

# **EKS**

## **Business Rates Discretionary Rates Relief Schemes 2024 / 2025**

**Working in partnership with Canterbury City Council,  
Dover District Council and Thanet District Council.**

Canterbury City Council, Dover District Council and Thanet District Council have entered into a shared service agreement to allow joint working in the Customer Services, ICT, Benefits, Council Tax and Business Rates sections.

Where 'EK Services' and 'EKS' are mentioned this refers to the shared service between Canterbury City Council, Dover District Council and Thanet District Council.

Where references are made to 'EK Services Officers' these services are now being delivered by Civica UK Limited. Civica UK Limited provides benefit services, income collection services, council tax and business rates administration and collection services, and customer contact services to the council.

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## **1.0 Background**

1.1.1 Discretionary Relief guidelines have been developed by EK Services, and approved by Canterbury City Council, Dover District Council and Thanet District Council, to assist organisations who may need support beyond any standard Government Reliefs, such as Transitional Relief, Small Business Rates Relief, Empty Property Relief and Mandatory Charitable Relief. This is to provide a reduction in the Business Rates liability.

- Support will be considered under Sections 44A, 47 and 49 of the Local Government Finance Act 1998 and Section 69 of the Localism Act 2011.
- The guidelines are applied to ensure that all customers making application for relief are treated in a fair, consistent and equal manner

1.2.1 The main features of the guidelines are as follows:

- The operation of the Schemes will be at the total discretion of the Council, with the exception of Relief Schemes introduced by Central Government as a policy.
- The guidelines will be applied to each applicant by EK Services on behalf of the Council.
- The factors that must be considered when making a decision to award or refuse relief
- Sets out the delegated authority to award relief in appropriate circumstances, based upon the financial impact to the respective Council.
- Establishes an appeals procedure for customers dissatisfied with EK Services decision.
- Safeguards the interest of the local taxpayers by ensuring that funds that are allocated for the award of relief are used in the most effective and economic way.
- Further detailed guidance for Discretionary Relief and the associated scoring mechanisms are shown in Appendix 1.

## **2.0 Equalities**

2.1 The creation of a Discretionary Rate Schemes guidance meets the Council's obligations under the Equality Act 2010.

## **3.0 Purpose of this guidance**

3.1 The purpose of this guidance document is to specify how EK Services will operate the schemes, to detail the application process, and indicate a number of factors which will be considered when deciding if an award can be made.

3.2 Each case will be treated on its own merits and all applicants will be treated fairly and equally.

## **4.0 Relief for Charities, Not for Profit Organisations and Community Amateur Sports Clubs (CASC) and Rural properties not eligible for Mandatory Relief**

### **4.1 Legal Requirements**

- 4.1.1 Section 47 of the Local Government Finance Act 1988 provides the discretion to award relief.
- 4.1.2 Registered Charities and CASC's are entitled to Mandatory Relief of 80%. EK Services has the discretion to award further rate relief of up to 20%, which is commonly referred to as a 'top-up'.
- 4.1.3 Charity shops will be awarded 80% Mandatory Rate Relief, where the shop is selling solely or mainly donated goods. Where the shop is selling solely, or mainly new items or goods bought in under licence then no Mandatory Rate Relief will be awarded.
- 4.1.4 Rural properties are entitled to Mandatory Relief of 50% providing the qualifying criteria are met. Central Government has also stated that qualifying properties, below the Small Business Rates Relief (£12,000) threshold are to be topped up to 100% relief. This top up is fully funded. EK Services has the discretion to award a further rate relief of up to 50% in cases where the Rateable Value is between £12,000 and £16,500.
- 4.1.5 The award of the 80% mandatory relief to charities and CASC's, and the award of 50% relief for qualifying rural properties are administered in accordance with legislation. This guidance explains how the 20% and 50% top-ups are administered.
- 4.1.6 The amount of relief awarded is entirely at the discretion of EK Services.

## **4.2 Legal Requirements – Subsidy control**

- 4.2.1 Since leaving the European Union the UK Government has introduced its own competition rules to restrict the amount of state subsidies available to businesses, ensuring trade can continue with other sovereign nations. Any relief from taxes such as business rates, could be considered as a qualifying subsidy and should be subject to the Government set limits.
- 4.2.2 Rate relief for charities and non-profit making bodies is not normally considered a qualifying subsidy because the recipients are not in market competition with other businesses. However, if the organisation is engaged in commercial activities, competes with commercial bodies or has a commercial partner then rate relief could constitute subsidy. In such cases it would be unlikely that the organisation would be considered for rate relief.

## **4.3 Financial Impact**

- 4.3.1 The funding arrangements for relief changed when the Business Rates retention scheme was introduced in April 2013. Prior to this date the cost of any award was borne solely by Central Government, via a National Pool. Since April 2013 the cost of any award is shared between Central and Local Government and the Local share is funded by the Council Taxpayers.
- 4.3.2 Expenditure under this policy will be monitored by EK Services on a monthly basis, and will be reported to the councils Section 151 Officer. In the event that expenditure increases significantly then the council reserves the right to amend this policy to ensure it remains financially viable, and that the council can continue to offer an appropriate level of support to local businesses.

