



BUSINESS RATES

DISCRETIONARY RATE RELIEF POLICY

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Approved By	<i>Full Council</i>
Date of Approval	<i>March 2026</i>
Date of Next Review	<i>March 2027</i>
Version	<i>V1.0</i>
Classification	

Version Number	Date	Changes	Approved by
<i>V1.0</i>	<i>2026</i>	<i>Version 1.0</i>	<i>Full Council</i>

This is a live document effective from the issue date. It supersedes any previous version of this document, which are now withdrawn.

This policy will be reviewed, as a minimum, on an annual basis. However, consideration should be given to reviewing the policy should there be any changes in legislation or guidance. The policy/procedure owner will ensure the document is reviewed as stated.

1. Introduction

- 1.1 Tameside Council is committed to supporting businesses wherever it can to ensure that Tameside continues to be a great place to live, work and visit.
- 1.2 The introduction of the Business Rates Retention scheme in 2013 meant that Local Authorities now have a financial stake in the income generated from Business Rates in their area. Since April 2017, Tameside Council has participated in the 100% Business Rates Retention pilot scheme.
- 1.3 This means that mandatory and discretionary relief is financed 99% by the Council and 1% by the Greater Manchester Combined Authority. The Government has pledged that Greater Manchester authorities will suffer no financial detriment as a result of participating in the 100% pilot scheme. This extends to the awarding of mandatory and discretionary rate reliefs.
- 1.4 Correctly administering the award of mandatory and discretionary rate relief to organisations within the Tameside area is therefore important, and the principal consideration when making an award is that any relief granted is in the best interests of the residents and taxpayers of Tameside and produces a local benefit.
- 1.5 The Council does not have any discretion regarding the award of mandatory rate relief; however, the Council must be satisfied that the statutory criteria has been met. For this purpose, the Council will use guidance provided in both the Local Government Finance Act 1988, (LGFA), as amended by the Localism Act 2011, and by reference to other enactments and case law.
- 1.6 Under the Sections 44a, Section 47 and Section 49 of the Local Government Finance Act 1988, as amended by Section 69 of the Localism Act 2011, there are 5 areas of discretionary rate reliefs available to Tameside Business Rate Payers.

These are: -

1. Discretionary Rate Relief for Charities and Not for Profit Organisations.
2. Reductions/Remissions on the grounds of Hardship.

3. Relief for partly occupied premises.
4. Relief to support Localism.
5. Other uses of discretionary powers under s47 of the LGFA 1988.

2. Statement of Objectives

2.1 These guidelines have the following objectives:

- To make the application process simple for organisations and give the clearest possible guidance as to what will be considered with regard to an application.
- To consider each application on its merits.
- To be equitable and fair and balance the wider interests of the community within the resources made available arising from business rates baseline funding.
- To make decisions based on objective criteria and organisations' suitability for discretionary rate relief.
- To ensure officers give due time and attention to processing applications which is proportionate to the complexity and level of relief.
- To have regard to the relevant Central Government guidance when making decisions.
- To have regard to the restrictions applicable in terms of subsidy allowances and limitations.

2.2 It is not the intention of this policy to provide support to businesses as a way of compensating them for a change in government policy on reliefs applied nationally under s47 powers.

3. Subsidy Control

3.1 Discretionary rate relief will not be awarded in any circumstances where it appears that an award will not be compliant with the Subsidy Control requirements.

3.2 Any discretionary rate relief provided by Local Authorities will need to comply with the UK's domestic and international subsidy control obligations ([BEIS guidance for public authorities](#) contains guidance and information for the new UK subsidy control regime, which commenced on 4 January 2023.)

3.3 To the extent that a local authority is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows a holding company and its subsidiaries to receive up to £315,000 in a 3-year period (consisting of the current financial year and the previous 2 financial

years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of “Minimal or SPEI financial assistance”.

- 3.4 It is expected that in most cases any award of discretionary relief would not breach State Subsidy rules. The recipient of the relief will be required to complete and return a state subsidy declaration (see [Appendix 2](#)). If this is not completed and returned the application will be refused.

