

# **Ipswich Borough Council's**

## **Policy for the award of Discretionary Business Rate Relief**

## 1.Introduction

This policy document sets out the Council's approach to supporting local businesses under its business rate relief schemes.

It outlines how we will use the Council's local discretionary powers to grant discretionary rate relief to organisations that meet our schemes' criteria. The policy recognises that public funds are limited and that a proportion of the costs of any relief granted are borne by council taxpayers. Therefore, one of the criteria for making an award under the scheme is ensuring that money invested in this way will result in economic and/or community benefit for residents.

Ipswich is special. We understand the pride people have in our town because we share it. So, we want everyone in Ipswich to benefit from a thriving local economy and be able to rely on efficient and effective local public services. This policy supports these goals and contributes to Ipswich Borough Council's corporate strategy found here. <https://www.ipswich.gov.uk/content/corporate-plan-strategies-policies>

## 2.Legislation

The Local Government Finance Act 1988 makes provision for local authorities to award certain reliefs. This policy relates to the discretionary powers of Ipswich Borough Council to award business rates relief under Section 44A, Section 47 and Section 49 of the Local Government Finance Act 1988 as amended by the Localism Act 2011.

The Council's Discretionary Rate Relief policy covers four distinct areas of discretion:

**General Discretionary Business Rate Relief** under which up to 20% relief can be awarded to certain registered charities and registered sports clubs already in receipt of mandatory relief, and up to 100% relief to organisations that do not qualify for mandatory relief, but who meet the eligibility criteria stipulated.

**Hardship Relief** which is intended to support businesses recovering from a temporary crisis.

**Section 44A Partially Occupied Property relief** where a business premises becomes partially unoccupied for a short period.

**Local Discretionary Discounts** gives Ipswich Borough Council the power to grant discounts on business rates as they think fit.

### General Principles

All decisions in respect of applications for discretionary rate relief must be taken in accordance with statutory requirements and give due consideration to any guidance issued by the Secretary of State.

Decisions shall be taken in accordance with the Council's Constitution. In addition to these requirements the following shall apply in respect of all requests for rate relief under the powers set out above.

The Council will consider each individual case in accordance with the criteria set out below. Consideration may be given to extenuating circumstances falling outside the stated criteria, providing they meet the general principles of the scheme.

Discretionary Business Rate Relief is not a matter of right; the Council is entitled through this policy to determine different levels of relief according to the nature and circumstances of individual organisations and the benefits they deliver to the wider community of Ipswich.

### **The Interests of Ipswich Council Taxpayers**

In determining an award of rate relief consideration shall be given to the interests of the Ipswich Borough Council taxpayers in making an award. Awards shall only be made where the benefits to Council taxpayers are considered to outweigh any detriment to those interests including, but not limited to, the financial impact of the award.

### **Decisions, Reviews and Appeals**

Decisions on most discretionary applications where a precedent exists are delegated to the Revenues and Inspection Team Leader. For any decisions where no precedent exists, the Revenues and Inspection Team Leader will produce a report for the Assistant Director – Finance, who will be the decision maker.

For applications made under the Localism Act 2011, the Assistant Director – Finance will produce a report with the recommended outcome for the Portfolio Holder - Resources, who will be the decision maker.

If it is considered that an application cannot be decided upon with reference to this policy and that special circumstances apply, the Portfolio Holder - Resources, will make the decision following consultation with the Assistant Director – Finance.

For decisions on Hardship Relief, the Assistant Director – Finance. will produce a report with the recommended outcome for the Portfolio Holder – for Resources, who will be the decision maker.

Decisions on Partly Occupied Relief where the cost of relief is below £50,000 will be made by the Revenues Manager. Where the cost of relief is £50,000 or above the decision will be made by the Head of SRP and Assistant Director – Finance, in consultation with the Portfolio Holder for Revenues.

Any ratepayer who feels that they have not been correctly dealt with can make a complaint.

Rating Law does not allow for a ratepayer to appeal a decision by the Council on discretionary rate relief. However, in the interest of natural justice and in keeping with good customer care practice and principles of open government, this policy provides a mechanism for review of any decision.

If a ratepayer is unhappy with the decision made, full details should be submitted, in writing, to the Business Rates Team within 30 days of notification of the decision.

