



Sandwell Metropolitan Borough Council

Revenues and Benefits Service

**Non-Domestic Rates Discretionary
Rate Relief Policy**

2021/22

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Meeting Ambition 10



1. INTRODUCTION

Discretionary Rate Relief (DRR) allows a reduction in Non Domestic Rates of up to 100% where certain provisions are satisfied. The decision to grant or not grant relief is a matter purely for the authority.

The Revenues and Benefits Service work closely with the Voluntary Sector Funding Team to administer this policy.

The Council recognises the important role played by the Voluntary Sector in Sandwell, not only in the area of service delivery, but also as an indicator of civic engagement and the health of the social fabric of the borough.

The regulations relating to DRR can be found in Section 47 of the Local Government Finance Act 1988 (as amended).

Registered charities, registered friendly societies and community amateur sports clubs automatically qualify for a mandatory reduction to their rates bill

of 80%. The Council is able to consider granting DRR to these organisations on the remaining 20%.

DRR enables the Council to support a wide range of voluntary and community groups in Sandwell, providing a significant reduction to an organisation's running expenses.

2. GENERAL PRINCIPLES / REGULATIONS

The purpose of this policy is to outline the conditions that should be satisfied in order for Sandwell MBC to consider relief under the Local Government Finance Act 1988 and associated legislation.

3. PROCESS FOR SERVICES – RELIEFS AVAILABLE

The following reliefs are available in Sandwell under the banner of 'Discretionary Relief' for Business Rates:

1. Charity and Non-Profit Making Organisations 'Top Up'
2. Reliefs made available under the Localism Act 2011:
 - (i) 'Section 69' Localism Relief
 - (ii) Relief for Child Care Provision
 - (iii) Shared Workspace
3. Part Occupied/Part Void Section 44A Relief
4. Discretionary Relief Introduced April 2017:
 - (i) Supporting Small Business Relief

The criteria for each of these reliefs is listed below, together with details on how to apply and any restrictions, where applicable

3.1 CHARITY AND NON-PROFIT MAKING ORGANISATIONS

Some charities and non-profit organisations are entitled to 80% mandatory ‘Charity’ rate relief. However Local Authorities have the option to ‘top up’ that relief to 100%. Organisations that meet the requirements of this policy and the relevant criteria who are eligible for the 80% mandatory rate relief, may receive a top up of 20%.

Sandwell needs a healthy Voluntary Sector, particularly local voluntary and community organisations. This supports citizens of the borough by providing:

- **Local community based services** – many voluntary and community sector organisations are community based and may therefore be better able to work with harder to reach groups. This complements the Council’s town and neighbourhood based approach to service delivery
- **Choice** – by supporting voluntary and community sector organisations the Council hopes to provide a greater choice for local people in terms of the services they are able to access
- **Independence** – voluntary and community sector organisations are independent bodies and are often well placed to take on a campaigning or advocacy role on behalf of local people, providing an important challenge role for the Council
- **Opportunities for people to participate** – as volunteers as well as service users
- **Specialist services** – many voluntary and community sector organisations develop specialism’s around the particular needs of a client group

3.1.1 Definition of terms

Voluntary organisation:

A formal organisation run by a management body made up of volunteers who are engaged in that activity for environmental, economic or social good.

Community group:

A community organisation is a less formally organised body run by a management body made up of volunteers who are engaged in that activity for environmental, economic or social good.

3.1.2 Who Can Apply?

The following organisations could apply for DRR 'Top Up':

- **Charities** (including charity shops that are ratepayers occupying premises used for charitable purposes).
- **Non profit organisations** (that are not charities but the objectives of which are 'charitable', 'philanthropic' or religious, or concerned with education, social welfare, science, literature or the fine arts' or who use the premises mainly for recreation).

Examples of these organisations include:

- Voluntary organisations
- Community groups
- Tenants and residents groups
- Faith groups
- Housing Associations
- Co-operatives and social enterprises (that are set up to benefit of the public at large rather than its members)
- Sports organisations
- Mutuals
- Grant making trusts.