## **4.4 Persons who can make application**

- 4.4.1 Applications must be made by the ratepayer or an individual or organisation working on behalf of the Ratepayer, who has a signed letter of authority to act on their client's behalf.
- 4.4.2 Where the ratepayer is an organisation the application must be made by a person with the authority to act on behalf of the organisation. EK Services may ask for evidence that the person making the application is entitled to act in that capacity.
- 4.4.3 Although there is no statutory requirement to complete a formal application form, the councils do require a form be completed, as it will provide a checklist of criteria to be met or questions to be answered. It will also ensure a consistent approach to decision-making

#### **4.5 The Decision-Making Process**

- 4.5.1 All applications will be considered on an individual basis. Consideration for awarding Discretionary Relief is based on the organisation's ability to meet its Business Rate liability. Therefore, copies of the last 3 years audited accounts are to be submitted with the application form. Where audited accounts are not available, financial statements prepared by, or approved by, an appropriate representative shall be acceptable. For a new organisation, 12 months projected cashflow forecast is required.
- 4.5.2 Where an organisation has retained funds, or built up reserves, for a purpose related to the aims and objectives of the organisation, provided that the works are realistically expected to be completed within three years of the date of application, those funds/reserves may be disregarded for the purposes of the award of relief. It is accepted that funds may have to be accrued over many years to fund major projects i.e. replacing an ageing building and consideration to this will be given on an individual basis.
- 4.5.3 Relief is likely to be awarded where it is clear that the activities of the applicant are of direct benefit to the local community and the other criteria mentioned in this policy are met.
- 4.5.4 Relief may be refused or capped if it is considered that the financial cost to each Local Authority or the local community outweighs the benefits generated through the award of relief.
- 4.5.5 Organisations with unallocated reserves or substantial assets (taken to mean 6 months or more of operating costs) may be excluded from qualification or receive a reduced award if it is determined that those reserves or assets could reasonably be used to provide financial support. This will be factored into the decision making process.
- 4.5.6 To ensure there is a fair and consistent approach to the award of Discretionary Relief, all applications will be considered within the guidelines and a written record will be kept on file of the decisions and factors considered in the process. The decision record will be available free of charge to the applicant on request.
- 4.5.7 EK Services will consider applications within 21 days of the application and all supporting information being received. Where there is a delay in the notification of the outcome and the customer cannot be notified within 21 days of application, EKS will notify the customer that there be a delay in processing the application.

- 4.5.8 EK Services will notify the applicant of the decision in writing and where less than the maximum amount of relief is granted or the relief is refused, an explanation of the reasons why will be given. Where full relief is granted, the revised bill showing the award of relief will be considered sufficient notification of the award.
- 4.5.9 EK Services will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused. If the customer requires additional time to provide supporting documentation they should request an extension to the timescales to avoid the claim being refused.
- 4.5.10 Where an application has been refused either initially or through an appeal, further applications will not be considered within the same financial year unless;
- The use of the property changes; or
  - The objectives of the organisation change; or
  - There have been other changes that may affect EK Services' decision i.e. where an organisation has taken action to address an issue which had previously precluded an award of relief
  - The claim has been refused due to insufficient information and the organisation has provided the missing information within 28 days of the claim refusal.
- 4.5.11 There is no time limit for an organisation to make an application for Discretionary Relief. However, the maximum period for which the council will consider awarding relief is the start of the preceding financial year. For example: relief application received on 8 June 2024 – the maximum period of award that could be considered would be back to 1 April 2023

#### **4.6 Automatic maximum awards - 'clusters'**

- 4.6.1 It is recognised that there are certain classes of occupier and property that should be automatically eligible for the maximum amount of top up relief and the guidelines have been amended to take this into consideration.
- 4.6.2 The following types of organisations which provide a significant benefit to the local community and meet the corporate priorities or policy intent would automatically be considered for the 20% top up.
- Trustees of Village Halls or playing fields.
  - Uniformed youth and children's groups (such as Scouts or Girl Guides).
  - Local Groups running Community Centres.
  - Eligible organisations managing divested functions on behalf of the Council.
  - Locally affiliated branches of National Charities eg Citizens Advice Bureau, which have their own registered Charity number and specifically serve members of the local community.
  - Hospices caring for terminally ill residents of the Council where the primary funding is not from the NHS.

**Where an organisation does not fall into one of these clusters, they will be assessed based on scoring criteria in Annex 1.**

#### **4.7 Period of Rate Relief**

- 4.7.1 Discretionary Rate Relief will be awarded for one financial year (From 1 April to 31 March) except in circumstances where consideration is being given to awarding relief for a previous financial year within the qualifying timescales outlined in paragraph 4.5.11.
- 4.7.2 Customers receiving relief will be contacted and invited to reapply for relief on an annual basis or as specified by EK Services. EK Services will write to eligible ratepayers to advise them of the process for reapplying, as an alternative application form may be required.

#### **4.8 Calculation of relief**

- 4.8.1 Relief will be calculated as a percentage of the Business Rates bill. Should the Business Rates bill reduce within the period Discretionary Rate Relief is granted, the relief will be reduced proportionately.
- 4.8.2 If the Business Rates bill increases within the period Discretionary Rate Relief is granted i.e. an increase in rateable value, the amount awarded will not automatically be increased. In such cases, EK Services, upon request of the customer, will reconsider the application and may award additional relief.
- 4.8.3 In the interests of transparency the following criteria will be used, to determine the levels of either Discretionary or Top up Discretionary Relief.