The case will be reviewed, and where the outcome remains the same the case will be referred to the Portfolio Holder - Resources (a Executive Member responsible for Business Rates), in conjunction with the Section 151 Officer, for further consideration.

### **Requirements for Applications**

Applications will only be considered where a written application is received from the ratepayer, or where the ratepayer is an organisation, a person properly authorised to make an application on behalf of the organisation. Where the Council provides an application form the application must be made on that form.

The Council shall request such supporting evidence as it considers necessary to enable the Council to properly assess the merits of the application.

Ratepayers applying shall set out, as part of the application; the benefits that the ratepayer considers will accrue to Ipswich Council taxpayers because of the award.

### **Timescale for Decisions**

The Council will aim to make a decision regarding the application within four weeks of receiving the application and all supporting evidence considered necessary to enable the application to be considered. Each application for discretionary rate relief will be considered on its individual merit but in deciding on the award the decision maker will give due consideration to the requirements of this Policy.

### **Requirement to Make Payment of Amounts Falling Due**

Ratepayers must continue to pay any amount of rates that falls due whilst an application is pending. If payments are not received as due the Council may continue with its normal procedures to secure payment.

### **Awards for Retrospective Periods**

Rate relief will be backdated to the date of occupation (so long as it falls within the current financial year). However, in exceptional circumstances consideration may be given to awarding rate relief for a previous financial year where the ratepayer can demonstrate good cause for not submitting the application earlier.

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.

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.

### **Subsidy Control**

The Council's ability to grant Discretionary Business Rate Relief may be limited to other factors, such as for example, the subsidy control rules. Information can be found here:

<https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>

Discretionary Business Rates relief shall not be awarded in any circumstances where it appears that an award will result in the ratepayer receiving Subsidy that is above the current de minimus level.

### **Cost to the Council**

The General Discretionary Business Rate Relief scheme covered by this policy is funded wholly by the Council.

The Council will make a limited budget available each financial year for the award of all Discretionary Rate Relief.

### **Discretionary Rate Relief Scheme**

The Local Government Finance Act 1988 requires the Council to maintain a Discretionary Rate Relief Scheme that can award up to 100% Business Rates Relief to certain organisations which operate within locally specified criteria. These organisations are:

- A further award to registered charities up to 100%, known as discretionary "top up" relief, where the property is wholly or mainly used for charitable purposes;
- A further award of 20% on top of mandatory relief to registered Community Amateur Sports Clubs (CASCs); and
- Other non-profit making organisations where the property is used for charitable purpose concerned with education, social welfare, science, literature or the fine arts; or is used wholly or mainly for recreation by a not-for-profit club or society.

In determining 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 any application for additional relief.

Detailed below are the criteria applied.

### **Discretionary Relief for Charities –“Top Up”**

The Council will consider applications for a discretionary rate relief 'top up' from charities based on their own merits, on a case-by-case basis. Discretionary Relief may be awarded where the ratepayer is a charity or trustees for a charity, and the property is wholly or mainly used for charitable purposes. In such cases, discretionary relief granted can be anything from 0% to 20%, as 80%

will already have been awarded. In determining the application, the following matters will be taken into consideration:

- 'Top Up' relief of up to 20% is only awarded to local charities who can clearly demonstrate financial hardship (finances are stretched to the point of not being able to meet minimum payment financial obligations).
- Unless a special case for hardship can be proved, 'Top Up' relief to national charities including charity shops or other premises would not be granted.
- Local charity to be defined as set up with the sole purpose of assisting local residents of Ipswich and whose main office is situated within Ipswich.
- Academy, Free, Grant Maintained, Faith and Trust Status schools are classified as charities and therefore receive 80% mandatory relief. Top up relief for schools and educational establishments who receive central or local government support will not be granted unless a special case for hardship can be proved.
- The maximum financial award of 'Top-Up' relief will be restricted to £5,000 per organisation.

### **Discretionary Relief Only**

Applications for up to 100% discretionary relief can also be made by any business that does not qualify for mandatory relief and where the property is not an excepted property, and where all or part of it is occupied by one or more institutions or other organisations which are –

- Not established or conducted for profit, and whose aims should be charitable or otherwise philanthropic, or concerned with the promotion of social welfare, education, science, literature or the fine arts.