3.1.3 Eligibility Criteria

To be eligible for DRR, organisations must occupy the property for which they are seeking DRR and must:

- be used for the purposes of delivering the organisations' objectives to benefit citizens of Sandwell
- be based in or delivering services in Sandwell
- be non-governmental
- be value driven, for the social good
- be non party political

- not use profit that is normally reinvested into the organisation, to pay management a salary
- reinvest at least 50% of their financial surpluses for community benefit in Sandwell. Regional and national organisations will need to reinvest at least 50% of their financial surpluses that arise from their work in Sandwell for community benefit in the borough
- not be funded directly from taxation by any government department or agency in the provision of any function under any statutory duty

3.1.4 Levels of DRR

Organisations that meet the requirements of this policy and criteria, in receipt of 80% mandatory rate relief, will receive a top up of 20%. All other successful applicants will receive 100% discretionary rate relief.

3.1.5 Effective Date of DRR Award

Organisations have to apply for DRR every year. Applications can be submitted at any point during the financial year 1 April – 31 March. However in order for DRR to be shown on the first bill of the year applications and/or confirmation of any change in circumstances need to be submitted prior to 31st January.

If an application for the **previous** financial year is received in time for it to be assessed by 30th September, any rate relief granted will be backdated to 1 April of that financial year or the date at which the premises were first occupied if this is later.

For example:

An application backdated relief for 2020/21 (covering the period 1 April 2020 – 31 March 2021), is received by the Council in time for it to be assessed and approved before 30 September 2021, then DRR would be backdated to 1 April 2020, or the date of occupation if later).

3.1.6 How to apply

If you are advised that an application for DRR is required by the Council it must be made using the authority's application form which is available on the Council's website

http://www.sandwell.gov.uk/downloads/download/197/charitable_and_discretionary_relief

All applications under this policy will be considered by the Executive Director of Resources

3.1.7 Unsuccessful DRR Applications

There is no legal right of appeal against the Council's use of discretionary powers. However, the Council will accept a customer's request for a re-determination of its decision.

If an application for DRR has been refused, applicants have the opportunity to request a re-determination. All requests must be made in writing, within one month of the Council's decision. Requests will be considered by a panel of 2 officers who were not involved in the original decision.

If an unsuccessful applicant decides to make a request for re-determination, they will still need to continue to pay their business rates. If the request is successful, an amended bill will be issued.

3.2 RELIEF INTRODUCED BY THE LOCALISM ACT 2011

This involved two separate reliefs:

- i. Section 69 'Localism' Relief
- ii. Provision of Childcare and Shared Workspace

(i) Section 69 'Localism Act Relief'

Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988. The changes came into effect from 1st April 2012 and extended the existing provision relating to the granting of DRR.

From 01 April 2012 any ratepayer may apply for this relief. The costs of such relief is borne solely by council tax payers of the borough, therefore it is essential that relief is only given to those ratepayers who will bring significant benefit to the area.

The amount of relief granted is not fixed and will be dependant on the individual circumstances of each application.

To be considered the ratepayer must meet all of the following criteria:

- The ratepayer must occupy the premises
- The ratepayer must be relocating from outside Sandwell, or where already existing within Sandwell must operate within one of Sandwell's priority sectors, namely: -
 - Diversified manufacturing; including high value added engineering, food production, offsite construction and health products
 - Business, financial and customer services
 - Green industries; including environmental technologies, waste recycling and resource management and research investment
- The ratepayer must provide significant investment in premises and/or capital equipment;
- The ratepayer must provide significant new job creation and/or safeguarding of existing jobs;
- The premises and organisation must be of significant benefit to Sandwell's residents
- The premises and organisation must relieve the Borough of providing similar facilities.
- The ratepayer must provide facilities to certain priority groups such as the elderly, disabled, minority groups, disadvantaged groups, or provide the residents of the borough with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation
- The ratepayer must be paying its employees at least the national minimum wage
- Not more than 50% of the ratepayer's employees must be on zero hour contracts
- At least 50% of the ratepayer's employees must be living in Sandwell and
- The ratepayer must demonstrate that Discretionary Relief will only be required short-term and that the business /operation is financially viable in the medium/long term; and
- The ratepayer must show that the organisation will comply with all legislative requirements and operate in an ethical, sustainable and environmentally friendly manner at all times.

Enquiries relating to this relief should be directed to the Business Rates team via email business_rates@sandwell.gov.uk

Community Benefit Clause

Any businesses benefitting from this relief must engage with the Council's Think Local Recruitment team to assist with the recruitment of any new staff.

Businesses benefitting from this relief must also consider apprenticeships or develop existing employees to gain recognised qualifications e.g. NVQ's,

The business should use www.thinksandwell.co.uk to advertise any supply opportunities resulting from the building of new premises etc.