- **Alignment to relevant corporate priorities**

The organisation must demonstrate its alignment to the relevant corporate priorities, through the application form, its constitution, aims, objectives and physical delivery to the community

- **Access to services and affordability**

The organisation must demonstrate its access to services, any charging policies, and concessionary rates, through the application form, its website, its constitution or any other evidence

Organisations that provide free services to all members of the community or positively discriminate citizens on low income / Welfare Benefits will score highly. However, organisations that are members only or have limited or no concessions will not score highly.

- **Service provision and availability**

The organisation must demonstrate how its service provision compliments or substitutes for Council Services and whether there are any other service providers within the area that deliver the same or similar services, through the application form, its constitution, aims, objectives and physical delivery to the community

Where there is a single organisation that provides these services to all members of the community it will score highly. However where multiple organisations are providing the same service they will not score as highly.

- **Residents participation**

The organisation must demonstrate what proportion of the Council's community is benefitting from the service provision, through the application form, its website or other collateral and specific group feedback within the community

Scoring will be based upon the % of local service users with a higher score being allocated where the % of local residents benefitting is the highest.

- **Financial status and funding**

The organisation must demonstrate where its funding streams come from, through the application form, accounts, Charity Commission or an initial income forecast if recently created

Organisations that have the majority or all of their income received through grants, donations or self-funding and is used for expenditure providing the services will score highly. However organisations that have significant operating surpluses and the means to pay the Business Rates due will not score highly.

#### **4.9 Authority to process applications and award Relief**

4.9.1 In the interests of efficiency, the authority to consider applications is delegated and shown below

| <b>Thresholds – Value of relief</b>            | <b>Position of Authority</b>  | <b>Counter Authority</b>   |
|--|-------------------------------|--|
| Up to £10,000                                  | Business Rates Officer        | Senior Business Rates Officer and Client Officer   |
| £10,001 to £30,000                             | Senior Business Rates Officer | Business Rates Manager and Client Officer  |
| Over £30,000                                   | Business Rates Manager        | Business Rates Manager and Client Officer  |
| Where relief applied will exceed annual budget | Business Rates Manager        | Business Rates Manager to review and Client Officer to approve and refer for Executive / Cabinet decision. |

#### **4.10 Special Provisions**

4.10.1 The full 20% 'top up', discretionary relief may be applied to charity shops and other premises but will normally only be awarded if the charity is a local one, not a national one (a local charity is defined to be one who only operates in the particular Council area or who are part of a national Charity but whose accounts and finances are specific to a local area). If the premises are operated by a national charity that does not exist to wholly or mainly benefit the residents of the local area, then discretionary relief will not normally be awarded to 'top up' the 80% mandatory award.

4.10.2 EK Services will consider the contribution and benefit that the charity has to the local community.

4.10.3 Charity shops that sell wholly or mainly donated goods may be granted a higher amount of relief than those that sell mainly bought-in (new) goods.



- 4.10.4 Discretionary Relief for clubs will not normally be granted if the organisation operates a bar and the majority of the income into the organisation is from bar takings. Membership must be active rather than social membership and wholly or mainly benefit the residents of the local area. Consideration to award relief will only be given if the club is able to fully demonstrate that the bar is not the primary or significant attraction for the majority of the members.
- 4.10.5 Schools with Academy status will not normally be awarded Discretionary Relief to top up the mandatory award.

#### **4.11 Backdating Applications**

4.11.1 Applications from 1 April 2024 will be considered in line with paragraph 4.5.11

4.11.2

### **5.0 Relief for properties that are partially occupied for a temporary period (Section 44A)**

#### **5.1 Legal Requirements**

- 5.1.1 Under section 44A of the Local Government Finance Act 1988 a Local Authority has the discretion to allow rate relief where a property is partly occupied for a temporary period.
- 5.1.2 The definition of a 'temporary period' is not prescribed with the law and therefore EK Services, using delegated authority, have discretion to decide the period relief should be awarded.
- 5.1.3 Partially occupied rate relief (also referred to as Section 44A Relief) is not intended to be used where part of a property is temporarily not used. The intention is aimed at situations where there are practical difficulties in occupying or vacating part of the property. Rate relief will not be awarded in respect of partly occupied property where the partial occupation of the property may be considered to arise due to the ordinary day-to-day nature of the business (for example the operation of a warehouse).
- 5.1.4 Partially occupied rate relief cannot be granted retrospectively. Applications will only be considered if partial occupation exists at the time the application is made.

#### **5.2 Financial Impact**

- 5.2.1 Following the introduction of the Business Rates Retention scheme 2013/2014 there is a cost to each Local Authority in every award of relief.
- 5.2.2 EK Services recognises that awarding this relief is beneficial to local businesses, particularly when creating jobs and growth within the Council's geographical areas. The application will be considered favourably where the following criteria are met.
- Where the award would stimulate Economic gains to the Local area, measured by job creation

- Where a company is considering moving to the area and will be taking occupation of the premises in a phased approach, such as a disused factory premises, which is subject to redevelopment

5.2.3 EKS will work closely with the client officers and the individual Council's Economic Development Teams to understand the impact of the Business to the Council area and to ensure all avenues of support are made available to the organisation.