Also, discretionary relief may be granted where the property is wholly or mainly used for the purpose of recreation and all or part of the property is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

Discretionary Relief to any one organisation will be limited to a £4,000 maximum reduction. For clarity this is not a maximum award value per assessment used by the organisation but an overall limit on the applicant organisation.

The Council will consider applications for discretionary rate relief from non-profit making organisations based on their own merits, on a case-by-case basis.

### **Qualifying criteria**

#### **Members resident in Ipswich**

Whilst the Council accept that clubs and organisations provide a valuable leisure facility, it must be remembered that any relief granted is partially paid

for by the Council taxpayers of Ipswich. As such, consideration is given as to the percentage of members/users of the facility who reside in the Ipswich area and whether awarding relief is deemed to offer value for money to the Council taxpayers.

It is not the Council's general policy to grant relief to bodies that operate a restrictive membership policy unless restrictions are necessary, for example due to Safeguarding practices, safety, cultural or religious reasons. Applications will be considered from organisations who can demonstrate:

- Fee reductions are offered for certain groups such as under 18's or over 60's.
- Facilities are available to people other than members, e.g., schools, public sessions.
- 75% of the club's / organisation's members should reside in the Ipswich area.

Discretionary relief will not be awarded to organisations where:

- Membership rates are at such a high level as to exclude the general community.
- Membership or attendance is restricted, for instance by race, religion or gender.

### **How are funds raised?**

The Council is keen to see how clubs or organisations are trying to help themselves and be self-sufficient wherever possible. Whilst income can be received by external grants from other bodies (e.g.) the lottery or another public sector body, charging subscriptions and running fundraising events can also raise income.

### **Level of Reserves or Savings**

This is a very important factor to consider, information will be drawn from public records where possible ie the Charity Commission. If required the audited balance sheet may need to be provided in support of applications. Where this is not available, copies of bank statements with a profit and loss position must be provided. Where an organisation has unallocated reserves greater in value than twelve months reasonable running costs, the organisation will be required to demonstrate the reasons for holding those reserves.

### **Do the organisations aims and purpose fit with the strategic direction 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 strategic objectives.

## **Do the organisations aims and purpose fit with the strategic objectives of the Council?**

Consideration will be given as to the extent to which the organisation's aims enhance or supplement the work of the Council and tie in with corporate objectives.

## **Does the body have an actively trading function, for example, a shop or bar?**

The mere existence of a bar or retail outlet will not in itself be a reason for not granting relief, the test being whether the bar or retail shop is incidental to the aims of the organisation. In deciding on the incidental nature of the bar or retail shop the following points should be considered:

- Whether the main aim of the club / organisation is to bring together people with similar interests as opposed to general social activities
- Whether the club / organisation derives most of its income from the bar (and ancillary gaming machines), or retail shop.
- Whether bar or retail shop profits go towards subsidising food and drink or retail goods opposed to subsidising other activities of the club / organisation

## **Affiliation**

To be considered for relief, the club / organisation should be affiliated to an appropriate governing body actively involved in the development of their interest.

## **How you contribute to the development of your organisation?**

Clubs within Ipswich are encouraged to have an active Youth Development Policy, provide their facilities for use by disabled people or special interest groups, provide coaching/workshops/training and/or their facilities free of charge or at reduced rates to these groups. The Council also wishes to see facilities provided that complement its own or that it does not provide. All this will contribute to providing opportunity and access to encourage participation by as wide a group as possible.



## Percentage of Relief Awarded

### Top up Relief

Category Percentage	Category Percentage
Advice / social welfare / health agencies	10%
Village Halls & Community Centres	10%
Environmental	10%
Education / training	10%
Counselling Centres	10%
Youth Groups (including scouts)	10%
Theatre / Arts	10%
Local Museums	10%
Voluntary Aided Schools (80% mandatory relief will apply)	Nil
Foundation Schools	Nil
Community Amateur Sports Clubs	10%
Organisations in receipt of 80% mandatory relief where local exceptional circumstances are deemed to apply	10%
Sports/Leisure	10%
Organisations that are grant aided by Ipswich Borough Council	10%
Organisations that enjoy the full support of the Council in the furtherance of corporate objectives	10%
An organisation which is considered by officers to be improperly run, for whatever reason, including unauthorised indebtedness	Nil
Premises used mainly for religious worship	Nil
Registered Social Landlords	Nil
All empty properties	Nil
Private nurseries	Nil
schools, colleges	Nil
National Charity Shops and shops operated by trading arms of charities	Nil
Overseas Aid organisations	Nil
Charity Headquarters (offices)	Nil
Political Organisations	Nil
Bodies operating a restrictive membership policy	Nil
National or Semi National / County Wide organisations	Nil
Organisations with significant unallocated reserves or operating surpluses more than £50,000	Nil
Sports Clubs	10% (up to a maximum award £5,000)

