

Milton Keynes Council

Discretionary Rate Relief Guidelines

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Version Control

Version	Date	Author	Comments
1	3 August 2008	C Annison	A Petrie
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3	22 November 2012	C Wright / K Pettit	Updated following review to reflect appeal process, discretionary rural, part-occupied premises and hardship rate reliefs
4	19 December 2012		Agreed by Cabinet
5	December 2013	C Wright / K Pettit	Updated reflecting new build empty property relief and relief for shops, pubs and restaurants (with RV less than £50k) and expansion of s44a Relief . Agreed by Delegated Decision (Cllr Bald) 11/2/14
6	December 2014	C Wright / K Pettit	Updated reflecting Autumn statement
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8	March 2017	A Taplin	Updated reflecting 2016 Autumn statement and 2017 Spring Budget
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Discretionary Rate Relief

1. Introduction

- 1.1. Milton Keynes Council (MKC) is committed to correctly administering the award of Discretionary Rate Relief (DRR) to organisations within the Milton Keynes area.

Under the Local Government Finance Act 1988 (as amended) (LGFA) and Non Domestic rating (Unoccupied Property) (England) Regulations 2008 SI 2008/386, there are 6 areas of discretionary rate reliefs available to Milton Keynes Rate Payers. These are:-

- a) Discretionary Rate Relief (Charities and Not for Profit Organisations);
- b) Relief for properties in rural settlements
- c) Reductions/Remissions on the grounds of Hardship
- d) Relief for Partly occupied premises.
- e) Relief to support Localism
- f) Other uses of discretionary powers under s47 of the LGFA 1988

2. Statement of Objectives

The 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 State Aid limitations

3. Reliefs

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

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

These are either of the following:-

- a) The rate payer is a charity or trustees of a charity, and the property is wholly or mainly used for charitable purposes; or
 - b) 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
- c) 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 Milton Keynes council taxpayers.

The detailed guidelines to assist with the determination of granting DRR are contained on page 11.

3.2 Relief for properties in rural settlements

The Local Government Finance Act 1998, as amended, 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 50% Mandatory Relief.

In the Autumn Statement the Government confirmed that Rural Rate Relief will be doubled to 100% from 1st April 2017. Until the regulations are in place to award 100% Mandatory Relief the Council will use its discretionary powers to award 50% discretionary relief to ensure 100% relief is awarded to eligible businesses.

3.3 Reductions/Remissions on the grounds of Hardship

The conditions to be satisfied before MKC can consider an application for this relief are detailed in the LGFA under s49. These are that:-

- a) The rate payer would sustain hardship if the Authority did not do so, and
- b) It is reasonable for the Authority to do so, having regard to the interest of persons subject to its council tax.

An award to hardship relief will usually only be made 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.

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.

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.

3.4 Relief for partly occupied premises

S44a of the LGFA enables MKC to grant relief on a hereditament that is partly unoccupied or not fully occupied for a temporary period only.

The granting of this relief is entirely under the discretion of Milton Keynes Council and each case will be considered on its merits and be referenced to the interests of Milton Keynes Council tax payers.

The amount of reduction in rates is determined by statute and is calculated by reference to the rateable value ascribed to the unoccupied area by the Valuation Office Agency.

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.

For the purposes of these guidelines a period of up to 12 calendar months shall be considered to be temporary and longer periods shall not be considered to be temporary.

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.

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.

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).

3.5 Relief to promote localism

S47 of the LGFA allows the Authority 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 Milton Keynes Council tax payers.

3.6 Other uses of discretionary powers under S47 LGFA 1988

From time to time, additional measures are proposed by the Chancellor of the Exchequer to provide assistance to business. These can be either national schemes or locally defined schemes which are drawn up by MKC. They are provided under s47 of the LGFA 1988.

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 in accordance with the scheme unless there is a decision of the Council to the contrary.

For 2018/19 the current schemes are Local Newspaper Relief (up to £1500 for 2018/19), Local Pub Relief (up to £1000 for 2018/19) and Local Discretionary Rate Relief Scheme as determined by MKC. The detailed guidelines for the Local Discretionary Rate Relief Scheme are on page 12.

4. Length of award

4.1. Discretionary Rate Relief (Charities and other Organisations)

All awards of Discretionary Rate Relief (Charities and other Organisations) will be granted on an annual basis. In November of each year the Revenues department in conjunction with the Service Director Finance and Resources, risk assessed current claimants. For the vast majority of applicants a desk top only exercise will be undertaken.

For those rate payers whose circumstances merit it, they will need to apply annually towards the end of the current financial year for the following financial year (commencing 1 April).

Wherever practicable, MKC will attempt to notify each current ratepayer in receipt of DRR reminding them of the need to apply for the coming financial year. Under s47 of the LGFA, MKC is unable to grant DRR with an effective date of more than six months after the end of the financial year to which it relates, therefore applications received after this date will not be considered.

4.2. Rural rate relief

Awards of discretionary relief will be granted on an annual basis.

4.3. Hardship Relief

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.

4.4. Partly Occupied properties

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.

Awards of Section 44a relief shall end at the earliest occurrence of one of the following:

- a) The end of the statutory period for which relief may be allowed;
- b) The end of the financial year;
- c) All or part of the unoccupied area becoming occupied;
- d) The whole of the property becoming unoccupied;
- e) The ratepayer ceasing to be the person or organisation liable to pay non-domestic rates in respect of the property;
- f) Where all or part of the unoccupied area has remained unoccupied for one year;
- g) The commencement of a further award in respect of the property;
- h) The Council is unable to verify, following reasonable notice, that the area remains unoccupied.