5.2.4 Applications for relief will not be considered under the following conditions:

- Where the premises are being refurbished or re-stocked
- Where the Ratepayer is moving out of the EKS area, in a phased vacation
- Where the application is received after the period of temporary vacation has ceased (retrospective applications).
- 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 rate relief.
- Where the Council deem that it may be appropriate to request the Valuation Officer to split the assessment.

### **5.3 Persons who can make application**

5.3.1 Applications must be made by the ratepayer or an individual /company acting on the Ratepayer's behalf, with a signed letter of authority.

5.3.2 EK Services will require a written application, clearly stating the reasons for the relief award and the benefits to the local economy. In addition, the ratepayer must supply a plan of the property, with the unoccupied portions clearly identified and any timeline for reoccupation of the area.

### **5.4 The decision-making process**

5.4.1 There are no restrictions in the provisions of a Section 44A Relief, regarding the type of property or circumstances in which relief can be awarded, however due regard must be made to the cost to the Local Taxpayer.

5.4.2 Once EK Services has received an application, the relief will be considered in line with the criteria set out in this policy.

5.4.3 EK Services may require accompanied access to the property during normal working hours to verify the application. Further access may be required under the same conditions during the period for which relief is being awarded.

5.4.4 Relief will not be awarded under any circumstance where it is not possible to verify the information submitted on the application.

5.4.5 EK Services will consider applications within 21 days of the application and all supporting information being received. Where there is a delay in the notification of the outcome and the customer cannot be notified within 21 days of application, EKS will notify the customer that there be a delay in processing the application.

5.4.6 EK Services will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.

- 5.4.7 EK Services will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused.
- 5.4.8 To ensure there is a fair and consistent approach to the award of Section 44a Relief, all applications will be considered within the guidelines of this policy and a written record will be kept on file of the decisions and factors considered in the process. The decision will be available free of charge to the applicant on request.
- 5.4.9 Some examples of circumstances where relief may be considered appropriate are:
- Where full occupation is being phased in over a period of time. This may be due to relocation to the District.
  - Where there are difficulties fully occupying the property due to short-term practical or financial restraints.
  - Temporary occupation, for example due to remedial building or refurbishment works, fire damage or similar.
- 5.4.10 Partly occupied relief will not normally be considered where partial occupation of a property is down to mechanical failure of machinery.

## **5.5 Period of Section 44A Relief**

- 5.5.1 Section 44A Relief will only be applied to a property that is partly occupied for a temporary period.
- 5.5.2 Section 44A Relief will end under the following circumstances:
- At the end of a financial year, regardless of the date relief was applied
  - Where all or part of the unoccupied area becomes occupied
  - The person liable for Business Rates changes
  - Where the whole of the property becomes unoccupied.
  - A new award is made which supersedes the previous award.
  - Where EKS are unable to verify, following reasonable notice, that the area remains unoccupied.
- 5.5.3 A new application may be submitted immediately by the customer if relief ends due to the end of a financial year, the person liable for Business Rates changes or where EKS are unable to verify the area remains unoccupied.

## **5.6 Calculation of Section 44A Relief**

- 5.6.1 Where EK Services agrees to award a Section 44A Relief, we will notify the Valuation Officer to seek a reduction in the rateable value. EK Services cannot be held responsible for any delays in the Valuation Officer providing this information to the Council.

5.6.2 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 EK Services by the Valuation Office Agency.

5.6.3 EKS will not apply to the Valuation Officer for a determination of relief amount until it has confirmed the eligibility for an award.

## **5.7 Authority to Award Section 44A Relief**

5.7.1 In the interests of efficiency, the authority to consider applications is delegated and shown below:

| <b>Thresholds – estimated value of award</b>   | <b>Position of Authority</b>  | <b>Counter Authority</b>  |
|--|-------------------------------|---|
| Up to £10,000                                  | Business Rates Officer        | Senior Business Rates Officer and Client Officer                      |
| £10,001 to £30,000                             | Senior Business Rates Officer | Business Rates Manager and Client Officer                             |
| Over £30,000                                   | Business Rates Manager        | Client Officer  |
| Where relief applied will exceed annual budget | Business Rates Manager        | Client Officer to approve and refer for Executive / Cabinet decision. |

## **5.8 Backdating Section 44A Applications**

5.8.1 Where a backdated application is received, the customer will be required to produce evidence to prove the area was unoccupied for the period the relief relates to. Acceptance of such evidence is at the discretion of EK Services as retrospective applications will not normally be accepted.

## **6.0 Hardship Relief (Section 49)**

### **6.1 Legal Requirements**

- 6.1.1 Section 49 of the Local Government Finance Act 1988 provides a Local Authority with the discretion to reduce or remit payment of rates under the grounds of hardship.
- 6.1.2 EK Services, using delegated authority, can reduce or remit the payment of rates where it is satisfied that the customer would sustain hardship if we did not do so and that it is reasonable award relief, having taken into account the interests of the Council Tax payers.
- 6.1.3 There is no statutory definition of 'hardship' and it is for EK Services to decide on the facts of each case as to whether to exercise our discretion. EK Services may adopt rules for the consideration of hardship but are unable to adopt a blanket policy and each case will be considered individually.
- 6.1.4 It is the Government's guidance that remission of Business Rates on the grounds of hardship is the exception rather than the rule.