## Non-profit making organisations

Category Percentage	Category Percentage
Advice / social welfare / health agencies	25%
Village Halls & Community Centres	25%
Children	25%
Older People	25%
Education / Employment / training	25%
Counselling Centres	25%
Youth Groups (including scouts, guides)	25%
Theatre / Fine Arts	25%
Local Museums	25%
Sports Clubs / Leisure	25%
Organisations where local exceptional circumstances are deemed to apply.	25%
Organisations that are grant aided by Ipswich Borough Council	25%
Organisations that enjoy the full support of the Council in the furtherance of corporate objectives	25%
Premises used mainly for religious worship	Nil
Charity Shops and shops operated by trading arms of charities	Nil
Overseas Aid organisations	Nil
Social Clubs	Nil
Political Organisations	Nil
An organisation which is considered by officers to be improperly run, for whatever reason, including unauthorised indebtedness	Nil
Private nurseries	Nil
Schools / colleges	Nil
Bodies operating a restrictive membership policy	Nil
National or Semi National / County Wide organisations	Nil
Sports clubs that can register with HM Revenues and Customs as a CASC and have not done so	Nil
Organisations with unallocated reserves in excess of 12 months operating costs	Nil

## **Discretionary Hardship Relief**

Section 49 of the Local Government Finance Act 1988 allows the authority the discretion to reduce or remit the payment of rates, under section 43 of the Local Government Finance Act 1988 (occupied) or Section 45 of the Local Government Finance Act 1988 (unoccupied) either in part or full i.e., up to 100%.

The overriding principle shall be that each case is considered on its own merits based on the information supplied through the application process. The burden of proof for hardship lies with the ratepayer. Whilst the authority can award hardship rate relief there is no obligation to do so unless evidence of hardship can be established.

The principal purpose of awards of rate relief under this section of the policy shall be to provide short-term assistance to businesses that are suffering unexpected hardship, arising from circumstances beyond the business' control and outside of the normal risks 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.

Rate relief on the grounds of hardship shall only be awarded where it is considered that:

- The ratepayer would sustain hardship if the Council failed to grant Hardship Relief; and
- It is reasonable to grant Hardship Relief having regard to the interest of person's subject to the Council Tax. For example, where employment prospects in the area would be worsened by a company going out of business or the amenities of an area would be reduced because they are the only provider of a service in the area.

The test of "hardship" need not be confined strictly to financial hardship and applicants should disclose all relevant factors affecting the ability of the business to meet its rate liability. The "interest" of local Council Taxpayers may go wider than direct financial interests; for example, where employment prospects in an area would be worsened by a ratepayer going out of business, or the amenities of an area might be reduced by, for instance, the loss of a neighbourhood shop.

A business will not be considered to be suffering financial hardship in any annual accounting period during which it is profitable or has experienced a loss which is minor in comparison to the overall turnover of the business. In determining whether a business is profitable account shall be taken of drawings by the proprietor or remuneration of directors.

Where the circumstances giving rise to the hardship relate to only part of the business' normal annual accounting period the income and expenditure of the business for the period during which the circumstance relate may be used to determine whether the business is profitable.

It is expected that businesses will take prompt action to mitigate any factors giving rise to hardship. Examples of mitigating actions may include seeking business advice, discounts and promotions, reviewing pricing, extending the range of stock or services, negotiating with creditors etc. Applications may be declined in circumstances where the business is unable to demonstrate that it is taking reasonable steps to alleviate the hardship.

Hardship caused to a ratepayer may be self-evident, for example where a business has been affected by severe loss of trade due to external factors such as natural disaster.

