaries is unlikely to qualify for relief, unless they can show a specific and unequivocal benefit to the residents of the Borough.

- Whether the ratepayer is a local organisation, or a local branch of a national organisation;

The Council will consider the overall benefit to the community of the organisation and what effect the award of rate relief will have upon the organisation. If the benefit of the rate relief is kept locally, the relief is more likely to be awarded than if it goes to the national organisation based elsewhere.

- The impact on the organisation if the relief was to be refused;

The Council is more likely to award relief if the ratepayer can show that the failure to award the relief will have an impact on its service provision and consequently the Council's ability to achieve its own objectives.

- Whether the organisation has an unnecessarily high level of reserves;

The Council is less likely to award relief to an organisation which has reserves exceeding one year's expenditure (expenditure includes loan interest and repayments).

For this purpose, reserves mean cash in hand and at the bank, excluding money designated for major works and ring fenced (i.e. legally restricted) funds.

Even where an organisation's reserves do not exceed one year's expenditure, the Council is unlikely to award it relief if it has reserves (defined as above) exceeding £200,000.

Applications from Sports Clubs

The Government issued guidance (in December 2002) on the award of discretionary rate relief. The guidance includes details on the award of relief to Sports Clubs. The Council has incorporated that guidance into its policy.

Following an application for discretionary rate relief from a Sports Club, in addition to the factors indicated above we will also consider:

- any restrictions on membership that may exist;

the Council is more likely to award relief where no restrictions exist.

However, it recognises that there may be legitimate restrictions based upon ability or safety factors (for instance a diving club is unlikely to accept someone as a member who cannot swim).

- Whether the organisation encourages greater membership, the development of skills and use by the wider community

- the cost of membership should not be used as a means to restrict membership.
- whether the organisation actively promotes representation from disadvantaged or under represented groups in the community;
- whether the facilities are available to users other than members, (such as schools or casual use by the public) if appropriate and practicable;
- what proportion of the club's members are active sporting members as opposed to 'social members'
- whether the club is affiliated to any appropriate national or local sporting organisations or bodies;
- whether the membership of the club is drawn mainly from Boston Borough and whether it attracts members from outside the Borough;

The cost of the discretionary relief is met in part by the council taxpayers of the Borough. If the membership was drawn mainly from residents of neighbouring authorities, it may be inappropriate for the Council to award discretionary rate relief.

Applications for Discretionary Rural Rate Relief

Applications for discretionary rural rate relief may be received from small businesses situated in the Rural Settlement List. These ratepayers are more likely to be private individuals and commercial organisations (as opposed to charitable or not for profit organisations).

In deciding upon these applications, the council will consider all the general items stated above and;

- in the case of ratepayers who are private individuals, the effect that payment of the rates would have on them personally

to do this the Council will need to have full details of the ratepayer's financial circumstances (including details of the income of anyone else who lives with ratepayer).

It is unlikely that the Council will award discretionary rate relief to anyone resident in the Borough who has neither claimed nor qualified for Council Tax Benefit.

- the effect that any award would have on other ratepayers in the vicinity.

Once the application has been considered for these and any other factors considered relevant, a decision shall be made as to whether to grant discretionary rate relief to the ratepayer. If it is decided to make such an award, a decision will then be made as to whether the discretionary rate relief shall be granted in full or in part, and if in part, to what proportion.

8. Change of Circumstances

Any ratepayer who is in receipt of an award who becomes liable for rates on another property during the period of an award shall be required to make a new application for relief on the new property.

9. Notification

The Council will inform ratepayers of the outcome of the application within 14 days of making a decision about their application for discretionary rate relief.

The Council will notify those whose application is unsuccessful;

- The reasons why the Council have decided not to grant an award
- The appeals process

The Council will notify those whose application is successful;

- The amount of rate relief awarded and their revised liability
- The period of the award
- A summary of the reasons for the award
- Any requirement to notify the Council of changes in circumstances that could affect the award.
- The appeals process

The Council will notify those whose application is successful in part;

- Why they are only partly successful
- The amount of rate relief awarded and their revised liability
- The period of the award

- Any requirement to notify the Council of changes in circumstances that could affect the award.
- What happens next year
- The appeals process

10 Appeals

Any ratepayer who is aggrieved by a decision about his/her application for Discretionary rate relief may appeal against it to the Licensing and Appeals Committee.

Any such appeal must be:

- in writing; and
- specify the reasons why the ratepayer feels the decision is wrong; and
- be made within four weeks of the ratepayer being notified of the Council's decision.

The Council reserves the right to refuse to hear appeals that do not meet these criteria.

11 Localism Act 2011

The Localism Act 2011 has amended legislation to give local authorities the power to award Discretionary Rate Relief in any circumstances that it sees fit to do so. The council now has the power to award a relief either for a period of time it thinks is reasonable or it can choose to reduce the amount of business rates payable. Should any such relief be awarded, then the cost of granting this relief would have to be met in full by the council.

12 State Subsidy

Prior to 1st January 2021, the award of discretionary rate relief was considered likely to amount to State Aid as defined by the EU. The EU required that all State Aid (including discretionary rate relief) complied with the De Minimis Regulations EC 1407/2013. The De Minimis Regulations allow an undertaking to receive up to €200,000 aid over a rolling three year period.

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 public body making it must consider:

- affects international trade;
- the subsidy is prohibited under World Trade Organisation (WTO) rules;
- that are in line with those agreed by the UK-EU Cooperation and Trade Agreement
- are unlikely to trigger a dispute under WTO trade rules

It is unlikely that an award of discretionary rate relief would fall counter to these rules.

Further information on the rules from 1st January 2021 can be found at [UK subsidy control statutory guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/uk-subsidy-control-statutory-guidance)

Service Delivery

The Business Rates function is delivered for Boston Borough Council by Public Sector Partnership Services Limited.