4. Application process

- 4.1 Applications for relief must be made on the Council’s application form which can be found on the website [Online Forms and Services](#) . Applications must be submitted with the required supporting information.
- 4.2 For all reliefs, the Council reserves the right to refuse an application if all information requested has not been submitted. This may include financial information such as memorandum and articles of association, full accounts, business plans, membership or fee details etc.
- 4.3 Applications may also be refused where it appears to the Council that the occupation of the property is part of a rates mitigation scheme.
- 4.4 Applicants will be notified, either by receiving a revised bill showing the reliefs awarded, or in writing detailing reasons for refusal.
- 4.5 Ratepayers are required to continue to pay, in accordance with the latest bill issued, pending the outcome of an application.

5. Decision making process

- 5.1 Applications will be considered as follows:-
- Awards below £5,000 per annum, will be considered by Head of Service (Revenues and Benefits).
 - Awards between £5,000 and up to £30,000 per annum, will be considered by Assistant Director of Revenues and Benefits.
 - Awards over £30,000 and up to £100,000 per annum, will be considered by the Director of Finance/S151.
 - Awards above £100,000 per annum will be considered by Executive Member, Finance and Resources.
- 5.2 The Council will consider applications and advise of the outcome within 20 working days of receipt of all relevant information.

6. Awards for retrospective periods

- 6.1 Rate relief will not normally be awarded for any period prior to the start of the financial year in which the application was submitted, unless the relief is fully funded by Central Government.
- 6.2 In exceptional circumstances consideration may be given to awarding rate relief for a retrospective period where the ratepayer can reasonably demonstrate good cause for not submitting the application earlier.
- 6.3 No award will be backdated further than the preceding financial year.

7. Appeals

- 7.1 There is no statutory right of appeal against the refusal to award discretionary rate relief.
- 7.2 An applicant may request a review of the decision but only where either:
 - Additional information that is relevant to the application and was not available at the time the decision was made becomes available; or
 - There are good grounds to believe the application or supporting information was not interpreted correctly at the time the decision was made.
 - A request for a review must be made within 28 days of notification of the decision and must set out the reasons for the request with any supporting information and will be considered by a Senior Officer not involved in the original decision.
- 7.3 The ratepayer will be notified of the appeal decision within 20 working days of all relevant information being received.
- 7.4 If the Ratepayer is further dissatisfied the only remaining route to challenge the decision would be by judicial review in line with Section 138 of the Local Government Act 1988. Such a review would only consider whether the decision-making process had been followed correctly; it may not necessarily change a decision.

8. Types of Relief

Discretionary Rate Relief for Charities and Not for Profit organisations (DRR)

- 8.1 The conditions to be satisfied before the Council can consider an application for this relief are detailed in the LGFA 1988 under s47.

These are either of the following: -

The rate payer is a charity or trustees of a charity, and the property is wholly or mainly used for charitable purposes.

or

The hereditament (property) is not an excepted hereditament (i.e., the rate payer is not the billing authority or precepting authority) and all or part of the property is occupied for the purposes of one or more institutions none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.

and

For each of the above the Council may make the decision only if it is satisfied that it would be reasonable to do so having regard to the interests of Tameside's Council taxpayers.

- 8.2 The detailed guidelines to assist with the determination of granting discretionary rate relief are contained in [Appendix 1](#).

Length of award

- 8.3 Awards of discretionary rate relief for Charities and other Organisations will be made for a one-year period. Annual internal reviews will be undertaken by the Business Rates Section, and a new application will be required every year.

Application process

- 8.4 Where required, each applicant will be asked to complete an application form, which has questions designed to assess the benefit of granting relief to Tameside's Council Tax payers. This in turn will aid determination of the level of award to be granted. Applications will be refused where insufficient information has been provided to enable a determination to be made.

9.Reductions/Remissions on the grounds of Hardship

- 9.1 The conditions to be satisfied before the Council can consider an application for this relief are detailed in the LGFA under s49. These are that: -
1. The rate payer would sustain hardship if the Authority did not do so, and
 2. It is reasonable for the Authority to do so, having regard to the interest of persons liable to pay council tax set by it.
- 9.2 An award of hardship relief is a temporary measure which should not be used to artificially sustain a failing business. It will usually only be awarded in order to provide short term assistance to businesses that are suffering unexpected hardship, arising from circumstances beyond the business's control (and outside of the normal risk associated with running a business of that type), to the extent that the viability of the business would be threatened if an award were not made.
- 9.3 An award of hardship relief will not usually be made for the purposes of enabling a new business to become established except where the viability of the business is threatened by events that could not reasonably have been foreseen when establishing the business.
- 9.4 Loss of profitability due to increased competition would not be considered as financial hardship.
- 9.5 No award shall be made where it appears to the Council that the proprietor of the business has failed to exercise due diligence or anticipate circumstances that may give rise to hardship, financial or otherwise, and/or to put in place measures to prevent or mitigate the circumstances.
- 9.6 In the case of a claim for a period of local disruption such as flooding, building works or roadworks we would expect that a ratepayer would first seek a material change of circumstances reduction in their rateable value from the Valuation Office Agency before an application for hardship relief would be considered.
- 9.7 In the case of flooding or other damage to the building or its contents the Council would expect that ratepayers have adequate insurance against such losses and may request information to confirm this.