### **6.2 Legal Requirements – Subsidy Control**

- 6.2.1 Since leaving the European Union the UK Government has introduced its own competition rules to restrict the amount of state subsidies available to businesses, ensuring trade can continue with other sovereign nations. Any relief from taxes such as business rates, could be considered as a qualifying subsidy and should be subject to the Government set limits.
- 6.2.2 Hardship Relief for businesses engaged in commercial activities, which compete with other commercial bodies or have a commercial partner, would constitute a qualifying subsidy. In such cases it would be unlikely that the organisation would be considered for Hardship Relief.

### **6.3 Financial Impact**

- 6.3.1 The funding arrangements for relief changed when the Business Rates retention scheme was introduced in April 13. The cost of any relief awarded is shared between Central and Local Government and is a direct cost to the local taxpayer.

### **6.4 Persons who can make application**

- 6.4.1 Applications must be made in writing by the ratepayer or their agent, where the agent has a letter of authority to act on behalf of the ratepayer.
- 6.4.2 Applications for hardship relief must be accompanied by the following:
- The most recent accounts and the last audited accounts, and
  - An up to date trading statement showing the current financial position of the business; and
  - Details of the amount of relief being requested and the period of time it is being requested for; and
  - An explanation of the benefits to the community arising from an award of hardship relief.

## 6.5 The Decision Making Process

- 6.5.1 Although there is no statutory necessity to complete a formal application form, it is recommended that a form be completed, as it will form a checklist of criteria to be met or questions to be answered. This will assist in speeding up the application process. An application form is available on the Council's website.
- 6.5.2 All applications will be considered on an individual basis and decisions will be made in accordance with this policy. The following examples indicate circumstances where it may be appropriate to award Hardship Relief. They are included in these guidelines in the form of broad, general principles and are not intended to be prescriptive:
- The customer will suffer hardship if the relief is not granted
  - There is a direct benefit to the ratepayer or the community or no adverse impact to other ratepayers or the community as a result of awarding relief
  - The cost to local Council Taxpayers is proportional to the benefits of the community
  - The ratepayer's business has been detrimentally affected by circumstances beyond the ratepayer's control and that do not constitute part of the normal risks in running a business i.e. a natural disaster or an unusual or uncontrollable event in the neighbourhood of the business
  - By refusing to award the relief may result in the loss of the business. The impact on local amenities must be considered if the business is the sole provider of a service in the local area i.e. the only village shop
  - By refusing to award the relief may result in the loss of the business. The impact on employment prospects in the local area must be considered i.e. if the closure results in a large number of redundancies, the social aspect of increasing unemployment and the possible negative impact in attracting further investment in the area must be considered
- 6.5.3 EK Services will only grant Hardship Relief for a period where there is clear evidence of hardship for the ratepayer concerned. This will be for a short period of time and not on an ongoing basis.
- 6.5.4 Hardship Rate Relief may not be awarded if there are alternative facilities within the area or if the business is situated in an area with adequate public transport links to alternative businesses. The granting of relief should be in the interests of the community as a whole although the legislative "test" is that the business itself has to be suffering from "hardship". If the decision is that it is not in the interests of the community as a whole to grant Hardship Relief, then the decision will be final with no rights to appeal.
- 6.5.5 EK Services will also consider applications from new businesses as well as established businesses. We recognise that a new business could also be the sole provider of a service in our local area who contributes to the health and quality of life of the Council Taxpayers generally. Where a new business applies, the Council will want to see that adequate provision has been made in any business plan to cover the normal set up costs of that business.

- 6.5.6 EK Services recognises that there may be occasional circumstances in which the use of this power is beneficial to either an individual ratepayer or the community. However, in accordance with Government guidelines it accepts that this power should be used sparingly and only in the most exceptional of circumstances.
- 6.5.7 EK Services will consider applications within 21 days of the application and all supporting information being received and will notify the customer should there be a delay in processing the application.
- 6.5.8 EK Services will notify the applicant of the decision in writing and where less than the maximum amount of relief is granted or the relief is refused, an explanation of the reasons why will be given. If full relief is awarded, a revised business rates bill showing the award of relief will be sufficient notification.
- 6.5.9 EK Services will not consider applications on the grounds of hardship where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused.
- 6.5.10 To ensure there is a fair and consistent approach to the award of Hardship Relief, all applications will be considered within the guidelines of this policy and a written record will be kept on file of the decisions and factors considered in the process. The decision will be available free of charge to the applicant on request.

## **6.6 Period of Hardship Relief**

- 6.6.1 EK Services will normally only award Hardship Relief retrospectively. However, where the applicant can show that the circumstances will remain the same for a period up to the end of the current financial year, relief may be awarded for the remainder of the year.
- 6.6.2 In all cases Hardship Relief will end in the following circumstances:
- At the end of a financial year
  - A change of liable person
  - The property becomes empty or unoccupied
  - The customer enters any form of Insolvency proceedings, including but not limited to winding up, liquidation, administration or bankruptcy.
  - The customer's financial circumstances change. The customer must inform EK Services if their circumstances change, failure to do so may result in a penalty being applied.

## **6.7 Calculation of Hardship Relief**

- 6.7.1 Hardship Relief will be calculated as a percentage of the Business Rates bill. Should the Business Rates bill reduce within the period Hardship Rate Relief is granted, the relief will be reduced proportionately.
- 6.7.2 If the Business Rates bill increases within the period Hardship Relief is granted, i.e. an increase in rateable value, the amount awarded will not automatically be increased. In such cases, EK Services, upon request of the customer, will reconsider the application and may award additional relief.

