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| Discretionary Rate Relief Policy 2024/25 | |
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# Introduction & Scope

This policy document details the areas of local discretion and Torbay Council’s approach to the various awards. The Council recognises the importance of supporting Charities and other voluntary organisations to promote and support vibrant local communities.

This approach has regard to:

* The Council’s wider financial position and the impact on Council Tax payers who contribute to the cost of the discretionary rate relief;
* The impact on Torbay’s residents when relief is awarded;
* The financial sustainability of Charities and other local organisations;
* The contribution from such organisations in support the Council’s Corporate priorities.

The principal considerations when awarding discretionary relief are:

* That the relief granted is in the best interests of Torbay residents and taxpayers
* The aims, objectives and activities of the applicant align to the priorities of the council.
* The awarding of the relief will help support thriving local communities.
* The Discretionary Rate Relief Scheme

# The Discretionary Rate Relief Scheme

Discretionary Rate Relief is granted in accordance with:

* Section 43 of the Local Government Finance Act (LGFA) 1988; and
* Section 47- 49 of the Local Government Finance Act (LGFA) 1988 as amended by the Localism Act 2011

Clause 69 of the Localism Act amended section 47 of the Local Government Finance Act (LGFA) 1988 to allow local billing authorities to fund their own local discounts entirely as it sees fit within the limits of the primary legislation.

The legislation recommends that local authorities have an approved policy which includes details of the criteria to be met in respect of determining whether grant relief is awarded and the amount of relief to be awarded.

The criteria covers:

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| Organisation Type | Relief available |
| Charitable organisations, registered Community Amateur Sports Clubs, and non-profit organisations in receipt of Mandatory Relief of 80% | Discretion to ‘top up’ relief to 100% of the Business Rates due |
| Non-profit organisations | Discretion to grant relief of up to 100% of the Business Rates due |
| Other organisations that benefit the local community aligning with the Council’s corporate priorities. |
| A property in receipt of Mandatory Relief of 50%, is in a qualifying rural settlement and is a:   * qualifying food shop * general store * post office * sole public house or sole petrol station | Discretion to ‘top up’ relief to 100% of the Business Rates due |

In making decisions about applications the Council may:

* Grant Relief up to a maximum of 100% of the Business Rates due
* Grant Relief for a sum less than 100% of the Business Rates due; or
* Refuse an application for Discretionary Rate Relief

### Application criteria and key information

Section 1 provides the principal considerations that are made by the council when awarding discretionary rate relief. In addition to the main objectives and principles of the organisation, there is a key financial consideration for the council.

Where the balance of non restricted funds held by an organisation exceeds three months of turnover, applications will not be considered without an explanation on the planned usage of such funds for the forthcoming twelve month period.

It should also be noted that as part of the process, the council may request a meeting with the organisation in order to gain clarity on the application. This may include a request for additional financial information or clarity on the non-financial elements of the application.

# Effects on the Council’s Finances

The granting of discretionary rate relief will, in the main, involve a cost to the council. With the introduction of the Business Rates Retention Scheme from 1st April 2013, local authorities now share the gains and losses associated with changes in Business Rates income.

The localising of Business Rates incentivises Local Authorities to adopt strategies to promote businesses and generate additional Business Rates income. The introduction of Business Rates Retention has a major impact on the funding arrangements for all Reliefs available which are now financed as follows:

* 50% by Central Government
* 49% by Torbay Council
* 1% by Devon and Somerset Fire Authority

This excludes Transitional Relief which is financed at 100% by Central Government.

# Discretionary Relief - Registered Charities and Community Amateur Sports Clubs

Registered Charities and Community Amateur Sports Clubs in receipt of Mandatory Relief of 80% are eligible to apply for the Discretionary Relief 20% top-up where the following conditions apply:

Registered Charities

* The occupied property is wholly or mainly used for charitable purposes (including charity shops, which sell a proportion of donated goods, and the proceeds of sale are used for the purpose of the charity).

