

Folkestone and Hythe District Council
Non-Domestic Rates
Discretionary Rate Relief Policy

Discretionary Business Rates Relief Policy

Introduction

Councils have the power to grant discretionary rate relief to organisations that meet certain criteria. As the title suggests the power is discretionary and can therefore be limited by other factors, notably the budget and funds available for this purpose. Any relief granted is used to reduce the amount the organisation is required to pay in business rates.

The provisions are set out in Section 47 and 49 of the Local Government Finance Act 1988. Councils have discretion to grant rate relief from all or part of the amount of non-domestic rates payable and the level of relief determined by an authority may be varied by a further determination.

The district council recognises the valuable role that voluntary organisations can and do play in the life of the community. The district council is committed to providing high quality services to Folkestone and Hythe's ratepayers and acknowledges the way voluntary groups can complement these services.

Legislation

The law governing the granting of discretionary rate relief is found in Section 47 and 49 of the Local Government Finance Act 1988 (as amended).

The legislation states the qualifying conditions as one or more of the following:

- (a) the ratepayer is a charity, trustees for a charity or Community Amateur Sports Club (CASC), and the hereditament is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities);
- (b) the hereditament is not an excepted hereditament, and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for 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;
- (c) the hereditament is not an excepted hereditament, it is wholly or mainly used for purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.
- (d) Specified properties in certain rural areas
- (e) Hardship relief

Folkestone and Hythe District Council's policy

The following sections set out how Folkestone and Hythe District Council will operate its discretionary powers in the Local Government Finance Act 1988 and the factors we will consider when deciding if relief can be awarded and the way in which we decide the value of the relief granted.

Through this policy, Folkestone and Hythe District Council is providing a mechanism to reduce, or remove the business rate liability from such charities, non-profit making organisations and certain rural businesses that are providing valuable facilities and services to communities within Shepway.

We will deal with each application for relief on its merits and treat all organisations that apply for discretionary rate relief equally and fairly. We will operate the scheme in a manner that helps to support district council priorities contained in the corporate plan as well as regional and national priorities.

From the 1 April 2013 rates are no longer collected by the local authority on behalf of Central Government and paid to a central pool.

The business rates retention scheme means that the cost of most exemptions, reliefs or reduction is shared between central Government 50%, Folkestone and Hythe district council 40%, Kent County Council 9%, Fire and Rescue Service 1%.

The exception is relief awarded under the Localism Act which is funded 100% by Folkestone & Hythe District Council.

Localism relief has previously been used to fund businesses supported by Economic Development and for Privately owned public convenience relief.

Discretionary Rate Relief for Charities, Non Profit Making Organisations and Sports Clubs

Introduction

It is possible for a voluntary organisation to apply for 100% discretionary rate relief, and for registered charities and CASC's to apply for an additional 20% discretionary relief in addition to the 80% mandatory relief they already receive.

The district council will consider applications for discretionary rate relief for non-profit making sports clubs that do not qualify for charitable status.

When considering the application, the district council may choose to award a lower percentage of relief based upon its merits

How we will decide whether to award Discretionary Rate Relief for charities, non-profit making organisations and sports clubs

The criteria to be used in deciding whether or not to give discretionary rate relief and the level of relief awarded are based on assessing how an organisation's work helps achieve the district council's priorities to meet the community's need for services and facilities.

The criteria for awarding relief are outlined below and are divided into two categories. Firstly essential criteria based upon statutory requirements and additional criteria determined by Folkestone and Hythe District Council.

Essential criteria

The following essential criteria must be met before the council will award discretionary rate relief:

- the ratepayer must be a non-profit making body
- the property must be used by the ratepayer wholly or mainly for charitable, philanthropic or religious purposes, or concerned with education, social welfare, science, literature or the fine arts, or
- the ratepayer must use the property wholly or mainly for recreation by a non-profit making club or society.

Additional criteria

Entitlement will be assessed against the additional criteria below and factors described above.

Criteria	Guideline Considerations
Open membership	<p>Membership should be open to all sections of the community. There may be some restrictions placed on ability in sport if this appropriate, however general membership should not be exclusive or restrictive.</p> <p>Membership fees must not be set at such a level as to exclude the general community. The Council would expect applicants to state their current membership rates and to illustrate that the criteria used to consider applications for membership is consistent with the principle of open access.</p> <p>Applications will be treated more favourably if the organisation can demonstrate that it actively encourages membership from, or offers support to, particular groups in the community such as young people, pensioners, persons with a disability or ethnic minorities.</p>