## 6.8 Authority to process applications and award relief

6.8.1 In the interests of efficiency, the authority to consider applications is delegated and shown below:

| Thresholds – Value of award                    | Position of Authority         | Counter Authority  |
|--|-------------------------------|--|
| Up to £10,000                                  | Business Rates Officer        | Senior Business Rates Officer and Client Officer   |
| £10,001 to £30,000                             | Senior Business Rates Officer | Business Rates Manager and Client Officer  |
| Over £30,000                                   | Business Rates Manager        | Business Rates Manager and Client Officer  |
| Where relief applied will exceed annual budget | Business Rates Manager        | Business Rates Manager to review and Client Officer to approve and refer for Executive / Cabinet decision. |

## 6.9 Backdating Applications

6.9.1 Applications from 1 April 2024 will be considered in line with 4.5.11

6.9.2

## 7.0 Discretionary Relief – Localism Act 2010

### 7.1 Legal Requirements

7.1.1 Section 69 of the Localism Act 2011 amends section 47 of the Local Government Finance Act 1988 to replace the limited circumstances in which local authorities can currently give discretionary relief with a power to grant relief in any circumstances. This is subject to the condition that, except in the limited circumstances specified, the local authority may only grant relief if it would be reasonable to do so having regard to the interests of council taxpayers in its area. The amendments also require a local authority to have regard to any relevant guidance issued by the Secretary of State.

7.1.2 Periodically, the Government will ask local authorities to consider exercising their powers under the Localism Act for exceptional circumstances (for example the 2014 flooding which affected some businesses and is covered by a separate financial grant from Government). Where this happens EK Services will have due regard to the relevant guidance issued by the Secretary of State and award this relief as appropriate.

7.1.3 This new power was introduced in December 2011 and enacted from 1 April 2012. The Government has not issued guidance in respect of English local authorities, but councils do have to ensure that the reliefs they allow do not transgress subsidy limits. Any relief granted will have to be funded locally and the Government expects local councils to work closely with the county council on the use of the power.

### 7.2 Legal Requirements – Subsidy Control

7.2.1 Since leaving the European Union the UK Government has introduced its own competition rules to restrict the amount of state subsidies available to businesses, ensuring trade can continue with other sovereign nations. Any relief from taxes such



as business rates, could be considered as state aid and should be subject to the Government set limits.

7.2.2 Discretionary Relief under the Localism Act would constitute a qualifying subsidy.

### **7.3 Financial Impact**

7.3.1 The cost of any relief awarded is fully funded by the local taxpayer.

### **7.4 Persons who can make application**

7.4.1 Applications must be made in writing by the ratepayer or their agent, where the agent has a letter of authority to act on behalf of the ratepayer.

7.4.2 Applications for relief must be accompanied by the following:

- The most recent accounts and the last audited accounts, and
- An up to date trading statement showing the current financial position of the business; and
- Details of the amount of relief being requested and the period of time it is being requested for; and
- An explanation of the benefits to the community arising from an award of this type of relief.

### **7.5 The Decision Making Process**

7.5.1 Although there is no statutory necessity to complete a formal application form, it is recommended that a form be completed, as it will form a checklist of criteria to be met or questions to be answered. This will assist in speeding up the application process.

7.5.2 All applications will be considered on an individual basis and decisions will be made in accordance with this policy. The following examples indicate circumstances where it may be appropriate to award Relief. They are included in these guidelines in the form of broad, general principles and are not intended to be prescriptive:

- The organisation will create substantial employment in the local community
- The organisation is working with the Council to regenerate a significant proportion of the local area, creating wealth and opportunities
- It is in the wider interests of the local Council Taxpayers to support the organisation because of the inherent benefits to the community

7.5.3 EK Services will work with the individual authority's respective officers and provide advice and support relating to Business Rates. However any decision would be reviewed and determined by the client team because of the wider aspect of this relief and its implications.

7.5.4 EK Services will consider applications within 21 days of the application and all supporting information being received and will notify the customer should there be a delay in processing the application.

- 7.5.5 EK Services will notify the applicant of the decision in writing and where less than the maximum amount of relief is granted or the relief is refused, an explanation of the reasons why will be given.
- 7.5.6 EK Services will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused.
- 7.5.7 To ensure there is a fair and consistent approach to the award of this type of Relief, all applications will be considered within the guidelines of this policy and a written record will be kept on file of the decisions and factors considered in the process. The decision will be available free of charge to the applicant on request.

## **7.6 Period of Relief**

- 7.6.1 EK Services will normally only award this relief for a period up to the end of the current financial year or for the period specified in any Government guidance issued.

## **7.7 Calculation of Relief**

- 7.7.1 The Relief will be calculated as a percentage of the Business Rates bill. Should the Business Rates bill reduce within the period the Relief is granted, the relief will be reduced proportionately.
- 7.7.2 If the Business Rates bill increases within the period the Relief is granted, i.e. an increase in rateable value, the amount awarded will not automatically be increased. In such cases, EK Services, upon request of the customer, will reconsider the application and may award additional relief.