Community Amateur Sports Club

* It is open to all members of the community. If a club effectively discriminates by only accepting members who have reached a particular standard, rather than seeking to promote the attainment of excellence by enhancing access and the development of sporting aptitude, then it does not fulfil the requirements.
* Although clubs should be open to all without discrimination, single sex clubs may be permitted where such restrictions are not discriminatory in intent but a genuine result of physical restraints (such as changing room facilities) or the requirements of the sport. In such cases, the organisation will be required to provide proof of such limiting factors.
* Provides facilities for, and to encourage people to take part in sport.
* Has been set up as a non-profit organisation.

Registration under the Charities Act 1993 or through HM Revenue and Customs is conclusive evidence of charitable status. Bodies which, under the 1993 Act, are exempted from registration or are exempt charities are also eligible for Mandatory Relief. providing the above criteria are met, 80% Mandatory Rate Relief is granted.

The Council will consider applications for a Discretionary Rate Relief top up based on their own merits.

In determining the application, the following matters will be taken into consideration:

* How the charity or sports club links into the Council’s corporate plan and priorities.
* It should be noted that sports clubs and other organisations which run a bar and/or restaurant are unlikely to be awarded relief if the bar makes a profit unless this profit is reinvested to support the organisation in achieving its principal objectives. Financial information will be required to evidence any profit and its use.

Charitable organisations that claim the 80% Mandatory Relief but provide a service outside of the area served by the council will not be eligible to claim the 20% top up of Discretionary Relief.

# Discretionary Relief - Non-Profit Organisations

The Council has the power to grant Discretionary Rate Relief of up to 100% to other non-profit making organisations, such as those set up as a Community Interest Company or not for profit organisation. The company’s main objective will need to be linked to one of the following:

* Religion
* Education
* Science
* Literature
* Health and saving lives
* Citizenship or community development
* Amateur sport
* Environmental protection or improvement
* Relief of poverty

Or should be focused on:

* Recreation and be otherwise beneficial to the community.

A Community Interest Company or not for profit organisation must be able to demonstrate how it:

* meets local needs and benefits local people,
* provides a valuable service to the community,
* is open to all sections of the community
* does not discriminate against any section of the community

A request for discretionary relief must be accompanied by full set of audited accounts relating to the two years preceding the date of application.

Where audited accounts are not available for the current financial year, projected figures certified as being a ‘true and fair view’ by the company secretary or company accountants may be used.

It is recommended that applicants submit audited accounts dating back further than two years if such information is available.

# Membership and entry fees

If the organisation applying for Discretionary Rate Relief requires membership or an entry fee, the Council will consider whether:

* Membership is open to everyone, regardless of race, ethnic origin, sex, marital or parental status, sexual orientation, creed, disability, age, religious affiliation, or political belief
* The subscription or fee is set at a level which is not prohibitively high and is considered to be affordable by most sections of the community. Fee reductions are offered for certain groups such as, for example, under 18’s or over 60’s
* Membership is encouraged from groups who face social barriers, for example, young people not in employment, education, or training; people above working age; or people with disabilities
* Facilities are made available to people other than members

# Period of Relief

Discretionary Relief is normally only awarded for the financial year in which the application is made, however the Council reserves the right to grant relief for any period it considers appropriate.

New applications will be invited either annually or at the time a review is undertaken.

# Applications

A written application must be made to the Council. The Council will expect all organisations to make applications in such a format as is required and to provide such information and evidence as required in order to determine whether relief should be awarded.

Applications for Discretionary Relief must contain the following information:

* A copy of the organisations written constitution, memorandum, articles of association, or a set of membership rules, outlining the main purpose and objectives.
* A full set of audited accounts relating to the two years preceding the date of application. Where audited accounts are not available, projected figures should be provided certified as being a ‘true and fair view’ by the company secretary or company accountant.
* Details of how the business meets the criteria outlined in the guidelines set out in this policy.

# Approval

A recommendation to award or refuse relief will be made by a senior member of staff from the Revenues team.

This recommendation will be considered by the Section 151 Officer and the elected member with responsibility for Finance, and a decision agreed to either award or refuse the relief.