Length of award

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

Application process

- 9.9 Applications should be made in writing to the Business Rates section. Full details must be provided including, but not limited to
1. The last two year's accounts, a current cash flow forecast and a comprehensive business plan. Where the business has traded for less than two years, then draft accounts or budget forecasts must be provided for the period since the business started trading.
 2. Details of actions taken to mitigate any factors giving rise to hardship. Examples of mitigation may include seeking business advice, discounts and promotions, reviewing pricing, negotiations with creditors etc.
 3. Any other relevant factors.
- 9.10 Applications will be refused where insufficient information has been provided to enable a determination to be made.
- 9.11 Hardship relief will not be awarded in circumstances where the application is a result of a change in government policy on reliefs applied nationally under s47 powers.

10. Relief for partly occupied premises

- 10.1 S44a of the LGFA 1988 enables the Council to grant relief on a property that is partly unoccupied or not fully occupied for a temporary period only.
- 10.2 The amount of reduction in rates is determined by statute and is calculated by reference to the rateable value assigned to the unoccupied area by the Valuation Office Agency.
- 10.3 The granting of this relief is entirely under the Council's discretion; each case will be considered on its merits and be referenced to the interests of Tameside's Council Taxpayers.
- 10.4 Applicants will be expected to evidence demonstrable benefits to Tameside's residents as part of their application.

- 10.5 Applications will only be considered in respect of unoccupied parts of a property that can be clearly defined and are reasonably segregated from the occupied part of the property.
- 10.6 The period of relief will not exceed either 3 or 6 months depending on the type of property the claim has been made for, in line with the current legislation for unoccupied properties.
- 10.7 In determining the application, favourable consideration will be given (but not limited to) circumstances where:
- There is a partial occupation of a warehouse, factory or commercial premises to facilitate relocation of the company into the borough or to extend the current portfolio and associated occupation levels in the borough; or
 - Where fire, flood or other disaster prevents full use of the premises.
- 10.8 Favourable consideration would not normally be given:
- For a backdated period.
 - For consecutive periods.
 - To support a business moving its operation outside of the borough.
 - Where the owner sublets part of the premises on a commercial basis.
 - Where the part occupation is likely to continue for more than 3 months (6 months if industrial premises).
 - Where there appears to be no effort to let, sell or occupy the empty part; or
 - Where part occupation is seasonal or cyclical in nature.
 - Where part occupation is due to planned refurbishment of the premises.
- (N.B. This is not an exhaustive list)
- 10.9 No award shall be made where it appears to the Council that the reason that part of the property is unoccupied is wholly or mainly for the purposes of applying for Section 44a relief.
- 10.10 Section 44a relief will not normally be awarded in respect of different operative periods that contain the same area of unoccupied property that existed in preceding operative periods.
- 10.11 Rate relief under this section will not usually be awarded where the partial occupation may be considered to arise due to the ordinary day to day nature of the business (for example the operation of a warehouse).

Length of award

- 10.13 All awards for relief due to partly occupied premises will be given for a short time only and only where there is clear evidence of partial occupation.
- 10.14 Awards of Section 44a relief shall end at the earliest occurrence of one of the following:
1. The end of the statutory period for which relief may be allowed.
 2. The end of the financial year.
 3. All or part of the unoccupied area becoming occupied.
 4. The whole of the property becoming unoccupied.
 5. The ratepayer ceasing to be the person or organisation liable to pay non-domestic rates in respect of the property.
 6. Where all or part of the unoccupied area has remained unoccupied for one year.
 7. The commencement of a further award in respect of the property.
 8. The Council is unable to verify, following reasonable notice, that the area remains unoccupied.