<p>Contribution to the service ambitions of the Council</p>	<p>Consideration will be given as to whether the organisation addresses a need which is not being provided by the Council, but is identified as a priority for action and fits with the Council's service objectives:</p> <ul style="list-style-type: none"> • Positive community leadership • A thriving environment • A vibrant economy • Quality homes and infrastructure
<p>Links with existing Council policies and strategies?</p>	<p>Consideration will be given as to whether the organisation's aims link with existing Council policies, for example, the Community Plan, the Crime and Disorder Strategy.</p>
<p>Benefit to Folkestone and Hythe residents</p>	<p>There will be a cost borne by the Council taxpayers in the area if any relief is granted. Consideration will be given as to whether the presence of a club or organisation directly benefits the residents of Folkestone and Hythe.</p> <p>In addition enhanced consideration will be given to organisations only local to and supporting the Folkestone and Hythe area.</p>
<p>Beneficiaries of services or facilities</p>	<p>The organisation should provide training or education to its members and non members such as young people, people with a disability and pensioners.</p> <p>Favourable consideration will be given to those organisations which provide facilities that indirectly relieve the public sector of the need to do so or enhance</p>
<p>Annual turnover</p>	<p>The latest audited accounts will be examined to determine the need for financial assistance. Clearly the annual turnover of the organisation and its</p>

	ability to generate income will be a consideration in determining whether to award relief.
Value of unallocated reserves	Where an organisation has unallocated reserves greater in value than twelve months running costs, the organisation will be required to demonstrate the reasons for holding those reserves and an explanation as to why they need assistance with paying their bill.
Trading Activities (e.g. as a bar or shop)	<p>The mere existence of a bar or retail outlet will not in itself be a reason for not granting relief, but the main purpose of the organisation will be examined and its ability to trade will be a consideration in determining any award granted.</p> <p>Those organizations whose primary function is to trade will not normally be granted relief.</p>
Other sources of funding	<p>This is an indication that an organisation is deserving of relief if it has made efforts for self-help or submitted applications for grant aid.</p> <p>Consideration will be given to organisations that already receive other financial assistance from Folkestone & Hythe District Council</p>

Hardship Relief

Introduction

It is possible for any business to apply for discretionary hardship relief.

How we will decide whether to award Discretionary Hardship Relief

The criteria for awarding relief are outlined below and are divided into two categories. Firstly essential criteria based upon statutory requirements and additional criteria determined by Folkestone and Hythe District Council.

Essential criteria

The following essential criteria must be satisfied before the council will award discretionary hardship relief:

- the ratepayer would sustain hardship if the council did not do so, and
- having regard to the interest of its council taxpayers it is reasonable for the council to provide the relief.

Additional Criteria

The criteria to be used in deciding whether or not to give discretionary hardship relief are shown below.

Criteria	Guideline Considerations
Financial Position of the organisation.	Clearly 'hardship' will generally be determined on the basis of the financial position of the ratepayer's business.
Contribution to the service ambitions of the Council	Consideration will be given as to whether the organisation addresses a need which is not being provided by the Council, but is identified as a priority for action and fits with the Council's service ambitions: <ul style="list-style-type: none"> • Positive community leadership • A thriving environment • A vibrant economy • Quality homes and infrastructure
Importance to the local community	An organisation applying for 'hardship' relief must be providing a service that is very important to the local community. Before reaching a decision, the views of local ward members may be sought.
Alternative service provider	The service provided by the organisation should not be available in the same locality or within reasonable distance of the property address of the applicant.
Availability of public transport	Public transport to the nearest alternative service is not available or is very restricted.

The Council will only grant hardship relief for a period where there is clear evidence of hardship for the applicant. This will ordinarily be for a short period of time and not on an on-going basis.

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

Rural Rate Relief

Introduction

The relief applies to properties which are situated in a rural settlement area, as identified on the council's rural settlement list, and with a population of less than 3,000.

Post offices and shops with rateable values under £8,500 as well as Pubs and Petrol Stations with Rateable Values under £12,500, which are the only such property in the rural settlement, already qualify for mandatory 100% relief. The district council has discretion to award Rural Rate Relief to other businesses that benefit the community in line with the below criteria.

How we will decide whether to award Discretionary Rural Rate Relief

The criteria for awarding relief are outlined below and are divided into two categories. Firstly essential criteria based upon statutory requirements and additional criteria determined by Folkestone and Hythe District Council.

Essential criteria

The following essential criteria must be met before the council will award discretionary rate relief:

- The rateable value of the property is no more than £16,500

Additional criteria

The criteria to be used in deciding whether or not to give discretionary rural rate relief are shown below.

Criteria	Guideline Considerations
Financial Position of the organisation.	There is a cost borne by the council taxpayers in the area if the relief is given so the financial position of the ratepayer's business will be considered
Contribution to the service	Consideration will be given as to whether the

ambitions of the Council	<p>organisation addresses a need which is not being provided by the Council, but is identified as a priority for action and fits with the Council's service ambitions:</p> <ul style="list-style-type: none"> • • Positive community leadership • A thriving environment • A vibrant economy • Quality homes and infrastructure
Importance to the local community	<p>An organisation applying for rural rate relief must be providing a service that is very important to the local community. Before reaching a decision, the views of local ward members may be sought.</p>

Section 44a Part Occupied Relief

Introduction

Section 44a of the Local Government Finance Act 1988 enables the council to grant Business Rates Relief on a business premises that is partly occupied, for a temporary period. 'Temporary period' is not prescribed in law and therefore the Council has discretion to decide the period the relief should be awarded.