Any officer involved in the decision-making process for Discretionary Rate Relief must declare if they have an interest in, or an association with, any ratepayer applying for Discretionary Rate Relief.

Applicants will be notified in writing of any decision within 28 days. A revised Business Rates bill will be sent where appropriate.

Appeal

Where an application has been unsuccessful, there is no right of appeal against the Council’s use of discretionary powers. However, the Council will accept one request for a re-determination of its decision, subject to additional information being provided.

The re-determination will be considered by the Section 151 Officer and the elected member for responsibility for Finance.

Where discretionary relief is refused after a request for re-determination, a further application will not be considered until twelve months has elapsed from receipt of the first application. An exception to this is where insufficient information has been supplied with the initial application.

# Fraud

Where a ratepayer falsely applies for any rate relief, or where false information is provided, false representations made or information is deliberately withheld to gain relief, prosecutions will be considered under the Fraud Act 2006.

# Policy Review

The Council reserves the right to review and revise the policy at any time or following a change to relevant legislation.

# Communications

The Council will publicise changes regarding Discretionary Rate Relief through information contained on the Council’s website.

# Discretionary Rate Relief Application Form

By completing this form, you agree that all information supplied is accurate and correct.

If later, it becomes evident that false information has been supplied any relief awarded will be removed and you may become subject to a financial penalty. The details may also be passed to our Corporate Fraud department for investigation, under the Fraud Act 2006.

Name of Charity, Club, Community Interest Company, or Organisation:

Please supply Charity or Community Amateur Sports Club Registration Number if

(applicable):

Please refer to the relevant section of the Discretionary Policy before completing this application form.

What type of relief are you applying for?

Discretionary Relief (Registered charity 20% top-up) Please complete parts 1 and 3

Discretionary Relief (non-profit organisation) Please complete parts 2 and 3

Part 1. Discretionary Relief 20% top-up

1.1 Briefly describe the main aims of your organisation and provide a copy of your constitution.

1.2 Does your organisation involve any of the following (please circle)

* + New goods for sale Yes ............% of sales No
  + Donated goods for sale Yes ............% of sales No
  + On site wet bar. Yes No
  + On site food sales. Yes No
  + On site gaming machines Yes No

1.3 What does your organisation do to generate additional income? Please provide a summary:

How much income has been generated by these activities in the previous 2 years?

Year 1: £

Year 2: £

1.4 Are unrestricted reserves in your organisation’s bank account in excess of three months turnover or operating costs? Yes / No

Where the non restricted fund balance exceeds three months turnover, a plan for the usage of the non restricted funds for the next twelve months must be provided as part of the application.

Please provide a full set of audited accounts relating to the two years preceding the date of application.

Where audited accounts are not available, projected figures should be provided certified as being a ‘true and fair view’ by the company secretary or company accountants.

An application will not be considered unless evidence is provided of the organisation’s financial position.

The council will consider additional information if it is relevant to your application.

Please go to part 3 of this application form

Part 2: Discretionary Relief (non-profit organisation)

2.1 What type of property do you occupy? e.g. shop, office, club or community premises

2.2 How long has your organisation been operating?

2.3 Briefly describe the main aims of your organisation and provide a copy of your constitution:

2.4 How is your organisation funded?

2.5 Please provide details of all sources of income:

2.6 Do reserves in your organisation’s bank account exceed three months operating costs?

Yes / No

Where the non restricted fund balance exceeds three months turnover, a plan for the usage of the non restricted funds for the next twelve months must be provided as part of the application.

Please provide a full set of audited accounts relating to the two years preceding the date of application.

Where audited accounts are not available, projected figures should be provided certified as being a ‘true and fair view’ by the company secretary or company accountants.

An application will not be considered unless evidence is provided of the organisation’s financial position.

The council will consider additional information if it is relevant to your application.

Please go to part 3

Part 3: Declaration

Name of authorised person:

Signature:

Position within Organisation:

Contact address:

Contact Number:

Email:

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| This document can be made available in other languages and formats. For more information please contact [01803](mailto:hrpolicy@torbay.gov.uk) 207201 |

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