Application process

- 10.15 A ratepayer making an application under section 44a shall provide a plan of the property showing the dimensions of the occupied and unoccupied area of suitable quality to enable the Valuation Office Agency to apportion the rateable value of the property between the occupied and unoccupied areas. Applications will not be considered until such time as the plan is provided.
- 10.16 The ratepayer must allow a Council Officer access to the property by appointment during normal working hours within 14 days of the Council requesting such access, in order to verify the occupation of the property.
- 10.17 Further access may be required on at least one occasion each month, during normal office hours, during the period for which relief is being awarded. In order to enable verification, access to the unoccupied area may be requested immediately without advanced notice. In the event that access is not allowed promptly without good cause the award of Section 44a relief may be withdrawn immediately.
- 10.18 Applications will be refused where insufficient information has been provided to enable a determination to be made.

11. Relief to promote localism

- 11.1 S47 of the LGFA allows the Council to offer business rate discounts to help attract firms, investment and jobs to the local area. Each case will be considered on its merits and be referenced to the interests of Tameside Council Tax payers.
- 11.2 Applicants will be expected to evidence demonstrable benefits to Tameside residents as part of their application.
- 11.3 When deciding whether to award a local business rates discount, the principle consideration will be that in granting any discount there should be a resultant substantial, positive impact for Tameside residents and taxpayers, as the Council must bear the cost of any relief granted.
- 11.4 The following criteria will also be taken into account when considering applications:
- Whether the organisation provides substantial and essential long-term benefits to both the community and the council tax payer, such as increasing employment or improving amenities available to the local community; and
 - Consideration of whether there are other businesses in the area which provide the same or similar services or facilities and whether the award could have an anti-competitive effect on other businesses in the area.
- 11.5 Applications made by agents must include written confirmation signed by the ratepayer that the application is being made on their behalf. The MFA declaration on the application form must be signed by the ratepayer.
- 11.6 Any award will be made as a credit to the business rates account. If the account is in credit as a result this can be refunded on request to the ratepayer.
- 11.7 The Council reserves the right to cancel or reduce any award of discretionary relief covered in this section if the business in receipt of that award is found to be behaving in a way that is not in the best interests of Tameside residents.
- 11.8 The Council will work towards the development of a specific Localism Relief Policy, aligned with its strategic objectives and priorities.

Length of award

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

Application process

- 11.9 Applications should be made in writing to the Business Rates section.
- 11.10 Applications will be refused where insufficient information has been provided to enable a determination to be made.

12. Relief for properties in rural settlements

- 12.1 The LGFA 1988, as amended, also provides for the only Post Office or the only General Store, the only Public House, the only Petrol Station and the only village food store in a Rural Settlement with a population not exceeding 3,000 to be awarded 100% Mandatory Relief.
- 12.2 There are currently no qualifying designated Rural Settlement areas with a population below 3,000 within the Tameside borough.

13. Other uses of discretionary powers under S47 LGFA 1988

- 13.1 From time to time, additional measures are proposed by the Government to provide assistance to businesses. These can be either national schemes or locally defined schemes which are drawn up by Tameside Council. They are provided under s47 of the LGFA 1988.
- 13.2 Where the Government puts in place a scheme whereby the Council will be fully compensated for the loss of rates yield arising from an award of discretionary rate relief, awards of relief shall be made by the Business Rates section in accordance with the guidance issued for the scheme unless there is a decision of the Council to the contrary.

Length of award

- 13.3 Any other awards using s47 powers will be for 12 months or up to the maximum period of time stipulated by central government or the locally defined scheme, whichever is the earliest

Application process

- 13.4 Application should be made in accordance with the guidance provided by central government at the time or in line with the locally defined application procedures.
- 13.5 Applications will be refused where insufficient information has been provided to enable a determination to be made.

Policy Review

- 13.6 The Council will review the Discretionary Rate Relief policy on an annual basis but reserves the right to review and revise the policy at any time as a result of information gained through operating the policy or in response to Government initiatives.
- 13.7 The Executive Member for Finance and Resources in conjunction with the Director of Finance are authorised by Cabinet to agree any revisions to the policy.