## **7.8 Authority to process applications and award relief**

- 7.8.1 In the interests of efficiency, the authority to consider applications is delegated and shown below:

| <b>Thresholds – Value of award</b>             | <b>Position of Authority</b> | <b>Counter Authority</b>   |
|--|------------------------------|--|
| Up to £10,000                                  | Business Rates Manager       | Business Rates Manager and Client Officer  |
| £10,001 to £30,000                             | Business Rates Manager       | Business Rates Manager and Client Officer  |
| Over £30,000                                   | Business Rates Manager       | Business Rates Manager and Client Officer  |
| Where relief applied will exceed annual budget | Business Rates Manager       | Business Rates Manager to review and Client Officer to approve and refer for Executive / Cabinet decision. |

## **8.0 Appeals**

### **8.1 Overview**

- 8.1.1 There is no statutory right of appeal against a decision regarding discretionary relief made by EK Services. However, EK Services recognises that customers should be

entitled to have a decision reviewed objectively, if they are dissatisfied with the outcome.

- 8.1.2 EK Services will give consideration to all appeals in accordance with this policy and agrees to abide by the following appeals process. Aggrieved customers should make an appeal in accordance with the process.
- 8.1.3 Customers will be notified of the appeals process by EK Services in writing at the time that they are notified of the outcome of their request for discretionary relief.
- 8.1.4 Appeals against decisions to award discretionary relief will not be considered by the same Officers administering the application for relief and will normally be considered by an independent Senior Officer or Manager.
- 8.1.5 Decisions made after the appeals process has been followed will be final. Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process

## **8.2 Persons that can appeal**

- 8.2.1 Appeals may only be made by the original applicant. An appellant may appoint a third party to act on their behalf and in such cases EK Services will require written authorisation from the appellant.
- 8.2.2 Customers may appeal against the decision to award or not award relief or against the level of relief awarded. An appeal must be made within four weeks of the issue of the letter notifying them of EK Services' decision.
- 8.2.3 Any appeals received outside of the 4 week period will only be considered if EK Services are satisfied that exceptional circumstances led to the delay in submitting the appeal.

## **8.3 Applications for appeal**

- 8.3.1 Appeals must be in writing and include the following:
  - The reasons why it is believed the decision should be amended
  - Any new or additional information relevant to the decision making process.
- 8.3.2 The appellant does not have a right to appear in person but may make a request to present evidence in person. Such requests will be considered at the discretion of EK Services, as appropriate.
- 8.3.3 EK Services can request a meeting with the customer to hear evidence in person.

## **8.4 Notification of the final decision following appeal**

- 8.4.1 EK Services will consider appeal applications within 28 days of the application and all supporting information being received and will notify the customer should there be a delay in the consideration of the appeal.
- 8.4.2 EK Services will notify the applicant of the final decision in writing within the 28 days period and whether an appeal is refused or accepted, a full explanation of the

decision making process will be given. A written record will be kept on file of the decisions and factors considered in the process.

- 8.4.3 For Business Rates, both Discretionary Relief and Hardship Relief is the subject of separate applications. Should an EK Services Officer decide to reject the appeal in respect of Discretionary Relief they cannot offer Hardship Relief as an alternative. However, the applicant can be invited to make a separate application.

## **8.5 Discontinuation of Applications or Appeals**

- 8.5.1 If EK Services have requested further evidence from the customer and this has not been received within the specified time given, the appeal will not be considered.

- 8.5.2 Customers will be advised in writing the reason why their application has been discontinued.

## **8.6 Cancellation of relief**

- 8.6.1 Relief will be cancelled if:

- The applicant ceases to be the ratepayer or taxpayer or
- The property becomes empty or becomes occupied, or all or part of the unoccupied area becomes occupied or
- The use of the property changes or
- The aims or objectives of the ratepayer / taxpayer change or
- The financial circumstances for a customer change

- 8.6.2 Where relief is cancelled for any of the reasons above, a new application may be made by customers straight away

## **9.0 Recovery whilst a decision is pending**

- 9.1.1 Once an application for discretionary relief is received, no action will be taken to recover any unpaid Business Rates until after the decision has been notified to the customer.

- 9.1.2 In the case where the customer has been notified of a decision and they exercise their rights to appeal, payment cannot be withheld pending an appeal decision. In the event that an appeal is successful, any overpayment will be refunded.

- 9.1.3 For circumstances where an application is being discontinued, recovery action will commence after the ratepayer has been notified of the discontinuation in writing.

## **10 Promotion of the availability of Relief**

- 10.1 EK Services will proactively promote the availability of discretionary relief, in the following ways:

- All Business Rates Bills will have accompanying information explaining the availability of relief. This may be accessible on the Council website rather than in printed form.

- EK Services Officers who deal with enquiries from customers will be trained in all aspects of this policy and will actively promote the availability of relief when responding to customers enquiries
- EK Services will work in partnership with other organisations to promote the availability of relief
- Information regarding the availability of reliefs will be published on the partner Council websites

## **11.0 Fraud**

- 11.1 The Council is committed to protect public funds and ensure reductions are awarded to the people who are rightfully eligible to them.
- 11.2 Any applicant who tries to fraudulently claim an Discretionary relief by falsely declaring their circumstances, and/or providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.
- 11.3 Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

## **12.0 Complaints**

- 12.1 The Council's 'Complaints Procedure' (available on the Councils website) will be applied in the event of any complaint received about the application of this scheme.

