

## **Discretionary Rate Relief Policy 2022/23**

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### **1. Introduction**

- 1.1. Horsham District Council (HDC) is committed to correctly administrating the award of Discretionary Rate Relief (DRR) to organisations within the Horsham area.

Under the Local Government Finance Act 1988 (as amended) (LGFA) there are 6 areas of discretionary rate reliefs available to HDC Rate Payers. These are: -

- a) Relief for Charities and Not for Profit Organisations
- b) Relief for properties in rural settlements
- c) Reductions/Remissions on the grounds of Hardship
- d) Relief for Partly occupied premises.
- e) Relief to support Localism
- f) Other uses of discretionary powers under s47 of the LGFA 1988

### **2. Statement of Objectives**

The guidelines have the following objectives:

- To make the application process simple for organisations and give the clearest possible guidance as to what will be considered with regard to an application.
- To consider each application on its merits.
  
- To be equitable and fair and balance the wider interests of the community within the resources made available arising from Business Rates Baseline funding.
- To make decisions based on objective criteria and organisations' suitability for Discretionary Rate Relief

- To ensure officers give due time and attention to processing applications which is proportionate to the complexity and level of relief.
- To have regard to the relevant Central Government guidance when making decisions.
- To have regard to the restrictions applicable in terms of State Aid/Subsidy Control limitations

### 3. Reliefs

#### 3.1 **Rate Relief for Charities and Not for Profit organisations (DRR)**

##### 3.1.1. **Eligibility**

The conditions to be satisfied before HDC can consider an application for this relief are detailed in the LGFA 1988 under s47 are either:

- a) The rate payer is a charity or trustees of a charity, and the property is wholly or mainly used for charitable purposes; or
- b) The hereditament (property) is not an excepted hereditament (i.e. the rate payer is not the billing authority or precepting authority) and all or part of the property is occupied for the purposes of one or more institutions none of which is established or conducted for the purposes of 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;  
and
- c) For each of the above the Council may make the decision only if it is satisfied that it would be reasonable to do so having regard to the interests of HDC council taxpayers.

Organisations where the following points apply will not generally receive DRR

- Charities or organisations that are not primarily for the benefit of HDC residents - The Council is unlikely to grant DRR to charities or organisations located within the Council's area where the premises in question are used to provide or administer services for an organisation of an international, national, county wide or regional nature unless there is some particular demonstrable benefit to the residents of Horsham District significantly over and above the benefit to the residents of other areas.
- Shops operated by trading arms of charities - Permanent profitable shops run by charities would not normally qualify for DRR and in any circumstances the Council is unlikely to grant relief to shops operated by the trading arms of locally based charities unless they can demonstrate that at least 75% of their

purpose is for the benefit of the HDC community alone and where donated goods make up at least 75% of their sales.

- Bodies operating a restrictive membership policy - It is not the Council's general policy to grant relief to any body that does not allow access to all parts of the community unless such restrictions are necessary because of the size of the property occupied by the body or in order to ensure a pre-determined level of ability or required standard of achievement for a particular sport or activity.
- Businesses having more than 12 months spending available as free reserves - An organisation, or an organisation to which it is directly affiliated, whose accounts clearly show an ability to pay or an ability to readily generate sufficient income to cover running costs will not be considered for relief unless a medium term business plan exists which details how these reserves are to be used to the benefit of the local community.
- Organisations whose premises are shared with other businesses which do not meet the eligibility criteria – generally no discretionary rate relief will be awarded in these circumstances
- Sports clubs with paid players- generally no discretionary rate relief will be granted where players are paid.
- Organisations with high bar and/or gaming machine profits - an organisation which operates a licensed bar or has gaming machines must be able to demonstrate that these are not the primary or a significant attraction for the majority of members and that it is still primarily a sports organisation. Organisations generating more than £25,000 each year in combined bar and gaming machine takings would not normally qualify for relief. If bar income is less than bar expenditure, then relief will generally not be given.