Appendix 1 - Guidelines for awards to Charities and other Organisations

Guidelines for awards to Charities and other Organisations		Mandatory Relief	Discretionary Relief (Up to a maximum)	Total Relief (Up to a maximum)
1	Properties occupied by Charitable bodies and the property is wholly or mainly used for charitable purposes (1, 2)	80%	20%	100%
2	Organisations which are registered with HMRC as Community Amateur Sports Clubs (CASCs).	80%	20%	100%
3	Charitable bodies that run educational establishments including nurseries , voluntary aided, Foundation Schools, and Academy schools and that are eligible for 80% mandatory rate relief.	80%	NIL	80%
4	Properties that are occupied by Charitable bodies for the purposes of income generation, for example charity shops, who are eligible for mandatory rate relief.	80%	NIL	80%
5	Not for profit organisations whose main objectives are charitable or are otherwise philanthropic, or religious, or concerned with education, social welfare, science, literature or the fine arts and do not fit in the above categories. (3)		100%	100%
6	Properties that are occupied by non-profit organisations and are wholly or mainly used for purposes of recreation and sport or other elements of a healthy lifestyle to the residents of Tameside. Membership must be in excess of 50% of residents within Tameside. (3)		100%	100%
7	Where the property is used for purposes which are of benefit to the wider local community but does not fall in any of the above guidelines and it would be in the interests of the Council Tax payer to make an award. (3)		100%	100%

- (1) Charitable bodies covers both registered charities and bodies established for charitable purposes (e.g. not for profit or Community Interest Companies which have been established. for charitable purposes) and who qualify under the definition under s43 and s47 of LGFA. The property must be used wholly or mainly for charitable purposes.
- (2) For all charitable bodies reference will be made to the financial accounts to determine whether or not the organisation has more than 12 months running costs in reserves or has sufficient financial resources to pay the rates liability. Where there are reserves for greater than 12 months, the organisation will need to demonstrate that the reserves are generated for a large project. Conversely, the accounts will also be reviewed to ensure

that the organisation is viable. The Council will review significant expenditure lines in the accounts to ensure that the accounts correctly reflect the charitable purposes of the organisation as detailed in the application form.

- (3) Where the property is occupied by the Not-for-Profit organisation a cap of 80% may be put upon the relief awarded to Not-for-Profit organisations where it appears from the financial accounts that the organisation has sufficient financial resources to pay the rates liability

Appendix 2



Minimal Financial Assistance Declaration Form

You are being offered financial assistance under the Minimal Financial Assistance (MFA) exemption specified in section 36 (1) of the Subsidy Control Act 2022. This allows a company or business to receive up to £315,000 of public funding over a rolling three-year period. The following requested information is a mandatory requirement to enable you to receive the financial support offered.

To be completed by subsidy recipient

Name of Organisation :

Address (incl. post code) :

Main Contact :

Position:

E-mail Address :

Telephone No:

To verify that you are able to receive this assistance you must declare the full amount of public subsidies you have already received over the last 3 years (beginning with the date on which the MFA was given) under the Minimal Financial Assistance rules.

The following is not a comprehensive list of the possible forms of subsidy. However, it should give an indication of the most common forms of subsidy, which you may have received over the past three years. Potentially any assistance from a public body might be a subsidy. Should you have any doubts on this matter, please contact the body from which the assistance was received.

- State Grants
- Interest rate relief
- Tax relief
- Tax credits
- State guarantees or holdings
- State provision of goods or services on preferential terms
- Direct subsidies
- Tax exemptions
- Preferential interest rates
- Guarantees of loans on especially favourable terms
- Acquisitions of land or buildings either gratuitously or on favourable terms

- Provision of goods and services on preferential terms
- Indemnities against operating losses
- Reimbursement of costs in the event of success
- State guarantees, whether direct or indirect, to credit operations preferential re-discount rates
- Dividend guarantees
- Preferential public ordering
- Reduction of, or exemption from, charges or taxes, including accelerated depreciation and the reduction of social contributions
- Deferred collection of fiscal or social contributions
- Assistance financed by special levies
- Capital transfers
- Certain State holdings in the capital of undertakings.
- Retail Relief

I declare that the amount of subsidy received by the organisation over the last three years (this being the current fiscal year and the previous two fiscal years) is as follows:

Organisation Who Provided the Subsidy	Date Subsidy Approved*	Value £
Tameside Council		

(Add or delete rows as necessary)

*This should be the date the subsidy was approved, not the date the subsidy was received.

You are required to keep a written record of the amount of MFA you have received and the date(s) when it was received. The written record must be kept for at least three years beginning with the date on which the MFA was given. This will enable you to respond to future requests from public authorities on how much MFA you have received and whether you have reached the cumulative threshold.

Declaration: I confirm that the information I have provided above is complete and accurate. I understand that failure to disclose relevant information may lead to a requirement to refund/repay the value of the subsidy plus interest from the date the subsidy was received.

Name:

Signature:

Position:

Date :