## **13.0 Publicity**

- 13.1 The Councils will make a copy of this scheme available for inspection on their respective websites.

## **14.0 Scheme Review**

- 14.1 This scheme will be reviewed on an annual basis and updated as appropriate to ensure it remains fit for purpose. However, a review may take place sooner should there be any significant changes in legislation.

## Annex 1 - Operational Scoring Guidelines

### Methodology and scoring

In the interests of transparency the following criteria and scoring matrix will be used, to determine the levels of either Discretionary or Top up Discretionary Relief.

Each of the criteria carries a maximum of 8 points and an application receiving a certain level of points will qualify for a fixed percentage of Discretionary rate relief, as follows:-

| Scoring Values          | Discretionary Relief | Top up Discretionary Relief |
|-------------------------|----------------------|-----------------------------|
| 36 points or more       | 100% Awarded         | 20% Awarded                 |
| Between 30 to 34 points | 75% Awarded          | 15% Awarded                 |
| Between 20 to 30 points | 50% Awarded          | 10% Awarded                 |
| Between 10 to 20 points | 25% Awarded          | 5% Awarded                  |
| Less than 10 points     | 0% Awarded           | 0% Awarded                  |

The only exceptions to cases subject to the criteria are the 'Included' categories, as stated previously. These cases will be granted the additional "top up" of 20% discretionary relief, automatically.

### Scoring Matrix Discretionary Relief for Charities & Non Profit making Organisations

#### Measure 1 – Alignment to relevant corporate priorities

##### How is it measured?

The organisation must demonstrate its alignment to the relevant corporate priorities, through the application form, its constitution, aims, objectives and physical delivery to the community.

| Description  | Measure               | Points |
|--|-----------------------|--------|
| How do the organisation's objectives link into the Corporate priorities. | Significantly aligned | 8      |
|  | Mostly aligned        | 6      |
|  | Partially aligned     | 4      |
|  | Limited alignment     | 2      |
|  | No alignment          | 0      |

## Measure 2 – Access to services & affordability

### How is it measured?

The organisation must demonstrate its access to services, any charging policies, and concessionary rates, through the application form, its website, its constitution or any other evidence.

| Description         | Measure  | Points |
|---------------------|--|--------|
| Open to all         | Free service provision and / or positive discrimination to enable affordability to less well-off groups                  | 8      |
| Open to most        | Majority of service provision is free and any charges are affordable to all groups                                       | 6      |
| Open to some        | Elements of free service provision and some concessions for less well-off groups and any membership fees are affordable. | 2      |
| Closed Members only | Annual membership with no concessions for citizens of different groups   | 0      |

## Measure 3 – Service provision & availability of alternatives

### How is it measured?

The organisation must demonstrate how its service provision compliments or substitutes for Council Services and whether there are any other service providers within the area that deliver the same or similar services, through the application form, its constitution, aims, objectives and physical delivery to the community.

| Description   | Measure  | Points |
|---------------|--|--------|
| Sole provider | Sole provider of services that meet the needs of the Council and its residents | 8      |
| Two providers | Two organisations providing the same services to meet the needs of the Council | 6      |

|                        |  |   |
|------------------------|--|---|
|                        | and its residents  |   |
| Three Providers        | Three organisations providing the same services to the Council's residents | 4 |
| Four or more Providers | Multiple providers giving the same services to the Council's residents.    | 2 |

#### Measure 4 – Residents Participation

##### How is it measured?

The organisation must demonstrate what proportion of the Council's community is benefitting from the service provision, through the application form, its website or other collateral and specific group feedback within the community.

| Description                       | Measure  | Points |
|-----------------------------------|--|--------|
| Exclusive to the Council Area     | 90% or more of service users live within the Council area.               | 8      |
| Primarily within the Council Area | Between 50% and 90% of the service users reside within the Council area. | 6      |
| Open to some                      | Between 25% and 50% of the service users reside within the Council area. | 4      |
| Open to few                       | < 25% of the service users reside within the Council area                | 2      |

#### Measure 5 – Financial Status & Funding

##### How is it measured?

The organisation must demonstrate where its funding streams come from, through the application form, accounts, Charity Commission or an initial income forecast if recently created.

| Description                                    | Measure   | Points |
|--|---|--------|
| Annual surplus is less than the Business Rates | The expenditure on activities is either equal to or greater | 8      |



|  |  |   |
|--|--|---|
| payable or making a loss   | than the annual unrestricted income. All funding is received through grants or donations.  |   |
| Annual surplus is more than the Business Rates payable but less than £10k per annum.                                     | The expenditure on activities is less than the annual unrestricted income. All funding is received through grants or donations.                | 6 |
| Annual surplus is more than the Business Rates payable and is £10k - £20k per annum.                                     | The expenditure on activities is less than the annual unrestricted income. Funding is received through grants, donations or income generation. | 4 |
| Annual Surplus is more than the Business Rates payable and greater than £20k per annum                                   | The expenditure on activities is less than the annual unrestricted income. Funding is received through membership fees or income generation.   | 2 |
| Annual Surplus is more than the Business Rates payable, greater than £20k per annum or restrictive membership practices. | The majority of funding is received through membership fees, income generation or from a bar.  | 0 |