4.5. Localism

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

4.6. Other Discretionary reliefs under s47

Any other awards using s47 powers will be up to the maximum period of time stipulated by central government or the locally defined scheme,

5. State Aid

- 5.1. Discretionary rate relief shall not be awarded in any circumstances where it appears that an award will result in the rate payer receiving state aid that is above the current de Minimis level.

6. Application process

6.1. Discretionary Rate Relief (Charities and other Organisations)

Where required, each applicant will complete an application form, which has questions designed to assess the benefit of granting relief to Milton Keynes Council Tax payers. This in turn will aid determination of the level of award to be granted.

6.2. Rural Rate Relief

No application will be required, relief will be awarded automatically where there is an entitlement to mandatory rural rate relief.

6.3. Hardship Relief

Application should be made in writing to the Business Rates section of MKC. Full details should be provided including, but not limited to

- a) 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.
- b) 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.
- c) Any other relevant factors.

6.4. Partly Occupied premises

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- each application.

The ratepayer must allow a Council Officer access to the property by appointment during normal working hours within two weeks of the Council receiving the application in order to verify the occupation of the property.

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

6.5. Localism relief

Application should be made in writing to the Business Rates section of MKC.

6.6. Other awards under s47

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.

6.7. For all reliefs, Milton Keynes Council reserves the right to refuse an application if all information requested has not been submitted. This may include full financial information.

6.8. The determination of any relief to be granted will be an officer delegated decision.

6.9. Applicants will be notified, either by receiving a revised demand showing the reliefs awarded, or in writing detailing reasons for non-awards.

6.10. Unless otherwise agreed, ratepayers are required to continue to pay, in accordance with the latest demand notice, pending the outcome of an application.

7. Awards for retrospective periods.

7.1. With the exception of applications on the grounds of hardship, rate relief will not normally be awarded in respect of any day prior to the day that an application is received. However, in exceptional circumstances consideration may be given to awarding rate relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting the application earlier. Additionally, applications for other reliefs awarded using s47 powers may be considered where the ratepayer meets the relevant criteria.

7.2. 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.

7.3. 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

7.4. Under s47 of the LGFA, MKC is unable to grant relief with an effective date of more than six months after the end of the financial year to which it relates, therefore applications received after this date will not be considered.

8. Appeals

8.1. There is no statutory right of appeal against the refusal to award relief.

8.2. 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 and any supporting information.

9. Monitoring

- 9.1. Awards of Discretionary Rate Relief will be monitored to ensure that the guidelines have been followed and that awards are made within the guidelines objectives. The Council will monitor the financial implications of awarding relief.

	Guidelines	Mandatory Relief	Discretionary Relief (Up to a maximum)	Total Relief (Up to a maximum)
1	Charitable bodies ^{1,2} , whose main objectives are to work with vulnerable areas of the community (for example but not limited to – children, youth, elderly) and the property is wholly or mainly used for charitable purposes	80%	20%	100%
2	Charitable bodies whose main objectives are to work with vulnerable areas of the community in respect, but not limited to, health, disability, well-being and the property is wholly or mainly used for charitable purposes	80%	20%	100%
3	Charitable bodies whose main objectives are concerned with the Arts. This includes for example, but not limited to, museums, theatres, artists workshops and the property is wholly or mainly used for charitable purposes	80%	20%	100%
4	Charitable bodies that run educational establishments including voluntary aided, Foundation Schools, and Academy schools.	80%	Nil	80%
5	Charitable bodies that provide advice and information to the residents of Milton Keynes either free of charge or at minimal cost. This includes, but not limited to, employment advice and the property is wholly or mainly used for charitable purposes	80%	20%	100%
6	Charitable bodies that are established for the purposes of running and maintaining meeting places, halls and community spaces and the property is wholly or mainly used for charitable purposes	80%	20%	100%
7	Organisations which are registered with HMRC as Community Amateur Sports Clubs (CASCs).	80%	20%	100%
8.	Charitable bodies that are established for the purposes of encouraging sport or other elements of a healthy lifestyle to the residents of Milton Keynes. Membership must be in excess of 50% of residents within Milton Keynes. and the property is wholly or mainly used for charitable purposes	80%	20%	100%
9.	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%	-	80%
10.	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.	-	100%	100%
11	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 Milton Keynes. Membership must be in excess of 50% of residents within Milton Keynes.	-	100%	100%
12.	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.	-	100%	100%

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 are 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.

Local Discretionary Rate Relief Guidelines 2018/19

The amount of funding available to MKC in 2018/19 has been determined by Central Government and is £364,000. Once this amount of relief has been awarded in 2018/19 no further applications for relief will be considered.

- The award is for the financial year 2018/19 only
- If an application is required it must be made within the financial year 2018/19.
- Relief will only be awarded to occupied properties.
- The rateable value of the property is less than £200,000
- The ratepayer has been in continuous occupation from at 1 April 2017
- Relief will be calculated after any other reliefs that the ratepayer is entitled to.
- Those ratepayers that received Local Discretionary Rate relief in 2017/18 will be awarded 50% of the value of the relief they received in 2017/18
- The maximum relief awarded will be capped at £2,500

There are a number of exclusions that apply:

- Where the award of relief would not comply with EU law on State Aid. (see 15 below)
- Ratepayers who are already in receipt of mandatory charitable relief, other discretionary relief or both.
- Properties where the applicant is the preceptors - MKC, Parishes and Fire Authority.
- Properties which are occupied and operated wholly or mainly as betting shops, payday loan shops, pawn brokers, massage parlours and sex shops.

Where a qualifying ratepayer's 2018/19, 2017/18 and, or 2016/17 rates bill is reduced the amount of the relief already awarded will be reviewed and will be reduced or removed accordingly.