### **3.1.2 Length of Award**

All awards of Discretionary Rate Relief (Charities and other Organisations) will be granted on an annual basis. In November of each year the Revenues department in conjunction with the Director of Corporate Resources, risk assess current claimants. For the vast majority of applicants a desk top only exercise will be undertaken and an award for a further 12 month period will be approved. For those rate payers whose circumstances merit it, they will need to apply annually towards the end of the current financial year for the following financial year (commencing 1 April).

### **3.1.3 Application Process**

Where required, each applicant will complete an application form, which has questions designed to assess the benefit of granting relief to HDC Council Taxpayers. This in turn will aid determination of the level of award to be granted.

### **3.1.4 Level of award**

- Applications for Discretionary Rate Relief will be reviewed against the criteria shown below and the Council must be satisfied that the property is used for purposes which are of benefit to HDC residents.

- The maximum relief award will be 100% of the rate liability after taking account of any mandatory reliefs.

## **3.2 Relief for properties in rural settlements**

### **3.2.1 Eligibility**

The Local Government Finance Act 1998, as amended, provides for the only Post Office or the only General Store, the only Public House, the only Petrol Station and the only village food store in a Rural Settlement with a population not exceeding 3,000 to be awarded 50% Mandatory Relief. A list of qualifying rural settlements will be published by the Council by 31 December each year. The current list is

Amberley	Rudgewick
Ashington	Rusper
Ashhurst	Shermanbury
Bramber	Shipley
Coldwaltham	Slinfold
Colgate	Thakeham
Cowfold	Warnham
Itchingfield	Washington
Lower Beeding	Wiston
Nuthurst	Woodmancote
Parham	

### **3.2.2 Length of award**

Awards of discretionary relief will be granted on an annual basis.

### **3.2.3 Application Process**

No application will be required; relief will be awarded automatically where there is an entitlement to mandatory rural rate relief.

### **3.2.4 Level of award**

The level of award will be calculated to ensure that the ratepayer receives 100% rate relief after the award of Mandatory Rural rate Relief

### **3.3 Reductions/Remissions on the grounds of Hardship**

#### **3.3.1 Eligibility**

The conditions to be satisfied before HDC can consider an application for this relief are detailed in the LGFA under s49. These are that: -

- a) The rate payer would sustain hardship if the Authority did not do so, and
- b) It is reasonable for the Authority to do so, having regard to the interest of persons subject to its council tax.

An award to hardship relief will usually only be made in order to provide short term assistance to businesses that are suffering unexpected hardship, arising from circumstances beyond the business's control and outside of the normal risk associated with running a business of that type, to the extent that the viability of the business would be threatened if an award were not made.

An award of hardship relief will not usually be made for the purposes of enabling a new business to become established except where the viability of the business is threatened by events that could not reasonably have been foreseen when establishing the business.

No award shall be made where it appears to the Council that the proprietor of the business has failed to exercise due diligence or anticipate circumstances that may give rise to hardship, financial; or otherwise, and/or to put in place measures to prevent or mitigate the circumstances.

#### **3.3.2 Length of Award**

All awards for remission/reduction on the grounds of hardship are granted for short fixed periods and for no longer than the period where there is clear evidence of hardship.

#### **3.3.3 Application process**

Application should be made in writing to the Business Rates section of HDC. Full details should be provided including, but not limited to

- a) The last two year's accounts, a current cash flow forecast and a comprehensive business plan. Where the business has traded for less than two years, then draft accounts or budget forecasts must be provided for the period since the business started trading.
- b) Details of actions taken to mitigate any factors giving rise to hardship. Examples of mitigation may include seeking business advice, discounts and promotions, reviewing pricing, negotiations with creditors etc.
- c) Any other relevant factors.

#### **3.3.4 Level of Award**

The amount awarded will be determined based on the circumstances of the applicant during the period of hardship,

### **3.4 Relief for partly occupied premises**

#### **3.4.1 Eligibility**

S44a of the LGFA enables HDC to grant relief on a hereditament that is partly unoccupied or not fully occupied for a short period only.