The business must demonstrate the loss of trade or business by producing the following:

- Accounts
- Order books
- Till receipts
- VAT returns

They must show a marked decline in trade compared to corresponding periods in previous years. The following areas will be considered:

- Do the accounts show a profit or loss?
- How do previous years' accounts compare to the current?
- What reserves are held?
- Are there long-term investments which might not necessarily be reflected in the balance sheet?
- Is the ratepayer part of a larger organisation or family trust?

In addition, the ratepayer must submit reasons giving rise to the application and what has contributed to them seeking hardship relief, they should also provide a business plan outlining how the award of any relief will contribute to the survival of the business. The rate payer should also indicate the impacts that closure of the business would cause to the local community e.g., how many local people are employed and where is the nearest similar facility.

In addition, where the rate payer is a sole trader or operating as a partnership, details of drawings from the business and a breakdown of their personal income and outgoings should also be supplied.

If they are a director of a limited company details should be provided of other interests and whether they have been involved in a business entering liquidation or ceasing to trade.

The authority will also consider the following factors when deciding whether to award discretionary hardship relief: -

- Does the organisations aims and purpose fit with the strategic objectives of the Council?
- How important is the organisation to the local community?
- Is the same service available in the same locality?
- Is the same service available by public transport?

- How long is the hardship likely to last for?

Applications for relief on the grounds of hardship must be in writing. Applicants must supply the last two years accounts, a current cash flow forecast and a comprehensive business plan for an application to be considered.

Where the business has traded for less than two years accounts must be provided where available, and draft accounts or budget forecasts must be provided for the period since the business commenced trading.

No award shall 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.

Applications will be viewed favourably where the criteria of the policy are met, and the business provides the only goods or services of that type in the local area or where the business is a niche business supplying specialist goods or services that are not widely available and vice versa.

### **New Businesses**

Award of hardship rate relief will not be made for the purposes of enabling a new business (set up within the last 12 months) 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.

### **Unoccupied Properties**

Rate relief on the grounds of hardship in respect of rates payable for an unoccupied property will not be awarded.

### **Relationship to other forms of Rate Relief**

Applications for hardship rate relief shall be regarded as a last resort and will only be considered after consideration of any other forms of rate relief to which the applicant may be eligible.

### **Duration of Awards**

All awards shall terminate at the end of the financial year if the award has not ended at an earlier date. Where the hardship continues a further application may be made in the new financial year, however in considering repeated applications consideration should be given to the number and value of previous awards. Where an application is repeated for a subsequent period, the Council may require the applicant to provide evidence (preferably from an accountant or other professional adviser) regarding the long-term financial viability of the business.

## **SECTION 44A, PARTLY OCCUPIED PREMISES**

A ratepayer is liable for the full non-domestic rate whether a property is wholly occupied or only partly occupied. Where a property is partly occupied for a short time, we have discretion in certain cases to award relief in respect of the unoccupied part.

Written applications must be supported by: -

- Detailed maps which outline the whole property and indicate the partly occupied section.
- Details of the planned period of time for the part occupation.
- Details of future intentions.
- Details of the cause for the part occupation.

In the first instance it will be considered if a split of the assessment is appropriate, and if so, a report will be referred to the Valuation Office Agency to consider amending the valuation list entry.

If it is not capable of being separately assessed, then the application for Section 44A will be considered.

A site visit will normally be undertaken.

## **LOCAL DISCRETIONARY DISCOUNTS**

The Localism Act 2011 introduced a new power for local authorities to be able to grant discounts on business rates as they think fit.

Every case will be considered on its own merit. Any award will be the exception rather than the rule and will be time limited.

Written applications will need to be supported as a minimum by: -

- Clear reasoning for the request, including a statement of the business type and the impact on the local community if the business were to come into the area/move away from the area.
- Details of the business and its importance to the local community, including an explanation as to what is unique and how the business sets itself apart from other businesses.
- Copies of the last 2 years audited accounts.
- Copy of any business plan.
- Details of any other support already received from other sources, or reasons why support was not forthcoming.
- Details of the number of people who are, or will be, employed by the business who reside Ipswich. Information about future employment opportunities and business growth.
- Any other evidence that the rate payer feels supports their application, and that would assist us to be satisfied that the granting of the relief would be in the interest of the local council taxpayer.

Specific local schemes that are in place at any time are shown as Addendums to this Policy.