(ii) Relief for Child Care Provision

The Government is encouraging local authorities to consider using their local discount powers to provide discretionary relief to childcare providers

Child care providers, who do not fully qualify for other reductions, will be considered for this relief so long as they provide quality services that are of a clear benefit to the citizens of the Borough. The amount of relief granted is not fixed and will be dependant on the individual circumstances of each application.

In order to meet those requirements Child Care Providers should be Ofsted rated as 'Excellent' or 'Good' and provide a majority of free places within each establishment.

Enquiries relating to this relief should be directed to the Business Rates team via email business_rates@sandwell.gov.uk

(iii) Relief for Shared Workspaces

The Government is encouraging local authorities to consider using their local discount powers to provide discretionary relief to small businesses who share workspace.

Shared workspaces typically provide flexible and affordable access to workspace for small and medium sized enterprises, micro-businesses and sole traders.

Shared spaces will be considered for rate relief where there is a clear benefit to the local economy, such as where shared workspaces create economic growth, jobs or provide support to new businesses.

The amount of relief granted is not fixed and will be dependant on the individual circumstances of each application.

Enquiries relating to this relief should be directed to the Business Rates team via email business_rates@sandwell.gov.uk

3.3 PART OCCUPIED/PART VOID SECTION 44A RELIEF ('s44A')

General Explanation

- 3.3.1 If a property is only partly occupied, the Council has discretion to request that the Valuation Office Agency (VOA) apportions the property's rateable value between its occupied and unoccupied parts, provided it '...will remain so for a short time only'
- 3.3.2 Partially occupied rate relief (often referred to as 'Section 44A' or 's44A' Relief) is not intended to be used merely where part of a property is temporarily not used. The intention is aimed at situations where there are practical, financial or economic difficulties in occupying or vacating all of the property, or exceptional circumstances may have arisen meaning the area is incapable of occupation at that time unique to the business
- 3.3.3 The effect of the reduction under s44A would be to reduce the rates on the premises to the same level as would be payable if the unoccupied part formed a separate hereditament

- 3.3.4 The ratepayer must allow a Council Officer accompanied access to the property by appointment during normal working hours at a time and date mutually agreed. The Council Officer may take measurements and photographs as evidence during the inspection. Full rates remain payable until the visit is concluded and a decision has been made whether or not to award the s44A Relief
- 3.3.5 Details of the inspection will be forwarded to the VOA. The VOA must then issue a certificate confirming the rateable value of the unoccupied area in order for the s44A relief to be awarded. Once the VOA has issued a certificate, relief must be awarded in accordance with it.
- 3.3.6 If awarded, relief in the Sandwell area will only normally start from the date stated on the application and will only be awarded for up to a maximum of **three months** (or **six months for an industrial hereditament**) in a financial year. In exceptional circumstances, consideration will be given to awarding relief across financial year, for example application made late in the year.
Consideration will also be given in exceptional circumstances to awarding relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting the application earlier
- 3.3.7 Every application will be considered on its own merits but the Council will have particular regard to the effect on its Collection Fund and the interests of local Council Tax payers when considering whether it is reasonable to award the relief or not. Confirmation is required that the business claiming the relief, at the very least, pays its employees the National Minimum Wage and/or the National Living Wage, as appropriate to their age and circumstances
- 3.3.8 Following inspection of the premises but before being referred to the VOA, applications will need to be approved by the Council's Section 151 Officer, currently the Executive Director of Resources, Darren Carter
- 3.3.9 This is a discretionary relief and full rates will remain payable on a partially occupied property if the Council chooses not to exercise its power in this respect

Decisions by the Council

- 3.3.11 Every application will be considered on its own merits however, in addition to the effect on the Collection Fund and local Council Tax Payer, when considering an application for Section 44A Relief, the following factors will be taken into account:
- The circumstances leading to the partial occupation
 - Previous awards of Section 44A Relief to the same business/ organisation and the net effect on Council Tax payers
 - The intention of the business in relation to unoccupied area(s)
 - The reasonableness of the ratepayer requesting an alteration of the rating assessment from the VOA
 - The availability of evidence that the unoccupied area(s) will be empty for a short period only
 - Full occupation being phased in over a period of time or full vacation occurring in stages over a period of time, if applicable
- 3.3.12 Relief will *not* normally be considered where:
- Access is refused and/or it has not been possible to verify the application
 - Part occupation is likely to exceed a short time
 - The area is not clearly defined
 - Part occupation is seasonal or due to the nature of the business
 - The premises are partially empty due to essential maintenance or upgrading
 - The company is moving out of Sandwell
 - There have been repeated requests on an annual basis, as this is not deemed 'temporary' relief
 - There is a national crisis/pandemic affecting a significant number of businesses.
 - Government funding is available to assist

