

Business Growth Incentive Rate Relief Scheme Policy Framework

Introduction

- 1.1. If Luton is to continue to prosper the council needs to remove barriers to business growth, enable disadvantaged communities to share the benefits of sustainable economic growth and offer a pleasant and safe place to live and work. The Business Growth Incentive Relief Policy Framework supports this statement; enabling the council to use its discretionary powers to award temporary relief from payment of Non-Domestic Rates.
- 1.2. The Business Growth Incentive Policy Framework supports the Council's economic policy to move towards a high value, low carbon economy and is a key element in the promotional package to attract new businesses to Luton.
- 1.3. The Business Growth Incentive Policy Framework does not apply to those properties that receive alternative relief by qualification for Small Business Rate Relief.
- 1.4. The Business Growth Incentive Relief Policy Framework shall apply in giving consideration to applications for discretionary rate relief made in respect of the council's general power to award discretionary rate relief. (Awards under section 47 of the Local Government Finance Act 1988 as amended by section 69 of the Localism Act 2011)
- 1.5. Section 69 of the Localism Act 2011 amends the 1988 Act to allow local authorities the discretion to award rate relief to all types of businesses.
- 1.6. The Localism Act gives the council freedom to award business rate discounts – to help attract firms, investment and jobs.
- 1.7. The powers came into effect on 1st April 2012.
- 1.8. This policy applies to all applications made in respect of rate liabilities incurred from the date the application for relief is received by the council.
- 1.9. Applications for rate relief from charities, not-for-profit organisations shall be considered under the separate Charitable Discretionary Relief Policy agreed by Executive.
- 1.10. Each application for Business Growth Incentive Relief shall be considered on its individual merit but in making a decision on the award the decision maker will give due consideration to the requirements of this policy.

Exceptions to this Policy Framework

- 1.11. In accordance with the Council's Constitution the portfolio holder with responsibility for Finance may determine discretionary rate relief applications which fall outside the scope of this approved Policy.

Business Growth Incentive Relief Operation

- 2.1. All decisions in respect of applications for Business Growth Incentive Relief must be taken in accordance with statutory requirements and give due consideration to any guidance issued by the Secretary of State.
- 2.2. Decisions shall be taken in accordance with the Council's Constitution.
- 2.3. In addition to these requirements the following shall apply in respect of all requests for Business Growth Incentive Relief under the powers set out above.

The Interest of Luton Borough Councils Taxpayers

- 2.4. Applications for rate relief will only be considered favourably where the Council is satisfied that an award will result in tangible benefits to local residents and in particular where the award directly results in attracting new business, investment or additional jobs to the local area.

Requirements for Applications

- 2.5. Applications will only be considered where a written application is received from the ratepayer and where the ratepayer is an organisation, or a person properly authorised to make an application on behalf of the organisation. Where the Council provides an application form the application must be made on that form.
- 2.6. The Council shall request such supporting evidence as it considers necessary to enable the Council to properly assess the merits of the application.
- 2.7. Ratepayers submitting an application shall set out, as part of the application the benefits the ratepayer will accrue Luton Borough Council's Taxpayers as a result of the award.

Publication of Decisions and Applications

- 2.8. All decisions taken in respect of an application for discretionary rate relief will be published.

Timescale for Decisions

- 2.9. The Council will aim to make a decision regarding the application within four weeks of receiving the application and all supporting evidence considered necessary to enable the application to be considered.

Requirement to Make Payment of Amounts Falling Due

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

Awards for Retrospective Periods

- 2.11. Business Growth Incentive 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.
- 2.12. 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.

State Aid

- 2.13. Business Growth Incentive Relief shall not be awarded in any circumstances where it appears that an award will result in the ratepayer receiving state aid that is above the current de minimis level (currently 200,000 euro over three years). Each application must be accompanied by a statement signed by the appropriate person representing the business setting out the amount of state aid, including but not limited to rate relief, which the ratepayer has received within the previous three years. Applications shall not be considered until this statement is received.

Maximum Amount of Award

- 2.14. The Localism Act allows scope for the Council to award up to 100% rate relief in any one year for qualifying businesses. The maximum amount awarded shall normally be limited to no more than 45% of the rate liability except where there are exceptional circumstances which justify a greater amount.