The granting of this relief is entirely under the discretion of HDC and each case will be considered on its merits and be referenced to the interests of Horsham Council taxpayers.

Applications will only be considered in respect of unoccupied parts of a property that can be clearly defined and are reasonably segregated from the occupied part of the property.

For the purposes of these guidelines a period of up to 12 calendar months shall be considered to be temporary and longer periods shall not be considered to be temporary.

No award shall be made where it appears to the Council that the reason that part of the property is unoccupied is wholly or mainly for the purposes of applying for Section 44a relief.

Section 44a relief will not normally be awarded in respect of different operative periods that contain the same area of unoccupied property that existed in preceding operative periods.

Rate relief under this section will not usually be awarded where the partial occupation may be considered to arise due to the ordinary day to day nature of the business ( for example the operation of a warehouse).

#### **3.4.2 Length of Award**

All awards for relief due to partly occupied premises will be given for a short time only and only where there is clear evidence of partial occupation.

Awards of Section 44a relief shall end at the earliest occurrence of one of the following:

- a) The end of the statutory period for which relief may be allowed;
- b) The end of the financial year;
- c) All or part of the unoccupied area becoming occupied;
- d) The whole of the property becoming unoccupied;
- e) The ratepayer ceasing to be the person or organisation liable to pay non-domestic rates in respect of the property;
- f) Where all or part of the unoccupied area has remained unoccupied for one year;

- g) The commencement of a further award in respect of the property;
- h) The Council is unable to verify, following reasonable notice, that the area remains unoccupied.

### **3.4.3 Application Process**

A ratepayer making an application under section 44a shall provide a plan of the property showing the dimensions of the occupied and unoccupied area of suitable quality to enable the Valuation Office Agency to apportion the rateable value of the property between the occupied and unoccupied areas. Applications will not be considered until such time as the plan is provided- each application.

The ratepayer must allow a Council Officer access to the property by appointment during normal working hours within two weeks of the Council receiving the application in order to verify the occupation of the property.

Further access may be required on at least one occasion each month, during normal office hours, during the period for which relief is being awarded. In order to enable verification, access to the unoccupied area may be requested immediately without advanced notice. In the event that access is not allowed promptly without good cause the award of Section 44a relief may be withdrawn.

### **3.4.4 Level of Award**

The amount of reduction in rates is determined by statute and is calculated by reference to the rateable value ascribed to the unoccupied area by the Valuation Office Agency.

## **3.5 Relief to promote localism**

### **3.5.1 Eligibility**

S47 of the LGFA allows the Authority to offer business rate discounts to help attract firms, investment and jobs to the local area. Each case will be considered on its merits and be referenced to the interests of Horsham Council taxpayers.

Applications for rate relief under this section will normally only be considered favourably where the Council is satisfied that an award will result in tangible benefits to local residents and in particular where the award will directly result in attracting businesses, investment or jobs to the local area.

### **3.5.2 Length of Award**

All awards for localism relief will be granted for a maximum of one financial year.

### **3.5.3 Application process**

Application should be made in writing to the Business Rates section of HDC. In submitting an application, the ratepayer must demonstrate with verifiable supporting

evidence the benefits to HDC's Council Taxpayers that will accrue from making an award.

### **3.5.4 Level of Award**

Each application will be considered on its individual merit but in making a decision on the award the following factors must be considered by the decision maker:

1. That awards should only be made in exceptional circumstances;
2. The value of any previous awards and the benefits to local Council Taxpayers realised from previous awards;
3. The cost to the Council, including the loss of income or of retained rates yield, in making an award;
4. The impact of the cost or loss of income in relation to the Council's overall financial situation;
5. The benefits to the Horsham's Council Taxpayers in making an award, and in particular whether the award will directly result in attracting businesses, investment or jobs to the local area;
6. The impact on other Non-Domestic Ratepayers in HDC;
7. The Council's statutory equality duties;
8. That awards should normally only be made where the ratepayer's activities in the District will contribute towards the aims and objectives of the Corporate Plan.;
9. The extent to which an award will support the Council's aspiration to promote and encourage economic growth, and in particular growth in the Non-Domestic Rating tax base and in employment opportunities for residents of the District;
10. The overall profitability of the business.