Applications for Relief under this scheme

- 3.3.13 Applications must be in writing. A pdf application form is available via the following link
http://www.sandwell.gov.uk/info/200308/business_rates/2954/partly_occupied_property_relief_section_44a
- 3.3.14 As much information as possible must be provided to the Council as detailed on the application form in order for the request to be

considered. This must include a plan(s) of the premises clearly showing the unoccupied area(s) and should include measurements where possible

- 3.3.15 Once an application has been received an officer from the Council will contact the ratepayer to arrange a suitable date to allow accompanied access for an inspection of the premises

Amount of relief

- 3.3.16 Where Sandwell MBC agrees to the award of a Section 44A relief, notification will be sent to the VOA to seek a reduction in the rateable value
- 3.3.17 The amount of relief is calculated on a statutory basis, based on the rateable value of the empty area(s) of the property. The appropriate rateable value is provided to Sandwell MBC by the VOA England

Variation and amendment of relief under the scheme

- 3.3.18 The period of relief will end on the day on which any of the following occurs:
- There is a change to the extent of the partial occupation
 - The end of the three month/ six month relief period, or the end of the financial year, whichever is first
 - A new period of relief under a new application starts
 - The premises become fully occupied or completely unoccupied
 - The ratepayer ceases to be the person or organisation liable to pay rates in respect of the premises
 - The Council is unable to verify, following reasonable notice, that the area remains unoccupied
- 3.3.19 If there is a change in the rateable value, relief will be apportioned or removed as appropriate

Notification of Decision

- 3.3.20 The Council will notify the ratepayer of their entitlement to relief by the issue of an amended demand notice. Refusal will be

communicated by the Council via telephone or visit, or via email or in writing if requested

Decision Review Process

- 3.3.21 There is no statutory right of appeal against a decision made by the Council regarding discretionary rate relief, including Section 44A applications. However the Council recognises that ratepayers should be entitled to have a decision reviewed if they are dissatisfied with the outcome
- 3.3.22 The Council will accept a written request for a review of its decision. The request should include the reasons for requesting a review and any supporting evidence
- 3.3.23 A request for review must be made within one calendar month of the date of refusal
- 3.3.24 The ratepayer will be notified of the outcome of the review in writing.
- 3.3.25 This review process does not affect a ratepayer's legal right to seek to challenge a decision by way of Judicial Review

3.4 DISCRETIONARY RELIEFS INTRODUCED 01 APRIL 2017

This involved three separate reliefs:

- i. Public House Relief
- ii. Supporting Small Business Relief
- iii. Discretionary Relief Scheme (Revaluation)

The schemes covering Public House Relief and Discretionary Relief following the 2017 revaluation ended 31 March 2021 and hence are no longer included in this document. However Supporting Small Business Relief remains for 2021/22

Supporting Small Businesses Relief ('SSBR')

Effective from 2017, this relief is to provide support over 5 years to small businesses who have lost their entitlement to Small Business Rates Relief as a result of their rateable value increasing through the 2017 revaluation.

This relief ensures small businesses do not have to pay more than £600 increase per year for 5 years, effective from 01 April 2017.

Relief is automatically applied to applicable cases

Covid 19 Discretionary Reliefs Introduced During 2021/22

Where the government introduces further Business Rates Reliefs during 2021/22 due to Covid-19 we will implement these in accordance with the legislation and the guidance issued

DISCRETIONARY RATE RELIEFS AND STATE AID

European Union competition rules generally prohibit government subsidies to businesses. Relief from taxes, including non domestic rates can constitute state aid. The council must bear this in mind when granting discretionary rate relief.

In relation to charities and non profit making organisations, rate relief is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, if the charities or non-profit making organisations are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.

For all other reliefs, where the relief to any one business is greater than the current state aid limit over a three year period, then permission will be needed from the European Commission. In such cases the matter will be referred to the Department for Communities and Local Government for advice and then referred to the Council for consideration.

4. POLICY REVIEW

The policy will be reviewed annually, or sooner if appropriate, to take account of operational adjustments, feedback and or changes to legislation.

5. EQUALITIES

This policy has been produced in line with the Council's obligation to the Public Sector Equality Duty provided by the Equality Act 2010. No adverse impact on any protected characteristic has been identified as a result of this policy.