Duration of Awards

- 2.15. All awards shall terminate at the end of the financial year. An award will be for a fixed period of time which may be less, but not more, than 12 months. New applications may be made each financial year.

Award Qualification Criteria

- 2.16. Each application will be considered on its individual merit but in making a decision on an award the following factors must be met;
- a. An award relates to Non-Domestic Rates payable in respect of a new hereditament or an increase in the rateable value of an existing hereditament.

- b. An award will not result in a lower amount of retained rates yield in respect of the hereditament than that retained prior to the development.
- 2.17. If the application meets the criteria for an award in 2.16 above, the following factors are taken into considered by the decision maker:
- a. New employment opportunities will be created as a result of the new hereditament or enhancement to the existing hereditament or;
 - b. The award is considered to be essential to securing the development of the hereditament.
 - c. The value of any previous awards and the benefits to local Council Taxpayers realised from previous award.
 - d. The potential lost opportunity costs to the Council, including the loss of income, or of retained rates yield, in making an award.
 - e. The benefits to the Councils Taxpayers in making an award and in particular whether an award will directly result in attracting businesses, investment or jobs to the local area.
 - f. The impact on other Non-domestic Rate payers in the area and the potential inequity which may arise where the Council grants an award to one business and not to others who may be disadvantaged if they were not to be treated similarly.
 - g. The award will normally only be awarded where the ratepayer's activities contribute towards the aims and objectives of the Corporate Plan or Sustainable Communities Strategy.
 - h. The extent to which an award will support the Council's aspiration to promote and encourage economic growth, and in particular growth in the Non-Domestic Rating tax base and in employment opportunities for residents of the area.
 - i. The overall profitability of the business.
 - j. Any business must have planning permission granted for the proposed business use.
 - k. No discount will be awarded in respect of empty rate charges that become payable if the business vacates the property or ceases trading.
- 2.18. In the interests of diversifying the towns offer, some businesses will not be eligible to access the Business Growth Incentive Relief Policy. As an example these include:
- a. Betting shops.
 - b. Amusement arcades.
 - c. Some class A5 takeaways.
 - d. Unincorporated associations.
 - e. Car parks.
- 2.19. This list is not exclusive and we retain the right to add to it as the balance of the town changes over time.
- 2.20. Businesses will be asked to commit to paying business rates by direct debit to ensure a streamlined process.

- 2.21. All applications will be checked against current records for potential issues, such as business rates arrears. Applicants found to be in business rates arrears will have to commit to clearing them. If there is no commitment to do so, an award will not be made. Similarly businesses that default on repayments will have the award withdrawn.
- 2.22. Businesses that are operating with large losses or cannot commit to creating additional employment will not be granted an award.
- 2.23. In cases of insolvency the Council will seek to reclaim any award made.

Information to Support Applications

- 2.24. All applicants are required to complete the Councils Business Growth Incentive Relief application form. Such information and evidence as the Council requires must be provided to support an application and in the event that the requested information and evidence is not provided the application may be refused.
- 2.25. In submitting an application the rate payer must demonstrate with verifiable supporting evidence the benefits to Luton Borough Councils Taxpayers that will accrue from making the award.
- 2.26. Businesses bringing disused space back into commercial use will have to provide evidence of work undertaken, including photographs (before/after), invoices for refurbishment and evidence of increased rates payable.

Determination of the Award

- 2.27. On receipt of an application, a Council Officer will prepare a report setting out the merits of the application. This report will detail, amongst other elements the economic, social and environmental benefits that may derive from granting the application. The report will recommend the approval or denial of rate relief. This will be sent to the Head of Customer Service, Revenues and Benefits for final approval or denial.

Relationship to Other Forms of Rate Relief

- 2.28. Applications will only be considered after consideration of any other forms of rate relief to which the applicant may be eligible (excluding Hardship Rate Relief).

Reviews and Appeals

- 2.29. Decisions on the award or otherwise of Business Growth Incentive Relief will be taken by the delegated officer and the decision will be final. There will be no automatic right to appeal. An applicant may make a request to the decision maker to review a decision but only where either;
 - a. Additional information that is relevant to the application and that was not available at the time the decision was made becomes available, or

- b. There are good grounds to believe the application or supporting information was not interpreted correctly at the time the decision was taken.
- 2.30. A request for review must be made within four weeks of notification of the decision and must set out the reasons for the request and any supporting information.