## **3.6 Other uses of discretionary powers under S47 LGFA 1988**

### **3.6.1 Eligibility**

From time to time, additional measures are proposed by the Government to provide assistance to businesses. These can be either national schemes or locally defined schemes which are drawn up by HDC. They are provided under s47 of the LGFA 1988.

Where the Government puts in place a scheme whereby the Council will be fully compensated for the loss of rates yield arising from an award of discretionary rate relief, awards of relief shall be made in accordance with the guidance issued for the scheme unless there is a decision of the Council to the contrary.

### **3.6.2 Length of Award**

Any other awards using s47 powers will be up to the maximum period of time stipulated by central government or the locally defined scheme.

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### **3.6.3 Application process**

Application should be made in accordance with the guidance provided by central government at the time or in line with the locally defined application procedures

### **3.6.4 Level of Award**

The level of award should be made in accordance with the guidance provided by central government at the time or in line with the locally defined application procedures

## **4. Determination of Applications**

- 4.1. For all reliefs, HDC reserves the right to refuse an application if all information requested has not been submitted. This may include full financial information.
- 4.2. The determination of any relief to be granted will be an officer delegated decision.
- 4.3. Applicants will be notified, either by receiving a revised demand showing the reliefs awarded, or in writing detailing reasons for non-awards.
- 4.4. Unless otherwise agreed, ratepayers are required to continue to pay, in accordance with the latest demand notice, pending the outcome of an application.

## **5. Awards for retrospective periods.**

- 5.1. With the exception of applications on the grounds of hardship, rate relief will not normally be awarded in respect of any day prior to the day that an application is received.  
However, in exceptional circumstances consideration may be given to awarding rate relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting the application earlier. Additionally, applications for other reliefs awarded using s47 powers may be considered where the ratepayer meets the relevant criteria.
- 5.2. Where the application is on the grounds of hardship an award may be made for a respective period where it is considered that the business suffered hardship during that period.
- 5.3. No consideration shall be given to an award for a retrospective period where the Council is not able to verify to its satisfaction that the circumstances giving rise to the application pertained for that period
- 5.4. Under s47 of the LGFA, HDC is unable to grant relief with an effective date of more than six months after the end of the financial year to which it relates, therefore applications received after this date will not be considered.

## **6. Appeals**

- 6.1. There is no statutory right of appeal against the refusal to award relief.

- 6.2. An applicant may request a review of the decision but only where either:
- Additional information that is relevant to the application and was not available at the time the decision was made becomes available; or
  - There are good grounds to believe the application or supporting information was not interpreted correctly at the time the decision was made.
- 6.3 A request for a review must be made within 28 days of notification of the decision and must set out the reasons for the request and any supporting information.

## **7. State Aid/Subsidy Control**

- 7.1. Rate relief shall not be awarded in any circumstances where it appears that an award will result in the ratepayer receiving state aid/subsidy control level.
- 7.2. If required by the Council, each application from a business, or organisation engaged in business activities, must be accompanied by a statement signed by the appropriate person representing the ratepayer setting out the amount of state aid/subsidy control , including but not limited to discretionary rate relief, which the ratepayer has received within the previous three years. Applications shall not be considered until this statement is received.

## **8. Misrepresentation or Fraud**

- 8.1. The Council requires all applicants to provide complete and truthful information and to disclose all information that may be relevant to an award including any subsequent changes of circumstance. In the event of deliberate misrepresentation or fraud the Council will take action in accordance with its Anti-Fraud Strategy which may include prosecution for criminal offences.