How we will decide whether to award Part Occupied Relief

Applicants must make a written request for the relief and must include:

- dates upon which the business premises will only be part-occupied
- a plan of the property with the unoccupied portions clearly identified

Retrospective claims will not be considered. Requests for Business Rates Section 44a Part Occupied Relief must be submitted as soon as, or even before, the premises become part-occupied and prior to the end of the financial year in which the ratepayer wishes to apply for the relief.

Once a request has been received, the council will require access to the applicants property to verify the application. This may be on more than one occasion.

Calculation of relief

Where the Council agrees to award a Section 44a relief, the Council will seek a reduction in the rateable value by notifying the Valuation Officer. The amount of relief is calculated on a statutory basis, based on the rateable value of the empty

portion of the property. The appropriate rateable value is provided to the Council by the Valuation Office Agency.

The council award relief equivalent to an exemption on the unoccupied areas, for periods not exceeding:

- Six months for industrial properties
- Three months for all other properties
- The date the unoccupied areas are due to come back into occupation, if the vacant period is under three/six months
- The end of the financial year, if this falls sooner than any of the above

Situations where the Section 44a relief would generally be refused:

- Where there is no intention to fully occupy/reoccupy the vacant part of the property; the partial occupation must be on a short-term basis only
- If a property is being used for storage and the unoccupied areas stand ready to receive goods.
- On properties which are entirely unoccupied. In these cases the ratepayer should apply for the appropriate period of Empty Rate Relief
- When the same area(s) of the property have previously benefited from the relief without having come back into long term occupation since the last Section 44a relief award was made.
- Where furniture and equipment (other than fixed plant machinery) is stored in the unused area, as this would not be considered unoccupied for the purposes of this relief

General

The amount of actual relief granted will however, be determined by the affordable budget available within the district council.

Claiming Discretionary Relief

A claim must be made on an approved application form which will be available from the council. This application should be completed and returned to: Business Rates, Folkestone and Hythe District Council, Civic Centre, Castle Hill Avenue, Folkestone, Kent. CT20 2QY

Applications must be determined no later than the 30 September of the following financial year for which the relief is sought. Applications forms should be received no later than the 31 August although the council may use its discretion to accept a form after this date but the determination must, by law, be made by the 30 September.

It is the responsibility of the organisation applying for relief to provide sufficient information and documentary evidence to support applications. Where further information is required, we will request this and allow a minimum of 1 month for its provision.

If the organisation applying does not or will not provide the required evidence, we will still consider the application but only on the basis of the information and evidence in our possession.

Period of Award

All Hardship relief awards will only be granted up to 31 March of the financial year for which the award relates. Continuation of relief will be subject to reapplication. Organisations who do not reapply will not be granted relief and a non domestic rate bill for the full amount will be issued.

All Discretionary Relief applications (charities, sports clubs, non-profit making organisations and rural) will be reviewed at least every 3 years. You will need to supply your most recent annual accounts to the Council and provide evidence of your reserve allocation. We will allow a minimum of 1 month for these to be provided. Your relief could be cancelled if you fail to provide the requested information.

Please note that any significant changes to your annual running costs and unallocated reserves which may affect your award should be notified as soon as is practicable as this may affect the level of your award. This can be supplied following the instructions on our website <https://www.folkestone-hythe.gov.uk/article/650/Report-a-change-of-circumstances>

Changes in Liability

If there is a change in the liability of the organisation the amount of relief awarded will be amended accordingly.

How we make decisions.

The initial decision on your application for Discretionary Rate Relief for Charities, Non Profit Making Organisations and Sports Clubs, Hardship relief and Rural Discretionary relief will be made Cabinet Member for Finance, following review and advice received by appropriate officers

If you are dissatisfied with the initial decision you may appeal to have your application reconsidered by completing the appeal form.

Any appeal must be received within 15 working days of receipt of the decision and should either provide additional information not previously considered or explain why the council has not applied the criteria correctly.

The appellant can submit a written statement but is not able to attend the panel meeting.

The appeal will be heard by three members of Cabinet appointed by the Leader. You will be notified of the decision as soon as possible after that. There is no further appeal.

Requirement to make payments for amounts falling due

Business Rate payments remain legally due and payable in accordance with the most recent bill, until such time as any relief is awarded. Applicants must therefore continue to pay any Business Rates that fall due whilst an application is pending. If payments are not kept up to date, the Council may continue with its normal recovery procedures to secure payment.

Fraud

Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.